

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** By Chairman Bill Strizich, on March 11, 1991, at 9:08 a.m.

#### **ROLL CALL**

**Members Present:**

Bill Strizich, Chairman (D)  
Vivian Brooke, Vice-Chair (D)  
Arlene Becker (D)  
William Boharski (R)  
Dave Brown (D)  
Robert Clark (R)  
Paula Darko (D)  
Budd Gould (R)  
Royal Johnson (R)  
Vernon Keller (R)  
Thomas Lee (R)  
Bruce Measure (D)  
Charlotte Messmore (R)  
Linda Nelson (D)  
Jim Rice (R)  
Angela Russell (D)  
Jessica Stickney (D)  
Howard Toole (D)  
Tim Whalen (D)  
Diana Wyatt (D)

**Staff Present:** John MacMaster, Leg. Council Staff Attorney  
Jeanne Domme, Committee Secretary

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

#### **HEARING ON SB 344**

#### **USE OF DEADLY FORCE TO PREVENT SEXUAL INTERCOURSE WITHOUT CONSENT**

#### **Presentation and Opening Statement by Sponsor:**

**SENATOR PINSONEAULT, SENATE DISTRICT 27,** stated this bill articulates what is already in the law. The offenses we are talking about are forcible felonies. In the first sentence of the statute of the bill, under the deadly force, the two offenses are forcible felonies. From the correspondence I have received

from various organizations, they have indicated that they are appreciative of making it clear of what can or cannot do when faced with rape or deviate sexual conduct. I am not promoting violence but I think violence is part of our society. In our society, particularly as it relates to younger people who are the victims of us adults, who would rape and commit an act of deviate sexual conduct on a son or a daughter, the law says if you intend eminent harm by what you do and say, having that act committed upon me, then I can take your life. You can kill with anything, rock, brick, chair, gun or knife. Sen. Pinsoneault submitted a letter from V.C. Ciliberti, Jr. PH.D., Missoula in support of SB 344. EXHIBIT 1

Proponents' Testimony:

Diane Sands, Montana Women's Lobby, gave written testimony in favor of SB 344. EXHIBIT 2

Opponents' Testimony: none

Questions From Committee Members:

REP. STICKNEY asked SEN. PINSONEAULT how he defines the eminate danger? SEN. PINSONEAULT said that one who is in the threat of a crime if the eminate threat is there, it would seem that baring anything else, that the victim reasonably believes other measures are necessary in order to stop the aggression.

REP. TOOLE asked SEN. PINSONEAULT if it would be better the use the words "threat of the eminate commission" to obtain the concept you are going for in this bill? SEN. PINSONEAULT stated he has no problem with that change because it articulates it better.

REP. MESSMORE asked SEN. PINSONEAULT if there are other states that have this type of law on their books? SEN. PINSONEAULT stated he would say, without having checked, it is probably on every criminal statute in the books in this country, as it was presented without amendments.

REP. RUSSELL asked SEN. PINSONEAULT if he has given any thought to the possibility of some double standards here as it pertains to indian people in the state? SEN. PINSONEAULT said he would hope there was no double standard.

Closing by Sponsor:

SEN. PINSONEAULT stated this should not only be understood by the judges and attorney's, but by the general public as well. There is no doubt what can be done in instances like this and I hope you can provide for protection, particularly our female gender and the young men and women in Montana.

HEARING ON SB 444  
LIMIT JURY SERVICE TO ONE COURT DURING A TERM

Presentation and Opening Statement by Sponsor:

SEN. PINSONEAULT, SD 27, stated that alot of people do not register to vote because they don't like jury duty. I have talked with people that are terrified of serving on juries. Unfortunately, people get involved on the criminal side and find out the hard way of what our judicial system is all about. Serving on jury duty on a criminal case can be tremendously draining and alot of people have a great deal of difficulty passing judgement on someone else. This bill tries to restrict jury services by adding a statute that if a person is called for jury duty in the justice court and in the district court during the same term, they only have to serve on one. Most people do not mind serving on a jury but not for 3 or 4 times a year.

Proponents' Testimony:none

Opponents' Testimony:none

Questions From Committee Members:

REP. DARKO asked SEN. PINSONEAULT if this bill would make all courts as the district court where you only serve on one jury? SEN. PINSONEAULT said yes, that is correct.

Closing by Sponsor:none

HEARING ON SB 327  
REVISE SHOPLIFTING LAWS

Presentation and Opening Statement by Sponsor:

SEN. NOBLE, SD 21, stated he is carrying this bill on behalf of the Montana Retailers Association. This bill generally revises the laws pertaining to shoplifting. The latest data on shoplifting are alarming. The FBI reports shoplifting incidents have increased by 30% during the 1985-89 period. The figures assume that 99% of the customers don't shoplift, but the other one percent is a problem. In the state of Montana, the retail merchants estimated they loose \$30 million every year in shoplifting. This does not include employee theft. Every customer pays for shoplifting through increased prices. The heart of the bill is on page 4 and 5 which outlines the recommended penalties. The retailer also has the opportunity to enact civil recoveries for damages in the amount of or greater of \$100 for the retail value of the goods. This bill would also give us the advantage of using home arrest as an option.

Proponents' Testimony:

Charles Brooks, Montana Retail Association, gave written testimony in favor of SB 327. EXHIBIT 3

Mike Wall, Power Townsend Company - Helena, stated that shoplifting is not a small time crime. We need a deterrent to catch the pros, basically, and I think this will do it. I urge you to pass SB 327.

James Tutwiler, Montana Chamber of Commerce, stated we would like to stand in support of SB 327. Shoplifting is increasing rather dramatically. We would like to add one other point in consideration. In looking at the profile of Montana Businesses, about 1/3 of our businesses are really quite small. They represent annual gross sales of \$130,000 which is a very small amount. Our concern is that if we don't take some kind of step to address this situation, we are going to find those small businesses are going to be hurt the most by the shoplifters. We think this bill addresses the problem square on and we ask your do pass.

Bruce Rowsell, Buttery Food & Drug, stated that when the law is used it is an effective deterrent to repeat offenders and transfers part of the cost of shoplifting from the honest customer and the retailer. He stated that SB 327 puts law enforcement in a position to takes steps to insure shoplifting is a crime and hold a personal responsible and a shoplifter will no longer be able to gamble with walking away from a shoplifting arrest.

Riley Johnson, National Federation of Independent Business, stated that the NFIB supports SB 327.

Lloyd Knudsen, Montana Retail Security and Investigations, stated that a measure like SB 327 to put the bite into some of these perpetrators. Shoplifting is a fast growing offense that needs to be put under control. He felt that SB 327 would give retailers the help they need to do that.

Opponents' Testimony: NONE

Questions From Committee Members:

REP. RUSSELL asked Mr. Brook what the origin of the people that did the majority of the shoplifting? Mr. Brook stated that the profile of a shoplifter runs across the whole spectrum of society and age.

REP. TOOLE asked Mr. Knudsen if there would be any objection to putting the penalty at second and subsequent offense? Mr. Knudsen stated that he is not in a position or would he recommend to any of his clients to go after a child for a piece of gum. He stated that he would not be in favor of Rep. Toole's penalty change.

Closing by Sponsor:

SEN. NOBLE stated that SB 327 is a fair and needed change in the law. He asked the committee for their favorable consideration.

HEARING ON SB 145ALLOW NEW TYPE OF GAMBLING ONLY BY VOTE OF THE PEOPLEPresentation and Opening Statement by Sponsor:

SEN. BROWN, SENATE DISTRICT 2, stated that this bill is a proposal for a constitutional amendment which would require only the people vote in gambling in the state of Montana. He stated that if SB 145 passes, gambling can still be expanded in Montana, but only by legislation. He felt that Montanans are becoming concerned about Montana becoming casinoized. Montanans need an opportunity to keep gambling under control and he felt that if this bill had been in effect earlier, there wouldn't be as much gambling in Montana as there is at the present time. "I hope you will give this bill a fair chance and a do pass recommendation."

Proponents' Testimony:

Joe Roberts, Don't Gamble With The Future, stated that the last time people had the right to vote on expansion of gambling was in 1982. The vote was 68% to 32% for opposing a major expansion of gambling and was passed in only 3 counties in the state. He felt that things haven't changed that much since 1982. "If the people who want to expand gambling are afraid of the vote of the people, then the state is in trouble." He stated that the committee should talk with their constituents and find out how they feel and what they think of SB 145. He felt they would find quite a few would give a positive reaction to the bill.

Opponents' Testimony:

Mark Staples, Montana Tavern's Association, stated that when the Tavern's Association had their convention, gaming and any aspect of it was number 8 on their priority list for lobbying bills. He felt that it is an unfair characterization to say that anybody and any association that spends money on a lobbyist or action group to protect their interest in the Montana Legislature, is unfair. The legislators process is working and the screening process is going well in respects to gaming. The legislators are elected by the people of Montana and they come to the Legislature to do the job of the people.

Randy Reger, Vice President - Gaming Industry Association, stated that the reason for this bill is that the legislature will never have to hear another gambling bill. He stated that certain people don't like gambling bill and don't want to hear gambling bills and they don't want the Legislature to hear them. This

bill says the Legislature cannot hear a gambling bill and it cannot be discussed it will have to be on ballot. He felt that gambling isn't one of the most important issues in the Legislature but he felt that it is an issue and something that needs to be heard.

Larry Akey, Gaming Industry Association, stated that the proponents talked about the unbridled expansion in the state of Montana. The state has seen an increase in the number of gambling machines from 8500 to 11,300. He admitted that it was a healthy growth of 6 or 7% per year. "Whether or not that represents unbridled expansion is open for question." The state has seen a contractive in the types of games that are available to players. The data available to the Association shows that there is only 30% of the adult Montanans who participate in the commercial gaming that the state offers. The state has a limit on the number of liquor license so the state can keep a limit on the number of establishments that can have commercial gaming in Montana. He stated that the 113 million dollar profit the gaming industry supposedly received, as stated by the proponents, is a totally erroneous figure. The industry grossed 113 million dollars in the last fiscal year. A 15% sales tax comes from the top, then the Association's employees, mortgages, machines, and all other costs that every other small business pays in Montana.

Shelly Laine, Director - Administrative Services for the City of Helena, gave written testimony opposing SB 145. EXHIBIT 4

Questions From Committee Members:

REP. BOHARSKI asked Mr. Reger if he was aware of the change in the bill that this bill doesn't preclude the legislature? Mr. Reger stated that he wasn't aware of that.

REP. BROOKE asked Mr. Reger if he represents the gaming industry? Mr. Reger stated that he is the Vice President for the Montana Gaming Industry.

REP. WHALEN asked SEN. BROWN what impact would this bill have on regulation of gambling? SEN. BROWN stated that if this bill passes the legislature then the citizens would have standing to go to court as to whether it could go into affect without the vote of the people.

REP. BROWN asked SEN. BROWN if he had ever been to the Mining Museum in Butte? SEN. BROWN stated that he had. REP. BROWN asked if he had noticed the displays from the old Rocky Mountain Bar, all the old crap's tables and roulette wheels, slot machines and dice games, that you mention were considered legal in Montana up until the 1950's? SEN. BROWN stated that he didn't remember those types of things at the museum.

REP. BROWN asked SEN. BROWN what his position is on what kind of responsibility the Legislature has to deal with this kind of

issue, given the people elect the Legislators to come and do that? SEN. BROWN stated that he is a Republican in his philosophy. He felt that the system works best when it functions to the Legislature and generally speaking, it is not a good idea to go over the Legislative process. He stated that this bill doesn't coincide with his philosophy but when he looks at the Legislative history and see what it has done with gaming, he gets away from his philosophy.

REP. BROWN asked SEN. BROWN if he has any conception of the overhead the gaming industry has in regards to the 113 million dollars they received during the fiscal year? SEN. BROWN stated that he got his information from the Department of Justice publication. He felt that Mr. Aikie's characterization of the 113 million is incorrect.

Closing by Sponsor:

SEN. BROWN stated that there are many people in Montana that gamble but there are also people that are against gambling. He felt that the people of the state of Montana should have the right to vote for gambling on a ballot.

EXECUTIVE ACTION ON SB 344

Motion: REP. GOULD MOVED SB 344 BE CONCURRED IN.

Discussion:

REP. MEASURE stated that any forcible felony already include using force likely to cause death already in law. He stated that this is another message bill and he doesn't like them when they have the best intentions. The message it sends to the public is go out and shoot somebody for committing a crime. He felt the people that are going to pay attention to this are people that are going to use it wrongly.

REP. GOULD stated that this bill should pass and the message should be sent out to the citizens of Montana.

REP. BOHARSKI stated that he felt the committee votes on many bills that are not clear.

Motion/Vote: REP. BOHARSKI moved to amend SB 344 on page 2, line 1 to read, "threat of imminent commission of the violence crime". Motion carried.

Motion: REP. GOULD MOVED SB 344 DO BE CONCURRED IN AS AMENDED.

Motion/Vote: REP. MEASURE MADE A SUBSTITUTE MOTION THAT SB 344 BE TABLED. Motion carried 11 to 9. EXHIBIT 5

EXECUTIVE ACTION ON SB 444

Motion/Vote: REP. STICKNEY MOVED SB 444 BE CONCURRED IN. Motion carried 18 to 2 with Rep's: Wyatt and Measure voting no.

EXECUTIVE ACTION ON SB 145

Motion: REP. WYATT MOVED SB 145 BE CONCURRED IN.

Motion: REP. BROWN moved to amend SB 145 on page 1, line 20, after "Legislature" insert a new sentence. "No activity is, or may be gambling unless a statute clearly and expressly describes the activity and states that it is gambling."

Discussion:

REP. BROWN stated that there seems to be substantial difficulty determining what is legal and what is not. This will clarify what is legal gambling.

REP. BOHARSKI stated that if a blackjack bill was introduced would it still be considered gambling if it isn't clearly defined as gambling?

REP. BROWN stated that under this bill, as presently written, that he would be tempted to bring a bill that says blackjack is legal in the state of Montana and the legislature expressly decides it is not gambling, and therefore it could be done.

REP. MEASURE stated that he didn't like the amendment and if adopted it would be like the deviate sexual conduct statute saying unless it is absolutely described it isn't illegal.

REP. BROWN stated that the statute says by definition what deviate sexual conduct does. He stated that what the committee will run through in the gaming area, is law enforcement trying to decide what is legal gambling and what is not.

Vote: Motion passed. EXHIBIT 6

Discussion:

REP. BROWN stated that when he first came to the legislature in 81, he voted up and down on issues depending on the word of his constituents thought they should be voted on. He stated that he was continually reproached about the fact that he didn't want to send everything to the vote of the people because I didn't think it belonged to them. He stated that he still doesn't think it belongs to the people. "People have an initiative process and if

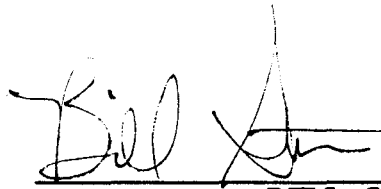


they think we are doing something wrong they have two choices; one, is to throw us out; or two, they do a state wide initiative and tell us what they want the law to be." He felt this bill wouldn't work any better than any of the other forms.

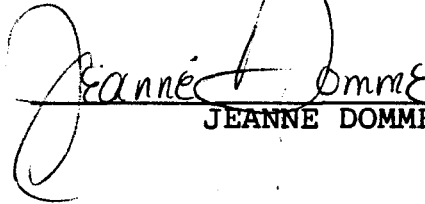
Motion/Vote: REP. BROWN MOVED SB 145 BE TABLED. Motion carried.  
EXHIBIT 7

ADJOURNMENT

Adjournment: 11:47 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

# HOUSE OF REPRESENTATIVES

## JUDICIARY COMMITTEE

ROLL CALL

DATE 3-11-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

HOUSE STANDING COMMITTEE REPORT

March 11, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that  
Senate Bill 444 (third reading copy -- blue) be concurred in .

Signed: \_\_\_\_\_  
Bill Strizich, Chairman

Carried by: Rep.

EXHIBIT 1  
DATE 3-11-91  
HB ~~345~~ 344

11150 Horseback Ridge  
Missoula, Mt. 59801  
March 02, 1991

Senator R. J. Pinsoneault  
Capitol Station  
Helena, Mt. 59620

Dear Senator Pinsoneault:

My letter concerns #B825 which amends the concealed weapons law.

As personal safety becomes more tenuous, especially for women as they are increasingly involved in situations away from there homes, the proposed amendment offers a reasonable and effective partial solution to the personal safety issue. In 1990 Idaho and Oregon passed similar legislation and thereby joined Washington and South Dakota and many other states to better enable people to protect themselves.

The recently passed S. 344 expanded those circumstances in which force may be employed to protect oneself (passed 49-0). Logically it is appropriate to also provide the means to accomplish this, and HB825 is part of the solution.

I sincerely believe that in large part this is a women's issue and I write on behalf of my daughters and a number of women friends who desire to see this legislation passed by the senate.

I ask you to actively support HB825, and would like to hear from you concerning this matter.

Please read the attachment.

Sincerely,

V. A. Ciliberti, Jr. Ph.D.

*V. A. Ciliberti, Jr.*

## SOCIETY



RON SHERMAN/UNIPHOTO

One in eight women you encounter on the street own handguns

# Armed and Female:

*Why rapidly increasing numbers of American women are turning to guns for self-protection*

**One in eight women in the U.S. own firearms. That's a figure Paxton Quigley of Personal Protection Services in Los Angeles, and author of the book "Armed and Female," wants you to remember. It translates into twelve million women who have decided to take self-protection into their own hands—and the number is growing.**

By Jeanne A. Harris

**I** interviewed hundreds upon hundreds of women who had been raped," says Paxton Quigley, author of the eye-opening book *Armed and Female*. "After listening to their stories, there was no doubt in my mind that women should own guns for self-defense.

"If more women owned guns and it was publicly known," she continues, "the incidence of rape would decline in the United States within the next five years, just because of the publicity. A potential rapist would never know if a woman is carrying a gun."

A feminist and onetime Vietnam protester, Paxton Quigley is a far cry from the stereotypical pro-gun advocate. Yet she stands as one of today's most vocal proponents of gun ownership for women. She sees her task as convincing a conditioned public that, far from

being exclusively a symbol of crime and violence, a handgun is the most viable means of self-protection for women in an increasingly dangerous society.

This is a rather surprising stance for a former anti-gun activist who, for over a decade, supported gun control legislation and even helped found a major anti-gun organization. While Quigley admits that she feared and hated guns for most of her life, it was a single, shocking incident in 1968 that pushed her into the arms of the gun control movement:

"I was involved with the Robert F. Kennedy campaign. When he was shot to death, of course, it was very upsetting." The shock of his death left a void in the lives of his staff members, many of whom turned their anger into action.

"Some of us in the Kennedy organization banded together and started a handgun control

group," Quigley recalls. "I felt strongly at the time that stricter gun control laws would not only reduce the amount of crime in the country, but they would also prevent the assassinations of some of our great leaders," she says.

The fact that Kennedy's assassin, Sirhan Sirhan, was captured and brought to justice did not quell the call for gun control. The emotional backlash that surfaced after the death of the energetic, young presidential hopeful left a void that cried out for a kind of justice that no court could sufficiently answer. Would Sirhan Sirhan's execution have been enough justice for Quigley? "No," she flatly states.



Quigley: "It's common sense to know how to defend yourself."

"There just became a point in my life where I said 'That's it. Not only am I in favor of women owning guns, I'm also going to advocate it.'"

"Because I didn't want it to happen again. And for me, at that stage of my life, the gun was as important as the person who committed the act."

Although the newly formed anti-gun group was pushing for stricter gun control laws, there was a feeling that completely banning handguns was an achievable goal. In the wake of a string of assassinations that took the lives of two Kennedys and Martin Luther King, many in the movement, including Quigley, counted on growing anti-gun sentiment to turn their ideals into legislation.

She recalls an argument she had back then with a friend who was concerned about her anti-gun stance: "He was very angry that I was working for this gun control organization. I said, 'Do you know what you are doing? Don't you have any understanding of what the Second Amendment is all about?' And its significance never really dawned on me, because I was so emotionally adamant about being anti-gun."

Despite her single-minded, emotionally-charged vendetta against firearms, Quigley was forced to confront the issue of gun ownership once more—only this time through a series of crimes that struck frightfully close to home. As a single woman working first in Washington, D.C., and then in Los Angeles, Quigley began to experience a change of heart after her house was burglarized twice, her car was stolen while she looked on from her kitchen window, and two of her friends were raped, one in her own bed. During this time, Quigley became fearful of even walking from her car to her house, afraid of what might be waiting for her when she opened the door.

But when she accompanied a friend to a gun shop, a light went on in her mind. Here could be a means, she began thinking, that a woman could defend herself with confidence. The idea shocked her. She had hated guns for a long time. And now she stood thinking of the gun not as an enemy, she says, but as a protective force. She never thought during her gun-control tenure, that the same weapons she had lobbied against had any purpose but to harm another human being.

It was then that Quigley began to explore the rea-



More women are learning how to shoot than ever before

sons why people own guns. Her search brought her face-to-face with hundreds of women who had been brutally raped. The stories they told of their experiences shook Quigley to her core. "There just became a point in my life where I said 'That's it. Not only am I in favor of women owning guns, I'm also going to advocate it.' That was my turning point."

### Regaining control

Quigley's exploration of women's need for guns in self-protection led her to write *Armed and Female*, which became an instant success.

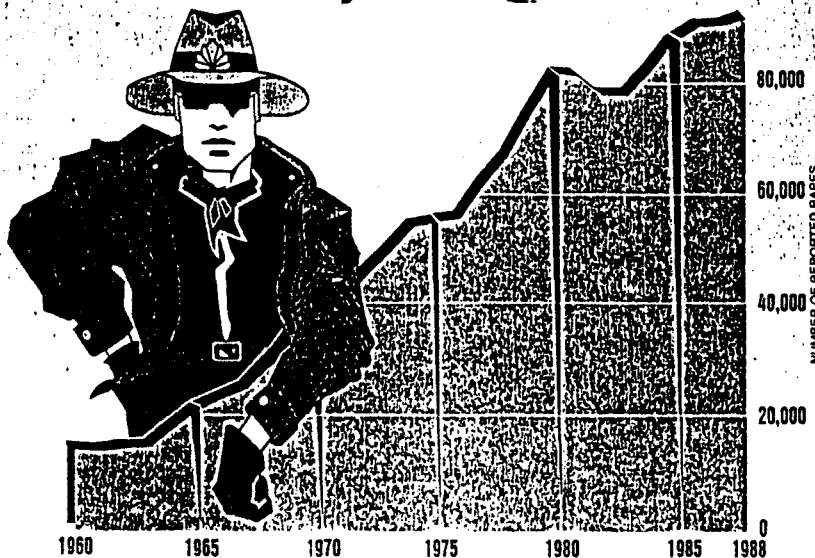
Now in its second printing, her book has generated nationwide interest and inspired Quigley to start Personal Protection Strategies, a series of courses that teach women and men alike basic self-protection techniques. Although she is winning many converts, her task, she has found over the last year, is an arduous one. Many women simply have a mental block against the idea of self-defense, even though they are acutely aware of the increasing crime problem in modern society.

Her job begins with an explanation of the basic problem of fear and denial. Criminologists have found that, on the whole, women

have a greater fear of crime than men. The reasons stretch from the physiological to the psychological. Women are physically more vulnerable than men, and thus easier targets. They do not, as children, learn the aggressive rough-house play that marks boys' activities.

In addition, most Americans have been taught to rely on law enforcement exclusively to aid them in times of crisis. However, law enforcement, stretched to the limits by having to fight an increasingly violent and deadly drug war, cannot be counted on to maintain personal safety like it used to. In fact, in a surprising and perhaps absurd judgment, *Warren v. Dis-*

Rape has increased an average of 6.3% each year since 1960





BARBARA CUSHMAN ROWELL/MOUNTAIN LIGHT

## Model Mugging courses teach women to ward off would-be rapists using basic martial arts techniques and street-fighting savvy

istrict of Columbia, the D.C. Supreme Court ruled that the police are responsible only for the safety of the general population of the community, not the protection and defense of its individual citizens. Now is the time, Quigley concludes, for people to take more responsibility for their own safety.

### One-on-one crimes

Many crimes take place so quickly that there is no chance that the victim will be able to call for help. Obviously a woman who is being raped will not have time to dial "911." Rape and "one minute" crimes like purse snatching and assault, are crimes that women tend to fear the most; they instinctively know there is little chance they will be rescued.

Because law enforcement cannot be everywhere at once, Quigley says it is important for a woman to learn how to protect herself. To accomplish this, a woman must first overcome her fear of being a victim of crime. Overcoming that initial fear, Quigley has found, brings with it many rewards; women who have learned to defend themselves report greater self-confidence and a feeling of empowerment.

Overcoming fear, more than anything else, means confronting that denial. "First, a woman has to confront her fear, and say, 'Yes I am fearful.' There are, unfortunately, a number of women who were sexually abused when they were young, or else raped. But rather than confront what they've gone through, they often bury it and say, 'I'm not going to think about it.'" Understandable but deadly, says Quigley.

"Once a woman successfully

confronts her fear, she can say, 'Okay, I'd like to prepare so that if I am in danger I have choices. I have learned a body of information that I will be able to use if the need arises.'"

But many women, strangely, are not actively interested in their personal safety, Quigley has found. "It's a real low priority item for many people. My 3-hour seminar on personal protection costs only \$35. But I can see in people's eyes that they'd rather spend the \$35 on getting their hair done than on spending time learning how best to protect themselves," she noted.

As an author and lecturer, Quigley spends a lot of her time pointing out victimization risks to the women in her seminars. But statistics cannot take the place of a real incident.

"What often happens is that soon after a woman is assaulted or raped, she wants to learn how to protect herself. She'll say, 'I don't want this to ever happen again.' But later she'll push it out of her head because it brings up a lot of bad memories about being victimized. This is where the denial kicks in."

Quigley adds, "Our society doesn't encourage people to defend themselves. It is unfortunate that self-defense (unarmed) is not taught in the grammar schools. Kids should be learning it early on because it would help them in terms of having better personal lives, too."

Quigley is unequivocal about one point: For a woman a handgun is an equalizing force in a compromising situation. No other weapon, she discovered, can adequately serve this purpose. And no other weapon has the same ability to turn a frightfully dangerous situation in the woman's favor.

In response to the gun control propaganda claiming that women are likely to be shot with their own weapons, Quigley says: "That's simply not true. It is very difficult to get a short-barrelled gun away from a person who's holding that gun and has the intention of shooting." In most cases, she has found, simply displaying the handgun is enough to scare many would-be victimizers away.

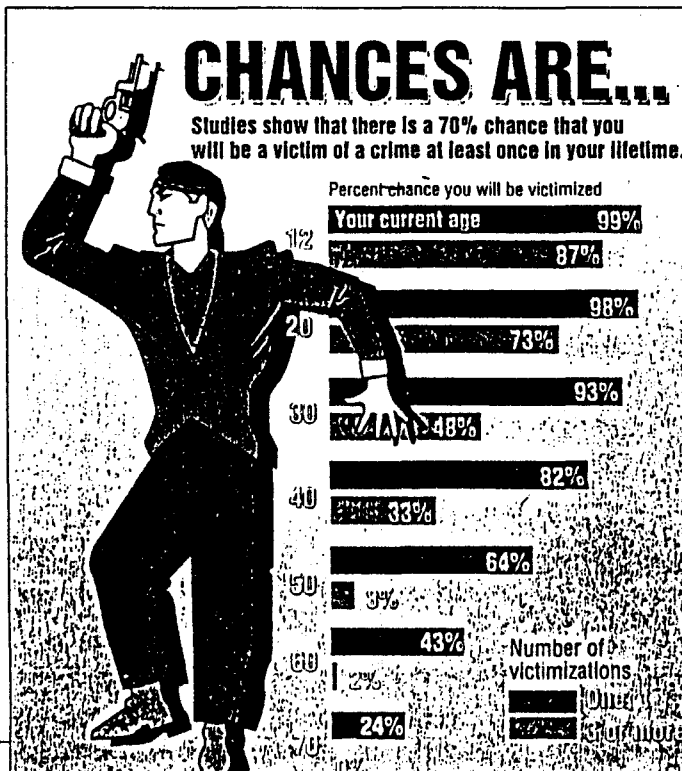
### Interviews murderers and rapists

"I went into San Quentin prison to talk to murderers and rapists about what they thought about women owning guns," Quigley recalls. "They told me that when they are looking for a victim, they're scared because they basically want to do their deed and leave. They don't want to get into a fighting situation because they may not win. They're going to look for people who have got their heads in the heavens, not someone who looks capable of defending herself."

As for carrying a handgun: "If you feel you are in jeopardy, if there's a chance that someone's going to attack you, yes, you should carry a gun," Quigley states in no uncertain terms. "Of course, a gun can't be used in all situations. You may not be able to get it in time. You may find yourself in a situation where you could hurt innocent bystanders or accidentally shoot a child. That's why it's so important for women to learn how to fight."

### A woman's guide to street fighting

Good self-defense classes, Quigley says, will teach basic martial arts techniques while emphasizing down-and-out street fighting. "One of the best self-defense



"In a surprising judgment the D.C. Supreme Court ruled that the police are responsible only for the safety of the general population of the community, not the protection and defense of its individual citizens."

courses in the United States for women is Model Mugging," she states. "In 40 percent of the assaults on women, the victim is knocked to the ground within six seconds and that's where she has to fight. Model Mugging teaches you to fight from the ground, and also to fight full force. For safety reasons, a lot of self-defense classes don't allow you to strike full force, and they don't allow you to kick for the groin or scratch at the face and the eyes."

Model Mugging, which has a series of independent chapters nationwide, teaches basic self-defense moves, and women apply them in full-force fights with a "mugger" dressed from head to foot in protective padding. This innovative concept of self-defense pits a woman against the padded assailant in a number of common victimization situations—in a suburban parking lot, at an automated-teller machine, walking down a dimly lit street, and even an attack that may occur in the victim's own bed. The attacker continues to assault the woman until she has rendered enough blows to convince the padded assailant he could be knocked out.

**W**hen Quigley took the four-week course, she faced the assailant 40 times: "Some days when I was getting ready to be so-called mugged, I would be terribly frightened. But when you're fighting, your focus is completely on what you are doing. Some days I would come home and burst out crying because I had gone through such an emotional and physical situation. But other times I would be just absolutely elated because I had just beat the heck out of that guy," Quigley recalls. "Not only does it build confidence, it builds empowerment in a woman and she begins to realize that, yes, she has the ability to fight off an attacker."

### Stress-relief through self-defense

Quigley finds that the biggest hangup women have about self-defense is their prejudice against guns. "There are a lot of women in the feminist movement, unfortunately, that still think they don't have the right to defend themselves," Quigley says. "There are also a lot of people who say they are non-violent and could never hurt another human being, even if that person has already raped 17 women." Others, she says, simply have not been exposed to guns properly and view them as the sole domain of men.

Ironically, she has found that many women who are reluctant even to handle a gun turn out to be better marksmen, and to enjoy shoot-



**"Being prepared for the statistical long shot of being a victim of violent crime is really no more extraordinarily prudent than wearing seat belts in a car or having a fire extinguisher in the kitchen."**

PAXTON QUIGLEY, *ARMED AND FEMALE*, NEW YORK: E.P. DUTTON, ©1990 PAXTON QUIGLEY PRODUCTIONS, \$18.95. SECOND PRINTING, SPRING 1990. PAPERBACK EDITION AVAILABLE IN THIS FALL FROM ST. MARTIN'S PRESS.

ing more, than men. Handgun self-protection for women is a relatively new field, she says, even though approximately 12 million women currently own guns.

A new interest in handguns is being sparked across the country as women realize that self-defense is practical and can actually help them live better lives, says Quigley. Learning effective self-defense helps reduce the stress of living in a hostile environment by providing a woman with more choices in the event she has to protect herself.

To meet this growing demand, Quigley notes that more gun ranges are putting together handgun courses especially designed for women. "A public range in Orange County approached me about designing a course by and for women," she says. "Women seem to work better with female instructors when it comes to self-defense as well as gun training. There's a camaraderie; the teacher can act as a role model. A man's perspective of women's fears and needs is really quite different."

Most law enforcement agencies, while agreeing with the concept of women's self defense, simply lack the manpower to put together shooting schools for women. Quigley recommends checking with local gun clubs,

many of which advertise in the yellow pages, to find a suitable course. There are also local women's gun clubs where a woman can go and practice with other women. If a course designed for women is not available locally, Quigley suggests talking to the gun range about setting up a program.

### On the right track

Presently approximately 100 million households contain at least one gun. Recent polls show that 1 in 8 women are also gun owners. As the reality of crime becomes more apparent, Quigley says, that trend will continue. The vast majority of gun owners are seldom publicly visible; many consider gun ownership a private matter, not a political hot potato.

"I have a number of friends who now own guns, both men and women, who are liberals and would never join the NRA or vocalize their thoughts," says Quigley. "I know some people who actually have lots of guns, and that really surprised me. They only tell because they know my position, and it will come out in conversation."

In the end, the question turns back to teaching women that they have the right and the ability to defend themselves, Quigley states. "We have to get women over their fear and dislike of guns. We have to get them thinking that they have the right to self-defense. Some people think we are absolutely nuts. They will say, 'Oh, I know your book, *Armed and Dangerous*.' That's how they view me and my book. They will laugh when they say it, but that is how they really feel."



**38 caliber handgun. Many women carry it because of its small size but adequate stopping power**

"But when you come right down to it, it's not a question of being paranoid. It's common sense to know how to protect yourself." ■

Jeanne Harris is Assistant Managing Editor of *New Dimensions*.



# MONTANA WOMEN'S LOBBY

P.O. Box 1099

Helena, MT 59624

406/449-7917

EXHIBIT

2

DATE

3-11-91

SB

344

Testimony on SB 344

Diane Sands, Montana Women's Lobby

3/11/91 House Judiciary

On behalf of the members of the Montana Women's Lobby, the rape crisis programs across the state, and the thousands of rape victims in Montana, I ask your support for SB 344 to allow deadly force as a reasonable response to sexual assault.

Our society has placed double bind on rape victims. Rape is the only crime of violence in which a victim is expected to resist and women who have not resisted have sometimes been criticized and found their right to prosecution jeopardized. Particularly in instances involving dangerous weapons or groups of men, most women believe they are confronting the realistic possibility of death, or at least the probability of serious physical injury. If aggressive self defense is justified in this scenario, it must be supported by the law. Some of you may recall the Yvonne Wanrow case in the state of Washington where a woman with her leg in cast defended herself and her child from sexual assault by killing the assailant. She was convicted and sentenced to prison.

Make no mistake, we are not recommending violence as an answer to violence, nor are we suggesting that women arm themselves with those "equalizers", handguns. Incidents of deadly force being used in a case of rape are very, very rare in this state. Nonetheless, it must remain an option. We urge your support for SB 344.



Executive Office  
318 N. Last Chance Gulch  
P.O. Box 440  
Helena, MT 59624  
Phone (406) 442-3388

EXHIBIT 3  
DATE 3-11-91  
HB 327

TESTIMONY  
MARCH 11, 1991  
9:00 A. M.  
ROOM 312-2

SENATE BILL 327

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

FOR THE RECORD , I AM CHARLES BROOKS, EXECUTIVE VICE PRESIDENT OF THE MONTANA RETAIL ASSOCIATION AND ITS AFFILIATES, MONTANA HARDWARE AND IMPLEMENT DEALERS AND THE MONTANA TIRE DEALERS ASSOCIATIONS. I AM HERE TODAY TO URGE YOUR SUPPORT OF SENATE BILL 327

SHOPLIFTING IS A CRIME - SHOPLIFTING IS A STEALING.

IT HAS BEEN ESTIMATED THAT NATIONALLY SHOPLIFTING IS THE LARGEST SINGLE MONETARY CRIME WITH LOSSES OF 10 BILLION ANNUALLY, WHICH INTERPRETS TO APPROXIMATELY 30 MILLION IN LOSSES ANNUALLY IN MONTANA.

SHOPLIFTING HAS INCREASED 33% OVER THE LAST FOUR YEARS - MAKING IT THE FASTEST GROWING CRIME.

APPROXIMATELY 45% OF A STORE'S MERCHANDISE LOSSES, AND IN SOME CASES AS HIGH AS 70%, ARE DERIVED FROM SHOPLIFTING.

RETAILERS IN THE STATE OF MONTANA ARE SPENDING THOUSANDS OF DOLLARS A YEAR TO PREVENT SHOPLIFTING.

NINE IN EVERY TEN SHOPLIFTERS HAVE THE MONEY OR A CREDIT CARD IN THEIR POCKET TO PAY FOR THE ITEMS THEY STEAL.

IN THE ABSENCE OF SOCIAL CONCERN AND WITH GENERAL INDIFFERENCE, THE DISEASE HAS BECOME EPIDEMIC, UNFORTUNATELY, SOCIETY GENERALLY LOOKS AT THE GROWING PROBLEM OF SHOPLIFTING AS LITTLE MORE THAN A PRANK. WHAT EVERYONE FAILS TO REALIZE IS ITS MAGNITUDE, BRING WITH IT SOCIAL AND ECONOMIC PROBLEMS.

THE PURCHASING PUBLIC NOT ONLY PAYS THOROUGH INCREASED PRICES FOR GOODS AND SERVICES BUT ALSO PAYS TAXES TO PUNISH THE ONES BROUGHT TO JUSTICE.

OUR MEMBERS FEEL IT IS NECESSARY WE PUT SOME TEETH IN THE LAW TO DISCOURAGE THIS CRIME AGAINST RETAILERS AS WELL AS SOCIETY.

WE RECOGNIZE THAT MERCHANDISING METHODS TODAY MAKES IT EASIER FOR SOMEONE TO SHOPLIFT. HOWEVER, MAKING IT EASIER DOES NOT ALTER THE SERIOUSNESS OF THE CRIME. YOU WILL HEAR TODAY FROM SEVERAL SECURITY PEOPLE WORKING FOR RETAILERS TRYING TO CONTROL THIS

Ex. 3

3-11-91

SB 327

PROBLEM. AS WELL AS RETAILERS. THEY, THEIR EMPLOYERS AND FELLOW  
EMPLOYEES NEED YOUR ASSISTANCE IN PROVIDING A LAW THAT  
DISCOURAGES THIS CRIME AND PUNISHES THOSE REPEAT OFFENDERS.

I WOULD NOW LIKE TO REFER TO THE BILL AND EXPLAIN THE CHANGES  
THAT THIS PROPOSED LEGISLATION WOULD MAKE IN THE CODE.

WE URGE YOUR SUPPORT OF SB 327.

THANK YOU FOR THE OPPORTUNITY TO PRESENT THIS TESTIMONY.

JCPenney

1200 10TH AVENUE SOUTH  
GREAT FALLS, MT 59405

Ex. 3

3-11-91

SP 327

February 13, 1991

Charles R. Brooks  
Executive Vice President  
Montana Retail Association  
P.O. Box 440  
Helena, MT 59626

RE: S.B. #327

Dear Charles:

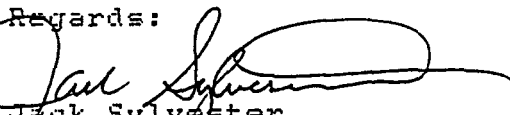
I would like for you to convey my concern on the shoplifting bill coming up for committee hearing next week. We must have more stringent laws concerning habitual shoplifters.

Last year was an extremely difficult year in which we saw our shrinkage figure double our 1989 figure. The shrinkage dollar figure for 1989 was \$52,300 and the shrinkage dollar figure for 1990 was \$109,400. This is an increase in shrinkage of 109%.

Charles, the word shrinkage is defined by our company as either external or internal loss of profit. Approximately sixty to seventy percent of our shrinkage was directly related to shoplifting and as you can see by our dollar figures this has become somewhat more than just a small problem. In discussions with other major retail managers in Great Falls I have discovered similar shrinkage increases.

Please convey this urgent message to the committee. We need action now.

Regards:

  
Jack Sylvester  
Store Manager  
JCPenney, Great Falls

JLS/db

# Shoplifting is a Crime

# Shoplifting is Stealing

ZK. J  
3-11-91  
SB 327

In the absence of social concern and with general parental indifference, the disease has become epidemic. Unfortunately, society generally looks at the growing problem of shoplifting as little more than a prank. What everyone fails to realize is its magnitude, bringing with it social and economic problems.

## The bottom line

The purchasing public not only pays through increased prices for goods and services but also pays taxes or gives voluntary support for requirements of social agencies and services for the problems growing out of crime. Economically, we all realize its impact, however, the social aspect is much more serious and longer lasting. The most serious results are losses in human capability, the scars of crime.

### THE SOLUTION:

There is no magic, but there are ways to put a harness on this runaway.

1. Greater public awareness must be obtained through intensive educational efforts. Shoplifting must be recognized as a crime rather than a prank and full public support given to penalties.
2. Consistent apprehension and prosecution by merchants and proper sentencing by the judiciary, thus removing the casual assurance that you won't get caught and if you do nothing will happen.
3. The police, prosecutors and the judiciary must be made aware of the average value of merchandise recovered in shoplifting cases if they are expected to understand why cases involving small value

are brought to their attention. All retailers should make an effort to communicate with these officials about their shoplifting losses. If officials have adequate information on the matter, shoplifting cases and shoplifters will be assigned the priorities they deserve.

### Success in the Courtroom Depends on Care During Apprehension

The rate of success in these cases prosecuted that do reach the courtroom is improved when the personnel who make the apprehensions are conservative in their approach and are careful to observe several basic rules:

1. They see the suspect take the merchandise. This establishes that the merchandise belongs to the store.
2. They see the suspect conceal the merchandise. Evidence of concealment is important in

establishing intent.

3. They see that the suspect does not ditch the item. If surveillance is interrupted, apprehending the suspect later is a poor risk.
4. They see that the merchandise is not paid for. The person who makes the apprehension must personally observe as the crime is committed.
5. They apprehend the suspect outside the store. Common sense suggests that when a person leaves the store without paying, he has gone that much further in establishing his intent to steal.

Methods of concealment are quite ordinary.

There is no stronger deterrent than prosecution. Evidence shows that prosecution discourages amateurs from stealing again.

Shoplifting is a crime and shoplifters will be treated as criminals.



Commissioners  
Russell J. Ritter, Mayor  
Margaret A. Crennen  
Tom Huddleston  
Mike Murray  
Blake J. Wordal



EXHIBIT 4  
DATE 3-11-91  
SB 145

City-County  
Administration Building  
316 North Park  
Helena, MT 59623

Phone: 406/442-9920

William J. Verwolf  
City Manager

## City of Helena

March 11, 1991

Representative Bill Strizich, Chairman  
House Judiciary Committee  
House of Representatives  
State Capitol  
Helena, MT 59620

Dear Representative Strizich:

The Helena City Commission would like to go on record as opposing Senate Bill 145. One of the Commission's priorities for this Session was to oppose any expansion of gambling.

This bill, on its surface, seems to discourage any expansion. However, the Commission is concerned that the gaming industry might tie an expansion of gambling to some public purpose that the Legislature and the electorate simply couldn't refuse.

When economic times are tough, the Legislature and the electorate might consider things that they might not ordinarily. For example, if an expansion of gambling had an increased tax that would go toward "tax reform" or some other "ideal public purpose", the people might be persuaded to vote for it. These people might actually oppose expanded gambling, but may be willing to accept the consequences in order to achieve the other goal.

Please consider this argument when acting upon Senate Bill 145.

Sincerely,

A handwritten signature in cursive script that reads "Shelly Laine". The signature is written in dark ink and is positioned above the printed name.

Shelly Laine, Director  
Administrative Services

DATE 3-11-91  
HB 344

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 3-11-91 BILL NO. JB 344 NUMBER \_\_\_\_\_

MOTION: Rep. Measure motion to Table.

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR	/	
REP. ARLENE BECKER	/	
REP. WILLIAM BOHARSKI		/
REP. DAVE BROWN	/	
REP. ROBERT CLARK		/
REP. PAULA DARKO	/	
REP. BUDD GOULD		/
REP. ROYAL JOHNSON		/
REP. VERNON KELLER		/
REP. THOMAS LEE		/
REP. BRUCE MEASURE	/	
REP. CHARLOTTE MESSMORE		/
REP. LINDA NELSON	/	
REP. JIM RICE		/
REP. ANGELA RUSSELL	/	
REP. JESSICA STICKNEY	/	
REP. HOWARD TOOLE	/	
REP. TIM WHALEN	/	
REP. DIANA WYATT	/	
REP. BILL STRIZICH, CHAIRMAN		/
TOTAL	11	9

EXHIBIT 3-11-91  
DATE 3-11-91  
SB 145

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 3-11-91 BILL NO. SB 145 NUMBER \_\_\_\_\_

MOTION: Brown amendment

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR		—
REP. ARLENE BECKER	—	
REP. WILLIAM BOHARSKI		—
REP. DAVE BROWN	—	
REP. ROBERT CLARK	—	
REP. PAULA DARKO	—	
REP. BUDD GOULD	—	
REP. ROYAL JOHNSON		—
REP. VERNON KELLER	—	
REP. THOMAS LEE	—	
REP. BRUCE MEASURE		—
REP. CHARLOTTE MESSMORE	—	
REP. LINDA NELSON	—	
REP. JIM RICE		—
REP. ANGELA RUSSELL		—
REP. JESSICA STICKNEY		—
REP. HOWARD TOOLE	—	—
REP. TIM WHALEN		—
REP. DIANA WYATT	—	
REP. BILL STRIZICH, CHAIRMAN	<i>Strizich</i>	
TOTAL	11	8



EXHIBIT 3-11-91  
DATE 3-11-91  
SB 145

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 3-11-91 BILL NO. SB 145 NUMBER

MOTION: Brown Table

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR		✓
REP. ARLENE BECKER	✓	
REP. WILLIAM BOHARSKI		✓
REP. DAVE BROWN	✓	
REP. ROBERT CLARK	✓	
REP. PAULA DARKO	✓	
REP. BUDD GOULD	✓	
REP. ROYAL JOHNSON		✓
REP. VERNON KELLER		✓
REP. THOMAS LEE		✓
REP. BRUCE MEASURE		✓
REP. CHARLOTTE MESSMORE		✓
REP. LINDA NELSON	✓	
REP. JIM RICE		✓
REP. ANGELA RUSSELL	✓	
REP. JESSICA STICKNEY	✓	
REP. HOWARD TOOLE	✓	
REP. TIM WHALEN	✓	
REP. DIANA WYATT	✓	
REP. BILL STRIZICH, CHAIRMAN	✓	
TOTAL	12	8

# HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

Judiciary COMMITTEE SB# 344 BILL NO.  
 DATE 3-11-91 SPONSOR(S) Sen. Pinsonneault

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Diane Savos	MT Women's Lobby		✓	<del>X</del>
A. M. Elwell	WCSM			X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

# VISITOR'S REGISTER

**PLEASE PRINT**

[illegible]

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## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

Judiciary COMMITTEE BILL NO. SB# 327  
 DATE 3-11-91 SPONSOR(S) Sen. Noble

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Hessher Robbins	Missouri	327		X
Riley Johnson	NFIB	327		X
Charles R. Brooks	MT. Retail Assoc	327		X
Lloyd Knudsen	MT. RETAIL SECURITY & INV.	327		X
Mike Wall	Power Trench & Helms	327		X
Bruce Rowse	Buttrey Food & Drug	327		X
Charles Twissel	MT Chamber	SB 327		✓
James Dancy	Dept of Ant	SG 327		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. SB #145  
DATE 3-11-91 SPONSOR(S) Sen. Brown

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Heasler Robbins	MUS Valley Dev Corp		X
Randy Peyer	GIA		X
Phil HAVICK	City of Helena		X
DAVE BROWN	State Rep. HD #72		X
Mark O'Leary	MT Jan Assoc.		X
Joe Roberts	Dad Gamble with the Future	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.