

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION  
COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By Vice Chairman Bob Pipinich, on February 6, 1991, at 10:10 A.M. in room 331.

**ROLL CALL**

**Members Present:**

Bob Pipinich, Vice Chairman (D)  
John Jr. Anderson (R)  
Chet Blaylock (D)  
James Burnett (R)  
Bill Farrell (R)  
Harry Fritz (D)  
Bob Hockett (D)

**Members Excused:** Senators Jack Rea, Bernie Swift, and Eleanor Vaughn

**Staff Present:** David Niss (Legislative Council).

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

**Announcements/Discussion:** None

**HEARING ON HOUSE BILL 138**

**Presentation and Opening Statement by Sponsor:**

Representative Mary Lou Peterson, House District 1, stated that House Bill 138 is an act to establish qualifications for public safety communications officers; to allow for certification of public safety communications officers. In the House there was concern about grandfathering in some of the dispatchers who had qualified and did some dispatching but didn't meet minimum qualifications in this bill, and an amendment was written to address that problem. She said that Larry Petersen said this bill doesn't need the prepared amendment. According to page 5, line 8, sub 4 you will see that the board may waive minimum qualification standards for good cause. The dispatchers start the whole process of emergency needs into motion, and they need to be trained.

Proponents' Testimony:

Ted Huber, Bureau Chief of the Professional Programs at the Montana Law Enforcement Academy, said he also represents the Montana Chapter of the Associated Public Communications Offices, APCO, chairman of the training committee. His handout, Public Safety Communications Officer Voluntary Training Legislation Concept Paper, outlines the intent of House Bill 138. He read testimony into the record. (Exhibit 1 and exhibit 6)

Larry Petersen manages the 9-1-1 Emergency Telephone Systems Program for the Department of Administration. He read his testimony into the record. (Exhibit 2)

Midge Warrington, Center Manager for the Great Falls, Cascade County 9-1-1 System, has been involved in communications for 15 years and employed there 25 years. Training makes an employee competent and confident, so she supports training for dispatchers. On the job training is necessary to some degree as you have to have training specific to the agency on equipment and policies. On the job training is only as good as the person who is doing that training. If we have specific, standard, basic training course for educating dispatchers in all basic functions, telephone answering, minimum psychology in how to handle upset callers, basic policies for dispatching call types, whether law enforcement, firemen, etc. As a manager who is trying to get training and a former dispatcher who was trained on the job, these people are hungry for some training. It gives them confidence that they are performing correctly. Please support this basic training for dispatchers.

Joyce Benz, a Telecommunications Operator for the Montana Highway Patrol, is a dispatcher. She read testimony into record. (Exhibit 3)

Gene Kiser, Director of the Montana Peace Officers Standard and Training Council, is on record as supporting House Bill 138. This bill will not have any appreciable impact upon the Council in the certification process of the communications officers.

Drew Dawson, Chief of the Emergency Medical Services Bureau in the Department of Health and Environmental Sciences, supports House bill 138. He read testimony into record. (Exhibit 4)

Lyle Nagel represents the Montana Firefighters' Association and the Montana Fire Chiefs' Association. At the Montana Fire Chiefs' executive board meeting this bill was discussed. One problem with the establishment of the 9-1-1 jurisdictions is that the multi-agency jurisdictions dispatched primarily to city fire, police and ambulance services. Now the problem is, when dispatching to rural areas, the lack of an address system. Because of lack of trained dispatchers there has been some near

misses. A standardized training system, and a good address system, could shorten time to an emergency. Please support House Bill 138.

Henry E. Lohr, Montana State Volunteer Firefighters' Association, supports this bill as it is a very vital link, and training can never be emphasized enough. He supports this bill.

Opponents' Testimony:

None

Questions from Committee:

Senator Blaylock asked about the 40 hours basic communication training each year. What is the cost of that? Representative Mary Lou Peterson said the cost is minimal because they get special rates on food and lodging at Bozeman. She drew attention to the fiscal note that says that 9-1-1 funds may apply to training. Ted Huber said the cost is about \$95 for a 40 hour course at the Law Enforcement Academy in Bozeman. Senator Blaylock asked if they need the 40 hours every year? Mr. Huber responded this is a one time basic training.

Senator Fritz asked are there many dispatchers in Montana who make wrong decisions? Lyle Nagel gave an example where they were dispatched on a fire call where by air miles they were the closest department, but by road miles they were 45 miles from the fire, and there was another fire department within 14 miles. The map system is difficult for inexperienced dispatchers.

Midge Warrington said they need the basic course, then we can work on specifics to the area policies and locations.

Larry Peterson said he attends about 2 public meetings a month and hears war stories from the public of how they were callously treated by dispatchers when they were called in with emergency situations. They did not feel comfortable with the way their situation was handled. Part of the basic training program is how to deal with individuals who are undergoing a trauma associated with emergencies. It would better serve the public to have dispatchers who are sympathetic, competent and skillful at gaining control of a situation.

Senator Farrell asked what makes this voluntary? What is the liability position? What happens if the County Commissioners decide not to acquire and they have uncertified dispatchers?

Representative Mary Lou Peterson read a portion of a letter from the Association of Montana Counties, Gordon Morris.

"Commissioners across the state recognize that 9-1-1 dispatchers or communication officers must be trained and qualified to handle emergency calls. This is something they have discussed at their

meetings. From the pure liability perspective, untrained dispatchers pose a possibility for lawsuit against the administration."

Attorney Niss said that decision by the County Commissioners is discretionary action.

Senator Blaylock said the bill says "may" so it is discretionary. Is that county, city and town? Representative Peterson said from her area 4 volunteer dispatchers have gone to the training and have come back and shared their knowledge. She doesn't think that everyone will go for certification.

Closing by Sponsor:

Representative Peterson called attention to the fiscal note on House Bill 138 that said there is no fiscal impact because there are funds available. She reminded the committee about the amendment for someone who might not have all the minimum qualifications. Larry Petersen says a board may waive standard qualifications for good cause. Thank you.

EXECUTIVE ACTION ON HOUSE BILL 138

Discussion:

Senator Farrell didn't think the amendment was necessary. (Exhibit 5) In some areas they used CETA people to man the centers, but as the program progresses it becomes complicated and people need more education.

Senator Pipinich told of an area in Missoula that had address problems. They all bought address labels, put them up and the 9-1-1 put them on the map. That area is looking at a telephone system that will automatically give your address and return phone number when you call in.

Senator Farrell said there is a turn over rate and stress level that is quite high.

Senator Anderson asked about page 5, line 8 the board may waive the qualifications. That takes care of the problem. No amendment is necessary.

Senator Farrell asked if they can spend their funds for training before all the counties have the opportunity to get on 9-1-1? Yes, they can.

Senator Fritz said there are many areas in the state that are technically on the 9-1-1 system but are not certified yet. Butte - Silverbow is an example. The urban area is on it but the county itself isn't a part of the system. Missoula County is entirely on 9-1-1 and the rest of the state will get there.

Recommendation and Vote:

Senator Blaylock moved that we DO CONCUR IN HOUSE BILL 138. The VOTE was UNANIMOUS in favor of concurring in House Bill 138. Senator Gage is a sponsor so we'll ask him to carry it.

HEARING ON HOUSE BILL 140Presentation and Opening Statement by Sponsor:

Representative Bob Raney, House District 82, Livingston, said House Bill 140 requires a state officer or state employee soliciting or accepting employment, or engaging in negotiations or meetings to consider employment, with a person whom he regulates to first notify his supervisor and department director in writing. The entire bill is on page 2, lines 10 through 14.

Proponents' Testimony:

Stan Bradshaw is here in behalf of Trout Unlimited. Much of the fisheries protection that they value resides in the state's regulatory agencies, such as the Water Quality Bureau, the Health Department or the Department of State Lands Mining Bureau. He told of an employee of the Water Quality Bureau was investigating the company for water pollution incident. Well into the investigation his supervisor learned he was negotiating for employment with the company that he was investigating. The employee left the state department and went to work for this company, and the chief witness for the company was that particular person. This bill is important to public confidence in the quality of protection of laws. That employees involved in regulatory jobs avoid even the appearance of a conflict or impropriety. This bill is a balance between the employees right to seek other employment outside state government and the agencies need to maintain integrity and enforcement. Please support House Bill 140.

Jim Jensen, Executive Director of the Montana Environment Information Center, said his work has much to do with Mining Regulations. The mining industry pays good salaries and state employees leave the Department of State Lands to work for the private sector for companies the Department of State Lands regulates. He has not had the experience related above, but the appearance of employees on different sides of the issue makes the general public suspicious. This bill should prevent the appearance of conflict or impropriety. He supports House Bill 140.

C. B. Pearson, Executive Director of Common Cause, supports House Bill 140. This helps increase public confidence in officials in government. Those who work for the public should place public interest above their own and above private industry.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Fritz asked if there is a penalty. Representative Raney said just embarrassment. There are no provisions for penalty. This is an affront.

Senator Farrell asked about law enforcement officers who work part time in security situations? They should notify their Department.

Stan Bradshaw said this bill applies to a person who is working for someone he is regulating. The supervisor should be aware of what that officer is doing.

Farrell asked if there is a violation of employee rights? Stan Bradshaw responded we are not restraining his right to seek, but find a balance between his rights and the integrity of the situation.

Senator Farrell asked Steve Pilcher an attorney for the Montana Department of Health and Environmental Sciences about employee rights. Mr. Pincher responded that a department entrusts all the knowledge of an investigation in their assigned employees and then when negotiations began to resolve the violation he was on the other side of the table. There are provisions to provide notification to supervisor, then he can decide whether to reassign that individual if there is a perception of conflict of interest.

Senator Farrell asked how do you determine when they are "engaged" in negotiations? What if a company called the department and said your employee has asked for employment with us? Jim Jensen responded that solicit is in the language. The supervisor has to make decisions regarding employees all the time. This law relies on the good faith of the employee, and this will put an obligation on him. If an employee wants to cheat on this, he will probably get away with it.

Senator Pipinich asked if this bill is just a help to the departments? Representative Raney believes our system functions better than that. Senator Burnett thinks that supervisors should know their employees, their integrity, and their assignments and make the regulation at the time of employment.

Closing by Sponsor:

Representative Raney said this doesn't cover many employees. It covers those involved in regulatory positions. They can pursue employment. The employer has the right to know if they are searching for work with the person they are investigating.

EXECUTIVE ACTION ON HOUSE BILL 140Motion:

Senator Burnett moved we DO NOT CONCUR in House Bill 140 is because the agencies themselves can make that regulation at any time and this doesn't need to be a law.

Discussion:

Senator Farrell talked about there not being a penalty clause. Is putting a letter in an employee's file to be used against them, violating Montana law. Isn't that against their rights?

Senator Blaylock mentioned the revolving door on the federal level, particularly with the defense department, who are dealing constantly with contractors, multibillion dollars and then go directly to work for them. The federal government says they can't go to work for them for 1 year after they leave the department.

Senator Farrell talked about a state employee being wrongly accused with this bill.

Attorney Niss said the first question of whether the law as written violates the employee's right to privacy. The other issue is the procedural issue of how does the agency make that determination and what procedure do they use to put that letter into the file. State regulations require that any agency has to offer an employee a hearing and a fact finding procedure. The director simply makes the decision after the hearing. The legal issue is, does this violate an employee's right to privacy? If the agency follows the correct disciplinary procedure to put the letter into the file, there is no legal violation. An employee has a right to privacy under the 9th Amendment to the Constitution.

Senator Blaylock said this bill does not stop them from doing anything. They can open negotiations for employment. All they have to do is tell their employer.

Senator Burnett said this is a wasted effort. Senator Farrell talked about a person retiring and going to work for a private company he had investigated. Senator Fritz said he no longer had a file to put a letter into anyway. Senator Farrell said allegations against a person are a pretty serious thing.

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The ROLL CALL VOTE was 4 in favor of DO NOT PASS House Bill 140; and Senators Blaylock, Rea, Pipinich and Vaughn, opposed. The bill does not have any action.

HEARING ON HOUSE BILL 205Presentation and Opening Statement by Sponsor:

Representative Ervin Davis, House District 53, said House Bill 205 is requested by the Teachers' Retirement Board.

Proponents' Testimony:

David Senn, Executive Secretary of the Teachers' Retirement System, said House Bill 205 allows transfer of funds between Public Employees' Retirement System and Teachers' Retirement System. The members accounts were always transferred, but employer contributions and interest were not transferred. Before 1989 there were very few dollars transferred between systems. Teachers can retire after 25 years service at any age with full benefits. Some PERS members would leave that system and go to TRS so their benefits would be full at 25 years service. That is a huge liability for a retirement system to assume, the 2 systems developed a formula for funds transferring. Individuals who transferred over to TRS had to pay 2% per year of service. They had worked with an actuary to develop a refined formula. This bill deletes the additional cost for any individual. If a person withdraws from PERS and goes to TRS he must redeposit the same as he withdraws. Then from the pool 72% of that individual's account balance will be transferred to TRS. This bill is retroactive to October 1, 1989 and anyone who has paid additional contributions will have a refund coming. Please support House Bill 205.

Larry Nachtsheim, Director of the Public Employees Retirement System, believes this is a good bill and both retirement systems have worked out this agreement.

Leroy Schramm, Montana University System, has a few people transfer from PERS to TRS each year as they become eligible to do so. The promotion had the effect of forcing them to carry over all their PERS and pay the 2% to do so, or they could start all over in TRS plan. This bill will allow them to move between the two plans without penalty. This is a more just solution to that problem.

Opponents' Testimony:

None

Questions From Committee Members:

None

Closing by Sponsor:

Representative Davis closed saying this is a good bill and agreement between the 2 retirement systems.

EXECUTIVE ACTION ON HOUSE BILL 205

Motion:

Senator Blaylock made a motion that we DO CONCUR IN HOUSE BILL 205.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The VOTE was UNANIMOUS in favor of concurring in House Bill 205. Senator Farrell will carry HB 205 to the Senate floor.

EXECUTIVE ACTION ON SENATE BILL 231

Motion:

Senator Farrell moved that we accept the AMENDMENTS as given in Exhibit 5.

Discussion:

Attorney Niss explained the amendments in Exhibit 5. Senator Farrell asked to hold Senate Bill 231 until he found out about Social Security. That's a different problem. This changes the limit to 600 hours rather than \$5,000.

Amendments, Discussion, and Votes:

The VOTE on the AMENDMENTS to Senate Bill 231 was UNANIMOUS. Senator Farrell thinks people should be able to work for a time and not be limited on dollar amounts. Senator Pipinich said we have experienced, trained people that we should be able to use for short period of time.

Recommendation and Vote:

Senator Farrell moved that Senate Bill 231 DO PASS AS AMENDED. The VOTE was UNANIMOUS in favor of Senate Bill 231.

ADJOURNMENT

Adjournment At: 11:40 A.M.

  
BOB PIPINICH, Vice Chairman

  
DOLORES HARRIS, Secretary

BP/dh

ROLL CALL

STATE ADMINISTRATION COMMITTEE

DATE Feb. 6, 1991

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR ELEANOR VAUGHN			<i>excused</i>
SENATOR BOB PIPINICH	X		
SENATOR JOHN ANDERSON	X		
SENATOR CHET BLAYLOCK	X		
SENATOR JAMES BURNETT	X		
SENATOR "BILL" FARRELL	X		
SENATOR HARRY FRITZ	X		
SENATOR BOB HOCKETT			
SENATOR JACK "DOC" REA			<i>excused</i>
SENATOR BERNIE SWIFT			<i>excused</i>

Each day attach to minutes.

DATE February 6, 1991

COMMITTEE ON State Administration

# VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

Huber

SENATE STATE ADMIN.

EXHIBIT NO. 1

DATE 2-6-91

BILL NO. HB 138

LEGISLATIVE INTRODUCTION  
JANUARY 22, 1991

~~GOOD MORNING HONORABLE LADIES AND GENTLEMEN,~~ 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.

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.

Testimony on 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 found 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 treated after the call is received. This exposure exists in emergency communications systems even without the advent of 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. With 9-1-1 emergency telephone systems the total emergency response capability, itself, does not necessarily improve; the public's ability to call for help does by eliminating a multitude of emergency telephone numbers and replacing them with just 9-1-1.

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.

Nine-one-one emergency telephone systems are fast becoming a reality throughout our state. Nine-one-one jurisdictions can and do use some of the money they receive under the state's 9-1-1 program for dispatcher training. As of today there are thirty State approved 9-1-1 emergency telephone systems available for public use. These systems provide service to approximately 70 percent of the state population. I fully expect 9-1-1 to be available, anywhere in Montana, within the next three to four years.

How well any emergency response capability will perform depends on:

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

These criteria for the performance of public safety communications personnel are addressed by House Bill 138.

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

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.

Nine-one-one emergency telephone systems are fast becoming a reality throughout our state. Nine-one-one jurisdictions can and do use some of the money they receive under the state's 9-1-1 program for dispatcher training. As of today there are thirty State approved 9-1-1 emergency telephone systems available for public use. These systems provide service to approximately 70 percent of the state population. I fully expect 9-1-1 to be available, anywhere in Montana, within the next three to four years.

How well any emergency response capability will perform depends on:

- (1) Good screening and hiring practices;
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These criteria for the performance of public safety communications personnel are addressed by House Bill 138.

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SENATE STATE ADMIN.

EXHIBIT NO. 3

DATE 2-6-91

BILL NO. HB 138

February 6, 1991  
Senate State Administration Committee  
Testimony by Joyce Benz on House Bill 138

MADAM CHAIRPERSON AND MEMBERS OF THE COMMITTEE:

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I am a proponent to House Bill 138.

I first became involved in Public Safety Communications in March of 1989. I applied to a local law enforcement agency to perform bookkeeping duties and was subsequently offered a part-time Public Safety Communications Position.

This without training, knowledge or skills for the position. During my in-house and on-the-job training I found very few public safety communicators to have any formalized or standardized training. It was learned, if you will, by trial and error. This career field demands well trained people. Frequently Public Safety Communicators deal with life-threatening situations and are relied upon by the public and emergency response personnel to properly notify and prioritize incidents reported to them. Today's Public Safety Communicator does more than answer the phone and speak into a radio microphone. They must be able to assist various agencies and the public in all facets of Public Safety and Criminal Justice as well as numerous other non-emergency situations.

This bill, if passed into law, will greatly assist in the placement of qualified, professional and committed Public Safety Communicators. The public, above all, has the right to expect that the faceless person on the other end of the phone is someone that can indeed help them in a time of crisis or need.

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This bill, if passed into law, will greatly assist in the placement of qualified, professional and committed Public Safety Communicators. The public, above all, has the right to expect that the faceless person on the other end of the phone is someone that can indeed help them in a time of crisis or need.

February 6, 1991  
Senate State Administration Committee  
Testimony by Joyce Benz on House Bill 138

MADAM CHAIRPERSON AND MEMBERS OF THE COMMITTEE:

Good Morning. My name is Joyce Benz, I am a Telecommunications Operator II for the Montana Highway Patrol - A Dispatcher.

I am a proponent to House Bill 138.

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## HOUSE BILL 138

Madam chair, members of the committee. I am Drew Dawson, Chief of the Emergency Medical Services Bureau in the Department of Health and Environmental Sciences.

We all work very hard to assure the folks who provide pre-hospital emergency medical care in your community are well-trained. These EMTs, First Responders and others, many of them volunteers, are very dedicated and do an excellent job when they arrive at the scene of an emergency.

Like law enforcement and fire services, emergency medical services personnel are dependent on the dispatcher to assure that we receive the call promptly, that the appropriate information is conveyed to us, and that there is a coordinated response to a medical emergency. In addition to providing critical information to the emergency responders, appropriately trained dispatchers often can provide the caller with life-saving instructions prior to the arrival of emergency medical services personnel. These dispatchers are the common link to the successful performance by all emergency services. Without well-trained dispatchers, no emergency response agency can effectively perform.

We applaud efforts to establish *voluntary* standards for PUBLIC SAFETY COMMUNICATIONS OFFICERS. We work very closely with the Montana Law Enforcement Academy and will be pleased to cooperate with them in improving the training and certification of public safety communication officers.

On behalf of the Department of Health and Environmental Sciences, and as an EMT with a volunteer service for nearly twenty years, I am pleased to support House Bill 138 to establish public safety communications officers as an essential component of Montana's emergency response system. Although they could not be here today to testify, the Montana Private Ambulance Operator's Association has also asked me to convey to you their support for House Bill 138.

Thank you.

Amendments to Senate Bill No. 231  
First Reading Copy

For the Committee on State Administration

Prepared by David S. Niss  
February 5, 1991

1. Page 6, line 14.

Strike: "not"

Insert: "either"

2. Page 6, line 15.

Strike: "but"

Insert: ", or"

3. Page 6, line 17.

Following: "benefits"

Insert: ", whichever limitation provides the greater compensation  
to the retiree,"

Following: "year"

Strike: the remainder of line 17

4. Page 6, line 18.

Strike: all of line 18 before the period

Insert: ". Upon reaching the applicable limitation, the  
retiree's benefits must be reduced \$1 for each \$1 in other  
income earned in that calendar year"

ITEM #1

SENATE STATE ADMIN.

EXHIBIT NO. 6

DATE 2-6-91

BILL NO. 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.*

## L.E. LAW

Mark T. Baganz, J.D.

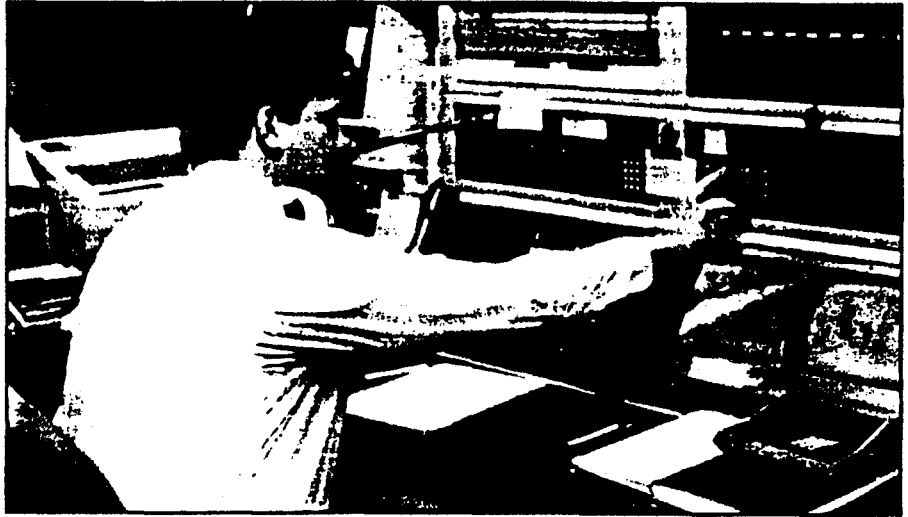
**R**ecently, it appears that the law enforcement community has become more and more aware of the problems confronting the law enforcement dispatcher. Perhaps high turn-over rates, lawsuits, and the corresponding costs of those situations, have caused some law enforcement administrators to reassess the 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 "reasonable person" standard at trial.

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-art in training?"

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 attempted to run over a police offi-

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:

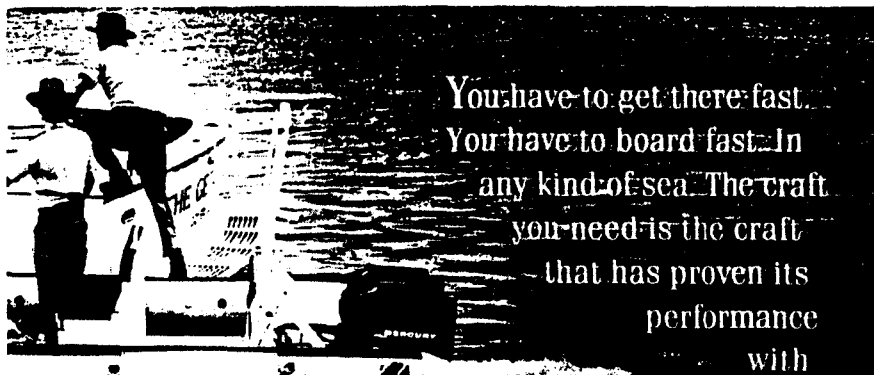
"The dispatcher's announcement that (suspect's) alleged attempt to run down a police officer means 'this is assault by means of a vehicle,' a deadly weapon, could be viewed as an indirect authorization for the use of deadly force, causing the officers to shoot precipitously. Captain Daniel Spellacy testified 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. Baganz, 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.



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Montana Law Enforcement Academy  
Dursey Summer 1990

ITEM #3

### 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 LICENSE
18 WALK-IN TRAFFIC/RECEPTIONIST	1 MAKE COFFEE
14 COOK MEALS	1 ENTER GAS MILEAGE FOR OFFICERS
13 HANDLE WARRANTS	1 ISSUE BURN PERMITS
9 WASH CLOTHES	1 WAKE-UP CALLS
8 CLERICAL	1 BOOK PRISONERS
7 TAKE BONDS	1 INTELLIGENCE ANALYST
7 RUN RADIOS	1 SCHEDULING
7 ISSUE GVW PERMITS	1 PAYROLL
7 ISSUE 20-DAY STICKERS	1 JUVENILE FILES
6 NONE	1 CALL JURORS
5 FAX MACHINE OPERATOR	1 NAWAS MONITOR
5 TRANSCRIBE REPORTS	1 PATROL
4 DAILEY LOG	1 POLICY DEVELOPMENT
4 ELECTRONIC DOOR MONITOR	1 EQUIPMENT TROUBLESHOOTER
4 TYPE REPORTS FOR OFFICERS	1 RESERVE DEPUTY
3 WRITE MINISTERIAL TICKETS	
3 MONITOR CB RADIO	
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 QUESTIONS
2 9-1-1	
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	

51st Legislative Session

STATE ADMINISTRATION COMMITTEE

PROXY VOTE

I, Senator Sen. Bernie Swift do hereby  
grant my proxy vote to Chairman Vaughn or Secretary Harris as  
follows:

BILL NUMBER AB 140

MOTION

Do Pass  
Yes \_\_\_\_\_ No \_\_\_\_\_

Do Not Pass  
Yes X \_\_\_\_\_ No \_\_\_\_\_

Indefinitely Postponed  
Yes \_\_\_\_\_ No \_\_\_\_\_

Tabled  
Yes \_\_\_\_\_ No \_\_\_\_\_

Date 2/6/91

Bernie Swift  
Signature

51st Legislative Session

STATE ADMINISTRATION COMMITTEE

PROXY VOTE

I, Senator Pen do hereby  
grant my proxy vote to Chairman Vaughn or Secretary Harris as  
follows:

BILL NUMBER HB 140

MOTION

Do Pass  
Yes       ✓       No                     

Do Not Pass  
Yes                      No                     

Indefinitely Postponed  
Yes                      No                     

Tabled  
Yes                      No                     

Date 2-6-91

Jack "Doc" Pen  
Signature

51st Legislative Session

STATE ADMINISTRATION COMMITTEE

PROXY VOTE

I, Senator \_\_\_\_\_ do hereby  
grant my proxy vote to Chairman Vaughn or Secretary Harris as  
follows:

BILL NUMBER \_\_\_\_\_

MOTION

Do Pass

Yes \_\_\_\_\_

No \_\_\_\_\_

Do Not Pass

Yes \_\_\_\_\_

No X \_\_\_\_\_

Indefinitely Postponed

Yes \_\_\_\_\_

No \_\_\_\_\_

Tabled

Yes \_\_\_\_\_

No \_\_\_\_\_

Date \_\_\_\_\_

Senator Vaughn  
Signature

51st Legislative Session

STATE ADMINISTRATION COMMITTEE

PROXY VOTE

I, Senator Rep do hereby  
grant my proxy vote to Chairman Vaughn or Secretary Harris as  
follows:

BILL NUMBER HB 138

MOTION

Do Pass  
Yes ✓ No       

Do Not Pass  
Yes        No       

Indefinitely Postponed  
Yes        No       

Tabled  
Yes        No       

Date 2-6-91

Jack Doc Geo  
Signature

51st Legislative Session

STATE ADMINISTRATION COMMITTEE

PROXY VOTE

I, Senator Rep do hereby  
grant my proxy vote to Chairman Vaughn or Secretary Harris as  
follows:

BILL NUMBER HB 205

MOTION

Do Pass  
Yes ✓ No         

Do Not Pass  
Yes          No         

Indefinitely Postponed  
Yes          No         

Tabled  
Yes          No         

Date 2-6-91

Jack "Doc" Geo  
Signature

ROLL CALL VOTE

SENATE COMMITTEE STATE ADMINISTRATION

52st LEGISLATIVE SESSION

Date Feb 6 Bill No. HB 140 Time 10:15

NAME	YES	NO
Chairman Eleanor Vaughn		X
Vice Chairman Bob Pipinich		X
Senator John Anderson	X	
Senator Chet Blaylock		X
Senator James Burnett	X	
Senator "Bill" Farrell	X	
Senator Harry Fritz	X	
Senator Bob Hockett		X
Senator Jack "Doc" Rea		X
Senator Bernie Swift	X	

Dolores Harris  
Secretary Dolores Harris

Eleanor Vaughn  
Chairman Eleanor Vaughn

Motion: Senator Burnett moved do  
not concur in House Bill 140.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 6, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 138 (third reading copy -- blue), respectfully report that House Bill No. 138 be concurred in.

Signed: Bob Pipinich  
Bob Pipinich, Vice Chair

2-6-91  
And. Coord.

2-6 1:55  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 6, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 205 (third reading copy -- blue), respectfully report that House Bill No. 205 be concurred in.

Signed: Bob Pipinich  
Bob Pipinich, Vice Chair

for 2-6-91  
And. Coord.

S.P. 2-6 1:55  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 6, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 140 (third reading copy -- blue), respectfully report that House Bill No. 140 be not concurred in.

Signed: Bob Pipinich  
Bob Pipinich, Vice Chair

191 2-6-91  
And. Coord.

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