

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE D. CRIPPEN**, on March 17, 1995,
at 9:00 AM

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Lorents Grosfield (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Linda J. Nelson (D)

Members Excused: Sen. Mike Halligan (D)

Members Absent: None

Staff Present: Valencia Lane, Legislative Council
Judy Keintz, Committee Secretary

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

Committee Business Summary:

Hearing: HB 160, HB 323, HB 332
Executive Action: None

HEARING ON HB 323

Opening Statement by Sponsor:

REPRESENTATIVE WILLIAM RYAN, House District 44, Great Falls, presented HB 323. This bill allows a person with a concealed weapon permit to purchase a handgun in the state of Montana without going through the five day waiting period. This bill was tied to HB 232, which is back in the House with minor adjustments. There is a section at the bottom of this bill which states that if HB 232 passes, this one would be dropped because it was included in HB 232.

Proponents' Testimony:

E. M. Elwell, Northwest Arms Collectors, The Montana Weapons Collection Society, stated they were the initiators of this bill. It is only fair that those who have gone through the system of background checks and have a concealed weapon permit be waived the 5-day waiting period. This will allow the gun show participants to make sales on handguns to those who have already been carefully screened. The 5-day waiting period was a mandate to run a background check. This is unnecessary for these people.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

SENATOR AL BISHOP asked why line 21 does not refer to other forms which need to be filled out to obtain a concealed weapon permit.

REPRESENTATIVE RYAN commented that this bill is designed to reduce paperwork.

Closing by Sponsor:

REPRESENTATIVE RYAN stated this bill is simply to reduce paperwork. In the House they had sheriffs testify in favor of this legislation.

HEARING ON HB 332Opening Statement by Sponsor:

REPRESENTATIVE ROBERT CLARK, House District 8, Ryegate, presented HB 332. This bill is an attempt to allow honest, law abiding citizens to circumvent the Gun Free School Zones Act of 1990. When Congress passed the crime bill, it went to a conference committee. During that conference committee, this gun free school zones portion was added to the bill and passed through Congress. Congress has no concept of life in rural America. This Act makes every law abiding citizen who has a firearm in their vehicle or travels within 1000 feet of a school with a firearm which is not unloaded and locked in a secure rack or gun case, a federal criminal. This law has been overturned in two U.S. Appeals Courts, the Fifth and the Tenth Circuits; however, when it was challenged in the Ninth Circuit, the Ninth Circuit upheld the law. This bill will license every law abiding citizen in Montana and thereby circumvents the Gun Free School Zones Act. If you are licensed, you do not need to worry about the 1000 feet. In his hometown, U.S. 12 runs through town and is within one block of the school. Every year, especially during hunting season, they have thousands of people who are subject to being arrested under a federal statute. He presented the committee with a handout, **EXHIBIT 1.**

Proponents' Testimony:

E. M. Elwell, Northwest Arms Collectors, Montana Weapons Collection Society, stated they fully support HB 332. He lives in Clancy. Some of the best hunting in the area is in Clancy Gulch. The only way to get there is to go past the school. The road is within 30 feet of the school. Ninety percent of the people in the state of Montana do hunt. This is an unfair law to the rural areas.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

SENATOR HOLDEN asked how rifles in gun racks would fit into today's standards at schools.

REPRESENTATIVE CLARK stated people who have rifles in gun racks at school would be breaking the federal law. HB 167 prohibits students from having a gun on school property.

SENATOR DOHERTY commented that they heard HB 167 in the Senate Education Committee. They left the definition of school property to be determined on a case by case basis. The trustees at the local level will be able to make that call. The students who have a rifle in back of the truck which they will go hunting with after school should not be a problem as far as the Gun Free School Zones Act is concerned.

Sherry Matteucci, U. S. Attorney for the District of Montana, stated it would be her responsibility to bring prosecutions under the Gun Free School Zones Act. The only prosecutions which have been brought in the District of Montana have involved incidents where persons have had guns in a school and have engaged in threatening or assaultive behavior. One of the important parts of making prosecutive decisions is legislative intent, Congressional intent, and common sense. In Montana, people will not be prosecuted who are lawfully driving by a school with a lawful weapon in their vehicles and acting in a lawful manner. This is useless legislation.

CHAIRMAN CRIPPEN asked **Ms. Matteucci** if he were stopped for speeding within 1000 feet from a school zone and the officer noticed a gun in his pickup, what would she do in that case?

Ms. Matteucci stated that situation would not happen. This is a federal offense and the highway patrol would not be writing a ticket on that basis. The Highway Patrol may provide information which would cause her office to investigate. Her recollection of this law is that there is a specific exemption in it for driving on streets and highways.

CHAIRMAN CRIPPEN stated this bill would provide a blanket license by the legislature. He asked if the legislature had the authority to grant a blanket license to everyone in the state?

Ms. Matteucci commented that in her opinion that would not be enforceable. She believed it would be interpreted as a subterfuge to defeat the congressional intent of the legislation and not be upheld.

REPRESENTATIVE CLARK stated that question did not come up in the discussions in the House.

SENATOR LARRY BAER stated that he knows people who live within a 1000 feet of a school who possess firearms. He asked **Ms. Matteucci** if someone could bring a writ of mandamus that would force her to prosecute.

Ms. Matteucci stated that someone could attempt to do that. The protection for people lies within the court determinations in that particular situation. There is no threat under the existing legislation that wholesale prosecutions of people engaged in innocent acts would occur. People have the right to bring into court any number of requests. The decision to go forward with those cases is much more substantively reached.

CHAIRMAN CRIPPEN asked **John Connor, Department of Justice**, if the state could issue a blanket license in this regard?

Mr. Connor stated his initial reaction is that the state could do that and the state has an obligation under the law to defend any enactment which the legislature passes.

SENATOR DOHERTY asked **REPRESENTATIVE CLARK** if any other state had provided a blanket license to its citizens?

REPRESENTATIVE CLARK stated that he was not aware of any other state doing this. He believed we would be breaking new ground.

SENATOR DOHERTY stated that in his handout, **EXHIBIT 1, Sec. 1702(B)(ii)** seems to say that there would have to be an individual verification of the license. Is there any additional information from the legislative history of this law which would indicate that a wholesale grant of a license is allowed versus a case by case licensing?

REPRESENTATIVE CLARK stated he did not know of any.

SENATOR DOHERTY stated the idea of a license is something which can be accepted or denied. About 99% of Montana's population would fall under the terms of that license and most of the population would be licensed without even knowing it. He questioned whether that could be done.

Closing by Sponsor:

REPRESENTATIVE CLARK stated that the fact that not everyone who prosecutes these situations is a common sense type of person is the reason why this bill is needed. Eighty-five percent of Montana homes have at least one firearm in the home. If the gun is in a home, it is exempt also from the Gun Free School Zones Act. Sixty-five percent of Montanans hunt or use firearms and as a result of this, most of us are breaking a federal law.

HEARING ON HB 160Opening Statement by Sponsor:

REPRESENTATIVE AUBYN CURTISS, House District 81, Fortine, presented HB 160. This bill was drafted because of the growing concern citizens nationwide are expressing about a government which looks the other way while its agents abuse the privilege of their offices. Last fall she heard constituents who were normally worried about job losses, escalating taxes, and regulatory burdens, expressed even more concern about second amendment rights and distrust of their government. She heard Montanans admitting actual fear of unwarranted arbitrary actions of our own government. Montanans trust the officials whom they elect and will be less inclined to react violently to protect themselves from unidentified strangers who threaten them by aggressive behavior.

Proponents' Testimony:

Gary Marbut, President of Montana Shooting Sports Association, Gun Owners of America, Citizens Committee for the Right to Keep and Bear Arms, Western Montana Fish and Game Association, Big Sky Shooting Club, stated their support of HB 160. He manufactures shooting range equipment which he markets to law enforcement agencies all over the United States. He asked how the agencies get along with federal agencies and officers. He hears mixed reports. Generally, he has heard that the U.S. Marshall works very well with local police. They are courteous, communicative, and cooperative. He has heard similar reports about the FBI. With other federal agencies there seems to be less cooperation and more situations where there are abuses of local people. The sheriff is the chief law enforcement of the county and should be responsible for the security of the people in his jurisdiction. Many times there are activities and operations by federal agencies which the sheriff is not informed about. An example is an incident in Garfield County where the U.S. Fish and Wildlife Service raided a farm couple for possession of eagle feathers. They were acquitted of any wrongdoing. The agents brought CNN with them, but deliberately avoided the sheriff. Another situation occurred in Northern Ravalli County where the IRS staged a dawn raid on the home of a couple. The sheriff was not given any specific information. The 911 center received a

panicked phone call from people stating there were armed people breaking into their home. They wore no uniforms or badges. The sheriff dispatched his deputies. It turned out to be the IRS. There were a dozen people, all with drawn guns, who were attacking the home. The sheriff testified before the House that when his people arrived there was considerable stress while they sorted out who they were dealing with. That situation could have been turned into a blood bath because his deputies were confronted with armed people with guns drawn who wore no badges or uniforms. How were they supposed to know who they were dealing with? This bill, as it was originally introduced in the House, would have required that federal officers seek the written permission of the sheriff before they conduct any arrests, searches, or seizures in the sheriff's jurisdiction. It would not change anything for the federal agencies who currently work well with the sheriff's department and have good communications with them. It would change things for those federal agencies who conduct activities without the knowledge of the sheriff's department. The House amended it to require only 24 hour notification. They are disappointed with that amendment, but would rather have the bill pass in that form than not pass at all. There are several exceptions in the bill where federal officers do not need to get permission or give notification. These exceptions would include: if the federal officer witnessed a crime that required immediate law enforcement activity; if the officer was in close pursuit; if the law enforcement activity was being handled by the border patrol; if the subject of the arrest, search or seizure was an employee of the county sheriff's department or an elected local or state official. There is also a corrupt sheriff provision which states that if the federal officer has reasonable cause to believe that there may be a close connection between the subject and the sheriff's department which may lead to the subject being informed of the pending arrest, search or seizure, then the federal officer may go to the attorney general with his probable cause. They feel there ought to be good communication between federal agencies and the local sheriff who knows the people and conditions involved. The House Committee asked for some documentation about the kinds of situations this measure would affect. He presented the documentation, **EXHIBIT 2**. One of the arguments of HB 160 is that it is unconstitutional. HB 160 does set up a contest between the supremacy clause of the Federal Constitution and the Tenth Amendment. That pendulum seems to be swinging in favor of the Tenth Amendment. There is a landmark case called Lopez before the U. S. Supreme Court. The Court has not yet ruled but Lopez will clarify the state of the art in terms of jurisprudence is in terms of giving authority to the Tenth Amendment and authority to the states.

REPRESENTATIVE MATT BRAINARD, House District 62, Missoula, stated that in the United States the government governs by the consent of the governed. Successful law enforcement depends on two things: good legislation which is supported by the people and enforcement which is fair and equitable in its administration.

Support of law enforcement activity is strongest when it involves locally elected officials who are known and trusted by the community. This legislation will assist federal law enforcement by assuring citizens that federal officials will act in concert with their locally elected and trusted law enforcement personnel. Power corrupts and absolute power corrupts absolutely. Our national liberty depends on the dynamic tension between federal, state and local governments. During the 50s and 60s, the federal government took steps to assure that our civil rights were protected down to the local level. Today it is apparent that local government must also work to protect our civil rights even when the federal government is involved. HB 160 will assist in protecting our civil rights. It will also guarantee better cooperation between local and federal officers because it guarantees communication. You cannot cooperate if you don't know what the other person is going to do. Local officers generally know the physical layout of the community better than federal officials. Many people in Montana live at poorly marked addresses and sometimes there are no maps. By conferring with local officers, federal officers may be spared the embarrassment of raiding the wrong dwelling and quite possibly engaging an innocent citizen with deadly force. HB 160 is good for the people of Montana and it will assist law enforcement, both local and federal. His constituents had problems with the IRS. One morning the IRS arrived at their home with no uniforms, drove unmarked vehicles and proceeded to break into their home. Mrs. Andras called 911. When the sheriff arrived on the scene there was no way for him to tell who these people were and what they were doing. He read a letter which the sheriff sent to the IRS, **EXHIBIT 3.**

Stoney Burk spoke in support of HB 160. He has concerns about the ever growing arrogance and disregard of citizen's rights by the federal government. When we give the government our public trust, we are giving to them the very best of us. He trusts his local law enforcement. He no longer trusts the federal government.

REPRESENTATIVE DICK GREEN, House District 61, Victor, stated this is a new problem in our state. Most Montanans know their sheriff by name. There is a trust with that.

Lorna Frank, Montana Farm Bureau, spoke in support of HB 160. They believe the federal government needs to contact the local authorities before coming into the county.

G. W. Tom Niehardt spoke in support of HB 160. The states had a strong opposition to having a standing federal army. The federal army was to defend the country itself. Each of the states would have their own law enforcement. This involves states rights and federal rights. He has been in law enforcement for 34 years and has always found sheriffs to be cooperative.

Bob Kamena stated he formerly worked on a daily basis with FBI and DEA agents. Most of them were excellent officers. Unfortunately, they take their orders from Washington, D.C. HB 160 is common sense legislation.

REPRESENTATIVE ROBERT CLARK, House District 8, Ryegate, stated that he has been a law enforcement officer for 27 years. What happened in Roundup a week or two ago is the way things should be handled. This case involved federal fugitives. Local law enforcement worked together with federal agencies. We have more than 50 federal law enforcement agencies. They have authority to arrest, search and seize and they all carry guns. This bill is only aimed at a few agencies because of the abuses. This bill does not interfere with any investigation by any federal agencies. It only addresses arrests, searches and seizures.

A. M. "Bud" Elwell, Montana Weapons Collectors Society and the Northwest Arms Collectors, stated that this bill will redirect power. A little power tends to corrupt. Absolute power corrupts absolutely. This bill spreads the power a little thinner so there has to be more cooperation.

Ray Henken urged passage of HB 160. He stated that President Clinton signed an executive order suspending the Fourth Amendment of search and seizure laws, especially for foreign nationals here in the United States. HR 666 has passed which is a weakening of our Fourth Amendment rights, **EXHIBIT 4**. HB 160 is another way of sending a message to the federal government that common citizens are tired of their treatment by the federal government.

Vern C. Knopf presented his written testimony, **EXHIBIT 5**.

Chris Mehus, Montana Stockgrowers Association, urged passage of HB 160.

Opponents' Testimony:

REPRESENTATIVE JIM ELLIOT, House District 51, Trout Creek, stated that the area he represents is the home of the co-founder of the Militia of Montana. No one supports arrogance in any law enforcement agency. All law enforcement agencies are guilty of arrogance to some extent and none of this arrogance should be condoned. The basis for this bill is built on misinformation and misconceptions. He lives near Idaho where the Randy Weaver family was held under siege by members of the federal government. He called Gene Arnold, his local sheriff and was told that if the federal government makes an arrest, they always let him know. He called the Lincoln County Sheriff, Ray Nixon. The federal government has been cooperative and he felt that requiring permission would hinder their operation. He called the Sheriff of Boundary County, where the Ruby Ridge incident occurred, and was told that the federal government was in touch with him constantly during the Ruby Ridge incident. In reference to the comments about the Andras Family who were supposedly awoken at

4:00 a.m., he read from the Ravalli Republic which stated that the IRS sent a six person team to the Andras home at 7:45 a.m. about an hour after they notified the Ravalli County Sheriff's Dispatch Center that they were commencing a search warrant procedure in Ravalli County. This bill is brought based on a great deal of misinformation.

John Connor, Department of Justice, spoke in opposition to HB 160. Their agency comprises a number of investigate agencies relating to criminal investigative duties as well as county prosecutor services. His job is to provide training, prosecution, and trial assistance to county attorneys throughout the state of Montana. They often work with state, federal and local law enforcement officials. The bill presents some practical problems, especially to prosecutors, with respect to construction. On page 2, lines 16 and 18, it states the attorney general shall take appropriate action to protect the rights of citizens in the county. This follows the provision concerning notice to the attorney general. He doesn't know what sort of action is contemplated by that language. He also does not know what citizens they are mandated to protect and what it is that they are to protect them from. Section 3 (1) states that federal officials must be prosecuted if they violate the terms of the bill, but prosecution is a discretionary act. Prosecutors are vested with considerable discretion in terms of whether to file criminal charges because of the substantial burden of proof involved. You can not prosecute a criminal case without probable cause and you are ethically obligated not to file a case unless you believe a conviction can be obtained. Further on it states that prosecution is discretionary. Section 3 also states the individual violating the law must be charged with a crime. The bill does not delineate what the crime is which the individual is supposed to be charged with. Would this be a felony or a misdemeanor? What is the punishment? If the crime carries a potential jail sentence, then the state is obligated to prove one of the three mental states, whether it is purposely, knowingly, or negligently. None of those are specified. In terms of charging someone, it must be specified in the charge itself the court in which it is to be filed and the language of the offense is to be stated in concise, clear language. It must also specify whether it is a felony or misdemeanor as well as the time and place of the offense and the rule of law which the defendant is purported to have violated. The defendant also must be advised as to the nature of the penalty for the charge. None of that is in the bill. There is significant concern with this bill in light of current federal law. In 28 U.S.C. §1442 states that if a criminal action is commenced in state court, a federal officer acting within the scope of his or her authority has the right to have that action removed to federal court for prosecution. This would present considerable expense to the county. The damage which this bill would do toward federal/state interaction, cooperation, and communication is considerable. They are in contact frequently with federal agencies. Communication would be much more beneficial than mandating by statute that a federal

officer has to take a particular action. They work with federal agencies on a daily basis. They share information and obtain their help when needed. There is a growing tension in this state between government officials and those who are dissatisfied with their government. The last thing we need to do is drive a further wedge between the capacity to communicate with state and federal agencies.

Chuck O'Reilly, Sheriff of Lewis and Clark County, stated the necessary ingredients for good law enforcement would be the support of the people and good laws. The other ingredient which is essential is cooperation. He has 30 years experience in the law enforcement system. He shares the concerns of the proponents but he does not feel that this bill will solve the problems. It will drive a wedge between local and federal law enforcement agencies. Agencies are run by humans; humans do make mistakes at all levels.

Tim Shanks, Montana Police Protective Association, stated their opposition to HB 160. Many departments have a good working relationship with the federal agencies. Unfortunately the media covers the federal agencies high profile mishaps and we do not hear about the many operations which are successful. This bill would place an unnecessary restriction on federal agencies and their agents.

Bill Strizich, United States Marshall for the District of Montana, stated that he has never seen a more counter productive legislation. This legislation is unconstitutional and simplistic and is aimed at problems which are grounded in a mistrust of government in general. There have been tragic events in the past few years related to the conduct of enforcement of our laws. Extreme circumstances and tactical misjudgments cannot be remedied by spurious legislation. This bill is unworkable from a practical standpoint. If the proponents want the state's rights issue tested in court, a fiscal note should be attached to this bill demonstrating the cost of defending this in the Supreme Court. The stated purpose of HB 160 is to ensure maximum cooperation between federal employees and local law enforcement. No legislation will ever replace common sense, courtesy and basic good manners. No federal agency can expect to operate without full cooperation from local law enforcement. Federal agencies are bound by strict standards of conduct and operational policy. Violations of law in the course of the conduct of law enforcement is not allowed. There are serious consequences for those violations.

Judy Browning, Governor's Office, spoke in opposition to HB 160. She spoke on the difficulties this bill has with the Federal Constitution. Acts of state legislators which interfere with or are contrary to the laws of Congress when made in pursuance of the Federal Constitution are invalid under the supremacy clause. This means that state law is preempted to the extent that it conflicts with federal law or is an obstacle to the

accomplishment of the objectives of Congress or imposes upon the performance of federal activity conditions which have not been contemplated by Congress. The language in HB 160 violates the Federal Constitution for two specific reasons. The first reason is that it imposes conditions upon federal law enforcement officials which have not been contemplated by Congress. This is not a field which Congress has not entered. Federal law enforcement, federal criminal law, whether substantive or procedural, is an area that Congress has spoken in. The federal court decisions show that states are not permitted to impose conditions upon discipline of lawyers when practicing in federal forums within state boundaries. Federal officials who are about to construct federal facilities, cannot be required to show their plans to state officials before construction. Confidentiality of documents cannot be required, even though state law may provide for that, if, in fact, it is a federal grand jury whose rules require the disclosure of those documents. Federal law officials cannot be required to provide 24 hour written notice to local law enforcement before an arrest, search or seizure is made. The second reason that HB 160 violates the supremacy clause is because it subjects federal law enforcement officials to prosecution. Federal court decisions conclude this is not permissible under the supremacy clause. You cannot hold federal law enforcement subject to prosecution if they are acting under authority of federal law, the act was part of their duties, and they did no more than was necessary or proper.

Mike Batista, Administrator of Law Enforcement Services Division of the Department of Justice, stated that several years ago, then Attorney General Marc Racicot, with advice of Law Enforcement Advisory Council, formulated a policy recognizing the need to communicate and coordinate investigations in the state. That policy is known as an investigative protocol policy. That policy outlines procedures for federal, state and other local law enforcement agencies when conducting an investigation or conducting arrests in the county. It requires them to notify the chief law enforcement officer of that county prior to making arrests or upon initiation of investigation in that county. All local law enforcement, state law enforcement, and federal agencies are aware of this policy and it has been adopted as administrative rules of Montana. If a federal agency goes into a county and the chief law enforcement officer of that county feels there is a violation of investigative protocol policy, there is a mechanism in place whereby a complaint can be filed with the attorney general's office who can conduct a review and investigation of that allegation and take whatever appropriate action is necessary to insure compliance with the investigative protocol policy.

Christine Kaufman, Executive Director of the Montana Human Rights Network, stated their support of increased coordination between federal and local law enforcement officials. They recently put out a briefing asking for that kind of coordination. They acknowledge there have been errors in judgment with law

enforcement proceedings. HB 160 grows out of the paranoia of groups like the Freemen and the Militia that the federal government is our enemy which is out to get us with black helicopters.

Sherry Matteucci, U. S. Attorney for the District of Montana, stated this legislation is an attempt to address a phantom problem. The cooperative efforts of law enforcement agents at every level is not only extremely important, it is extremely effective. No law enforcement agency can work in a vacuum in a state like Montana. Matters of courtesy cannot be legislated. She does not oppose the ideas which prompted this legislation. There are a number of organized structures which provide for a very effective joint operation in the District of Montana. There are eight drug enforcement task forces which are multi-county and multi-agency with federal, state, and local representation. We also have an organized crime drug enforcement task force on the federal level, which allows any local and state law enforcement agency to bring cases to the federal system for joint investigation and prosecution. There are also task forces to address problems of broad concern in the District of Montana such as children's justice issues, violence against women, and activities of anti-government activists. Another way in which the cooperative efforts are very effective for the citizens of Montana has to do not only with physical communication but with other aspects of mutual efforts. The Department of Justice and the U.S. Attorney's Office spends over half a million dollars a year in the District of Montana providing for cooperative training for all law enforcement agents and professionals as well as their support staff. They bring in training from the FBI lab which serves the interests of all of the people of Montana. The U.S. Attorney's Office also prosecutes cases which are developed by state agents. In those joint investigations and prosecutions, many times there are violations of federal law which allow the cooperative efforts of the federal court system. Last year there was a 26 defendant marijuana network prosecution which was brought through her office with the assistance of state and local agents. That case took two months to prosecute and the cost of that prosecution was \$25,000 a day. Not very many county or local budgets could absorb the expense of that kind of case. All of the federal law enforcement agents which are being addressed by this legislation are citizens of Montana as well. On a rare occasion an agent from one of the departments or agencies who does not live in Montana, will come in for an operation. In that occasion it is more important and certain that there will be appropriate cooperation and communication with the local law enforcement officials. They are fundamentally opposed to the concept of mandatory requirements. She presented her written testimony, **EXHIBIT 6.**

Brad Martin, Director of the Montana Democratic Party, spoke in opposition to HB 160. This bill creates a troubling wedge between federal and state agencies. There are many good examples of good cooperation particularly on drug enforcement task forces.

Law enforcement agencies are made up of humans who struggle very hard to be good, effective organizations representing the needs of Montanans both on the federal and state level.

David Henion, Montana Association of Churches, stated they have a history of speaking out against those who would advocate taking away the rights of individuals based on race, religion, or other beliefs. Whether intended or not, they believe that this bill begins to play into the hands of those by their association with groups who have made those kinds of statements and attempt to take away the rights of others who advocate that.

Informational Testimony:

Questions From Committee Members and Responses:

SENATOR DOHERTY asked **Mr. Marbut** what the words "actively ceded to the United States of America by a Montana statute" meant as used on page 1, line 26.

Mr. Marbut stated there are sections of the Montana Code which state that jurisdiction over certain delineated geographical areas of Montana are ceded to the federal government. An example would be Malstrom Air Force Base or Glacier National Park.

SENATOR DOHERTY stated this would then be an exception that this would not take place on a federal enclave which has been actively ceded. What about federal enclaves which the federal government has reserved to itself as opposed to having an active ceding by the State of Montana? This would include places where there has been no affirmative action by the state to cede its jurisdiction to the federal government. This would be Forest Service lands, BLM lands, and certain Indian Reservations which have all been reserved by the federal government. Under the wording of this bill, this legislation would apply to those federal enclaves and not to other federal enclaves.

Mr. Marbut stated that was their intention. In the letter from the ACLU to the president documenting a history of abuses by federal officers, a predominant number of those were on Indian Reservations and committed by the BIA. He discussed this with sheriffs who have co-jurisdiction in Indian Reservations and they felt that in order to be able to deal with these situations it would be important not to exclude from the bill those kinds of lands including Indian Reservations. It is their assumption that those areas, Forest Service areas, BLM areas, Indian Reservations, would be included within the intent and effect of the measure.

SENATOR DOHERTY asked **Ms. Matteccui** if there would be any logical connection between the state wanting its writ to run on certain federal lands and stating it will not have its writ run on other federal lands.

Ms. Matteccui stated she could not see any.

SENATOR HOLDEN stated that the sheriffs basically are asking for a phone call from a federal agent. He suggested removing Section 3 and taking out some of the written notice provisions on page 2.

Mr. Connor stated the prosecution section is a concern to them and it is unworkable. What concerns him about the rest of the bill is that if it is mandated by law that a federal agency communicate ahead of time to a sheriff when a federal arrest will be made, it presents some potential situation for factual difficulties to occur. In a crucial time frame situation, he would hate to tie the hands of federal agents. He stated that sheriffs have mentioned to him a concern where federal officers were in their county conducting undercover operations and they did not know about it. If a citizen had reported it to them, it could have resulted in an ugly situation. It is necessary to cooperate on a regular basis. They have authority for their investigators to conduct investigations without the permission of the sheriff in drug and organized crime related situations. It has been the practice and the policy of their operation not to do that. There are unique circumstances because of a potential leak in the sheriff's office where giving that information as a condition to going in may create some security problems and potential danger to those officers conducting the operation. It is important to encourage; it might create some risks to mandate.

SENATOR BARTLETT asked **Mr. Batista** about an investigative protocol which was established by the Department of Justice. She questioned whether that was in rules or simply a policy statement?

Mr. Batista stated it had been adopted as administrative rules in Montana. It was a policy which was established by the Law Enforcement Advisory Council.

SENATOR BARTLETT asked if there would be any benefit to codifying it?

Mr. Batista stated he did not see any benefit.

SENATOR BARTLETT asked **REPRESENTATIVE CURTISS** about the purpose section of the bill wherein it related to part of the purpose being to prevent misadventures affecting Montana citizens and its rights. She asked if in addition to rights, Montana citizens have obligations to be law abiding?

REPRESENTATIVE CURTISS stated that they do.

SENATOR BARTLETT stated there were a number of instances mentioned in testimony and asked what caused those individuals to come to the attention of federal agents?

REPRESENTATIVE CURTISS stated she was not familiar with the incident in Garfield County but understood it was an employee who had been discharged and made allegations against them. These are allegations only. These people are treated as criminals when actually they are innocent and probably will never be proven guilty of anything.

SENATOR BARTLETT stated that if the purpose of the legislation is to prevent misadventures that in addition to talking about the obligations of the law enforcement agencies they need to also address the obligations of citizens. She asked why that aspect of this mutual partnership was not included in this bill?

REPRESENTATIVE CURTISS stated that she assumes that citizens are law abiding until it is proven otherwise.

SENATOR BAER stated the **U.S. Marshall** made some statements that this bill would be counterproductive to communication between federal and other law enforcement officers. He also stated that the basis for this problem lies in a general mistrust of government by its people and also that people who challenge violations of state's rights or would seek interpretation and determination of the Tenth Amendment should pay for this out of their own pockets and take this funding from taxpayers.

Bill Strizich, U.S. Marshall, commented that counter productivity would be in communication and the enforcement of law. The bill is obstructionism. There is no reason anyone should be censored for discussing mistrust of government. This bill would create litigation. That is an unreasonable use of this process. If this bill is going to challenge law and establish a state's right issue, it should have a fiscal note on it.

SENATOR BAER stated there are some atrocities which have taken place in regard to misbehavior and misadventure. How could this behavior be mitigated if not by a bill like this?

Mr. Strizich stated there are many avenues of redress for violations of civil rights. If we have problems with any federal agency, most of us have an open communication with our Senators and Congressman. You can't legislate good manners and common sense.

SENATOR JABS asked **Mr. Batista** what the procedure would be if the policy of investigative protocol was not followed by an agency. Has it been implemented in the cases brought up by the proponents?

Mr. Batista stated he was not aware of any of the cases cited in the testimony being referred to the attorney general's office for review to make a determination of whether or not there had been a violation of the investigative protocol policy? The rules provide that in the event that someone violates that policy, a complaint is filed by that chief law enforcement officer which

goes before the Law Enforcement Advisory Council which will review the situation, conduct an investigation and then make a recommendation to the attorney general who has the authority in the rules to address the problem however he sees fit.

SENATOR DOHERTY asked about two of the handouts distributed to the committee. He asked for explanation of the articles from the "Spotlight" and the "Montanan".

REPRESENTATIVE CURTISS stated the Montanan is a local paper.

Mr. Neihart explained the "Spotlight" is a populist newspaper published in Washington, D.C. since 1965.

SENATOR DOHERTY stated the bill draft request stated that the requester was told by phone and **Mr. Marbut** by letter that the whole bill is clearly in violation of the U.S. Constitution and thus invalid and of no effect if it passes. He asked the sponsor why she pursued the bill?

REPRESENTATIVE CURTISS stated she pursued the bill because she believes that we serve under a system of dual federalism and that the supremacy of the United States over state's rights has not been defined by the courts. Arizona has set aside a million dollars for constitutional defense counsel to accomplish this. Oklahoma has passed a bill which requires their Department of Revenue to withhold all tax monies owed the federal government by Oklahoma taxpayers in case sanctions are placed against Oklahoma and they will not be relinquished until after the sanction has been lifted.

SENATOR BARTLETT asked **Mr. Marbut** what publication he quoted in his testimony regarding the Weaver incident?

Mr. Marbut stated that was a news story distributed by the Howard Skrips News Service.

CHAIRMAN CRIPPEN stated his concern of driving a wedge between federal and state law enforcement agencies. He asked **REPRESENTATIVE CLARK** to comment on that concern and also to suggest a way of amending the bill to provide for notification without stringent requirements.

REPRESENTATIVE CLARK stated that the vast majority of federal law enforcement agencies are not guilty of things which have happened in the past. There are federal agencies who will oppose this. He was never aware of the protocol mentioned earlier. He questions how many sheriffs in this state are fully aware of what that protocol does. He doesn't feel this bill will drive a wedge between state and federal agencies. Some agencies would have a problem with this. He listed BATF and IRS as the agencies who abuse this situation.

CHAIRMAN CRIPPEN stated the objections seemed to be focusing on two or three agencies. He asked **Ms. Matteucci** what authority she had over these agencies within her jurisdiction both before and after the fact?

Ms. Matteucci stated she has quite broad authority over certain aspects of the agencies operations. Her responsibility is to set district policy on how operations are to be brought to her office for prosecution. She works closely on a daily basis with each one of the federal agencies which has been mentioned in this testimony. Each of these agencies will feel that this is a repudiation of their efforts to communicate and coordinate with local law enforcement, should this bill pass. She believes that an important message has been sent to the federal government.

CHAIRMAN CRIPPEN asked **Ms. Matteucci** if she would issue a written directive to those agencies outlining the problems which had been testified to by the proponents and asking them to come up with recommendations to alleviate this problem.

Ms. Matteucci stated she had done so verbally and that perhaps a written exercise would be useful.

SENATOR ESTRADA stated that the main purpose of this bill was simply a phone call. She felt this would benefit the federal agencies as well.

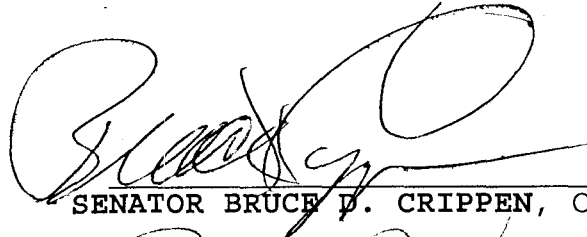
Ms. Matteucci commented she completely agreed with that concept and 99% of the time that is exactly what happens. To legislate it is counter productive, ineffective, unenforceable and does not serve the interest it is trying to serve. Their objections are based on the following: certain exigencies of particular situations; the requirements of an investigation or pursuit; information which would make it inappropriate to involve the local law enforcement in a particular situation; and there are also circumstances where someone may forget. However, to adopt legislation that repudiates the good intentions and acts and the longstanding relationships between law enforcement, does not serve what this legislation seeks to accomplish.

Closing by Sponsor:

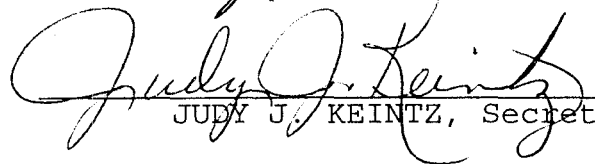
REPRESENTATIVE CURTISS presented testimony from Sheriff Bruce Whittaker, **EXHIBIT 7**, and an article referring to the Fourth Amendment, **EXHIBIT 8**. This article comments that Congress has weakened the provisions of the exclusionary rule to provide that agents no longer need warrants for arrest procedures. If Congress in examining the weakening of the exclusionary rule, exempts the BTAF and the IRS agents from those provisions, it clearly demonstrates that Congress has a problem with the actions of these agents. This bill is about fourth amendment rights. She feels the wedge between law enforcement agencies is there already. She read a letter from Congressman James Hansen to Attorney General Janet Reno, **EXHIBIT 9**.

ADJOURNMENT

Adjournment: The meeting adjourned at 12:00 p.m.



SENATOR BRUCE D. CRIPPEN, Chairman



JUDY J. KEINTZ, Secretary

BC/jjk

EXHIBIT NO. 1

DATE 3/17/95

FILE NO. HB 332

Free School
Act of
JSC 921 note

pursuant to Federal law and funding under subsection (a)(v), a private entity shall—

"(A) be located in a district that has been designated as needing additional Federal detention facilities pursuant to paragraph (1);

"(B) meet the standards of the American Correctional Association;

"(C) comply with all applicable State and local laws and regulations;

"(D) have approved fire, security, escape, and riot plans; and

"(E) comply with any other regulations that the Marshals Service deems appropriate.

"(3) The United States Marshals Service shall provide an opportunity for public comment on a contract under subsection (a)(3)."

SEC. 1702. GUN-FREE SCHOOL ZONES ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Gun-Free School Zones Act of 1990".

(b) PROHIBITIONS AGAINST POSSESSION OR DISCHARGE OF A FIREARM IN A SCHOOL ZONE.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection: "(g)(1)(A) It shall be unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

"(B) Subparagraph (A) shall not apply to the possession of a firearm—

"(i) on private property not part of school grounds;

"(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

"(iii) which is—

"(I) not loaded; and

"(II) in a locked container, or a locked firearms rack which is on a motor vehicle;

"(iv) by an individual for use in a program approved by a school in the school zone;

"(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

"(vi) by a law enforcement officer acting in his or her official capacity; or

"(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

"(2)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

"(B) Subparagraph (A) shall not apply to the discharge of a firearm—

"(i) on private property not part of school grounds;

(w) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

"(ii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

"(iv) by a law enforcement officer acting in his or her official capacity.

"(3) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun-free school zones as provided in this subsection."

(2) DEFINITIONS.—Section 921(a) of such title is amended by adding at the end thereof the following new paragraphs:

"(25) The term 'school zone' means—

"(A) in, or on the grounds of, a public, parochial or private school; or

"(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

"(26) The term 'school' means a school which provides elementary or secondary education, as determined under State law.

"(27) The term 'motor vehicle' has the meaning given such term in section 10102 of title 49, United States Code."

(3) PENALTY.—Section 924(a) of such title is amended by adding at the end thereof the following new paragraph:

"(4) Whoever violates section 922(g) shall be fined not more than \$5,000, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(g) shall be deemed to be a misdemeanor."

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in after the end of the 60-day period beginning on the date of the enactment of this Act.

(5) GUN-FREE ZONE SIGNS.—Federal, State, and local authorities are encouraged to cause signs to be posted around school zones giving warning of prohibition of the possession of firearms in a school zone.

SEC. 1703. REPORT ON MANDATORY MINIMUM SENTENCING PROVISIONS.

(a) REPORT.—Not less than six months after the date of enactment of this Act, the United States Sentencing Commission shall transmit to the respective Judiciary Committees of the Senate and House of Representatives a report on mandatory minimum sentencing provisions in Federal law.

(b) COMPONENTS OF REPORT.—The report mandated by subsection (a) shall include:

(1) a compilation of all mandatory minimum sentencing provisions in Federal law;

(2) an assessment of the effect of mandatory minimum sentencing provisions on the goal of eliminating unwarranted sentencing disparity;

(3) a projection of the impact of mandatory minimum sentencing provisions on the Federal prison population;

SPECIAL REPORT

Reprinted from The Gun Owner, published by Gun Owners of America

BATF THUGS STRIKE AGAIN

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3/17/95

FILE NO. HLB 160

The lives of Harry and Theresa Lamplugh were turned upside down on the morning of May 25, 1994. Early that day, fifteen to twenty armed men and women burst into their rural Pennsylvania home. Under the threat of violence, the Lamplughs cooperated with the intruders completely as they opened safes, locks and cabinets. In spite of their compliance, however, Harry and Theresa were treated with utter contempt. Throughout the ordeal, a fully automatic machine gun was intermittently thrust in both their faces.

The Lamplughs watched in horror as the thugs literally trashed their house. Furniture was overturned or smashed, and papers were scattered everywhere. Three pet cats were ruthlessly killed—one literally stomped to death. The gang ransacked their house for more than six hours. When they finally left, Harry and Theresa stood confused and angry in the midst of their demolished home.

The brutal and inhumane events that you have just read about are not fiction. They were taken from the testimony of Harry and Theresa Lamplugh. Only the intruders were not some violent street gang or foreign terrorists; they were agents of the Bureau of Alcohol, Tobacco and Firearms (BATF), and the Internal Revenue Service (IRS).

Why would two Federal agencies send a small battalion of agents to terrorize this couple in the supposed safety of their home? What terrible crime did Harry and Theresa Lamplugh commit that prompted this brutal six and a half hour ordeal? Shockingly, there are no good answers to these questions.

Harry Lamplugh, however, is in the politically incorrect business of promoting gun shows. His organization, Borderline Gun Collectors Association, happens to be the largest gun show promoter in the northeast. As anyone who has ever attended a gun show knows, there are more than firearms and accessories on display. A gun show is also a place where people of common interests meet to express their political views and share opinions. Not surprisingly, criticism of the BATF runs deep at such a forum. And it is no secret that the BATF spends considerable time and effort infiltrating these shows.

Since gun show infiltration is a massive undertaking that yields relatively small returns, the BATF has now honed in on a primary source, Harry Lamplugh. On May 23, 1994, the agencies obtained a search warrant authorizing both the BATF and the IRS to "search" the Lamplugh home. Included in the list of items to be seized were any firearms, ammunition, holsters, cleaning kits, gun cases, and firearm accessories. The Lamplughs' attorney points out that the warrant failed to name even one specific item. "Such warrants are vague, overbroad, and therefore unconstitutional", he said.

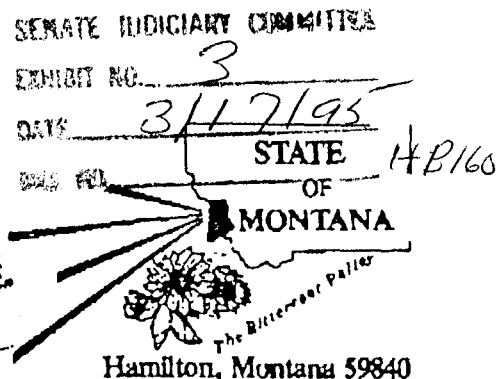
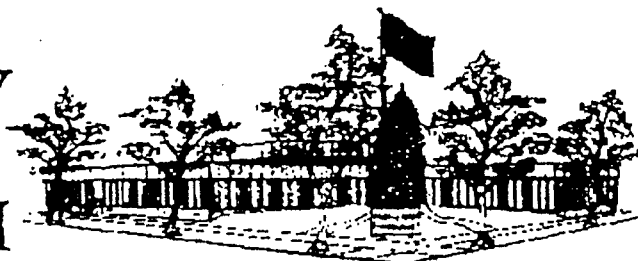
The agents also seized complete financial and business records of the Borderline Gun Collectors Association from 1988 to the present. This included all computer records and any other documents related to the sale and purchase of firearms. Obviously, the BATF was on some sort of "fishing expedition". But the most amazing aspect of the warrant is what was not on it. There was no reference to any crime by any person. The BATF appears to hold not only the Second Amendment in disdain, but the Fourth as well.

On Wednesday, May 25, 1994, the search warrant was executed. At about eight in the morning, Harry answered a l
wife was in the bathroom at
bottoms having his morning
they had my house secured i

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

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COUNTY OF RAVALLI



NOVEMBER 24, 1993

LARRY HUGGINS, SPECIAL AGENT
INTERNAL REVENUE SERVICE
800 KENSINGTON
MISSOULA, MT. 59801

RE: SEARCH WARRANT EXECUTION - MARC ANDRA

DEAR LARRY:

I AM TAKING THIS OPPORTUNITY TO EXPRESS MY DISPLEASURE AT THE MANNER IN WHICH YOUR SEARCH WARRANT EXECUTION IN RAVALLI COUNTY WAS HANDLED.

I DO NOT TAKE ISSUE WITH THE LEGALITY OF YOUR WARRANT OR YOUR AUTHORITY TO EXECUTE IT, NOR DO I CARE TO BE INVOLVED IN YOUR INVESTIGATION. I DO, HOWEVER, TAKE ISSUE WITH THE SEEMING LACK OF COMMUNICATION YOUR AGENCY EXHIBITED TOWARDS MY OFFICE. YOU NOTIFIED MY DISPATCHER AT 0645 THAT YOU WOULD BE IN MY COUNTY SERVING A SEARCH WARRANT AND PROMPTLY AT APPROXIMATELY 0745 MY OFFICE GETS A FRANTIC 911 CALL FROM THE ANDRAS.

WHERE I HAVE A PROBLEM, IS YOUR LACK OF COMMUNICATION TO ME AND YOUR APPARENT UNWILLINGNESS TO COORDINATE WITH MY OFFICE. I EXPECT TO BE NOTIFIED IN A TIMELY MANNER WHEN ANY OUTSIDE AGENCY CONDUCTS AN OPERATION OF THIS TYPE IN THIS COUNTY. I THEN EXPECT TO BE INVOLVED UP-FRONT, NOT AFTER THE FACT.

I HAVE ALWAYS COOPERATED WITH OTHER AGENCIES, YOURS INCLUDED, TO EVERY EXTENT POSSIBLE AND IF YOU OR YOUR AGENCY DISTRUST ME OR HAVE REASON TO BELIEVE I WOULD COMPROMISE YOUR INVESTIGATION, YOU HAD BETTER DISCUSS IT WITH ME.

RAVALLI COUNTY SHERIFF
205 BEDFORD, BOX 5022, HAMILTON, MT 59840
(406)363-3033, FAX (406)363-7599

I=SUSPECT THAT YOU KNEW WHO YOU WERE DEALING WITH, AND TO CONDUCT AN EARLY MORNING RAID IN CIVILIAN CLOTHES, IN UNMARKED VEHICLES WITHOUT THE INVOLVEMENT OF MY OFFICE WAS FOOLHARDY. I AM NOT SURE YOUR AGENCY NEEDS THE NEGATIVE PUBLICITY THAT A SHOOTING INCIDENT WOULD INVITE, CONSIDERING THE CONDITIONS YOU WERE FACED WITH THE OTHER DAY.

IN VIEW OF THE FACT THAT I AM THE DULY ELECTED SHERIFF/CORONER IN THIS COUNTY, AND IN VIEW OF MY 21 YEARS OF EXPERIENCE DEALING WITH THE CITIZENS OF THIS COUNTY, I AM GOING TO DEMAND A LITTLE PROFESSIONAL COURTESY FROM YOU AND YOUR AGENCY, OTHERWISE WE WILL BE AT ODDS. MY INTENT IS NOT TO SOUND ARROGANT, HOWEVER, I WILL NOT STAND MUTE ON MATTERS SUCH AS THIS.

IF WE CAN WORK THIS OUT, I DON'T INTEND TO TAKE THIS ANY FURTHER. IF NOT, LET ME KNOW.

SINCERELY,
RAVALLI COUNTY SHERIFF'S OFFICE

JAY PRINTZ, SHERIFF/CORONER

HB160

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 41
DATE 3/17/95
BILL NO. HB160

Union Calendar No. 7

104TH CONGRESS
1ST SESSION

H. R. 666

[Report No. 104-17]

To control crime by exclusionary rule reform.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1995

Mr. McCOLLUM introduced the following bill; which was referred to the
Committee on the Judiciary

FEBRUARY 2, 1995

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To control crime by exclusionary rule reform.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Exclusionary Rule Re-
5 form Act of 1995".

1 SEC. 2. ADMISSIBILITY OF CERTAIN EVIDENCE.

2 (a) IN GENERAL.—Chapter 223 of title 18, United
3 States Code, is amended by adding at the end the follow-
4 ing:

5 “§ 3510. Admissibility of evidence obtained by search
6 or seizure

7 “(a) EVIDENCE OBTAINED BY OBJECTIVELY REA-
8 SONABLE SEARCH OR SEIZURE.—Evidence which is ob-
9 tained as a result of a search or seizure shall not be ex-
10 cluded in a proceeding in a court of the United States
11 on the ground that the search or seizure was in violation
12 of the fourth amendment to the Constitution of the United
13 States, if the search or seizure was carried out in cir-
14 cumstances justifying an objectively reasonable belief that
15 it was in conformity with the fourth amendment. The fact
16 that evidence was obtained pursuant to and within the
17 scope of a warrant constitutes prima facie evidence of the
18 existence of such circumstances.

19 “(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR
20 RULE.—

21 “(1) GENERALLY.—Evidence shall not be ex-
22 cluded in a proceeding in a court of the United
23 States on the ground that it was obtained in viola-
24 tion of a statute, an administrative rule or regula-
25 tion, or a rule of procedure unless exclusion is ex-
26 pressly authorized by statute or by a rule prescribed

1 by the Supreme Court pursuant to statutory author-
2 ity.

3 "(2) SPECIAL RULE RELATING TO OBJECTIVELY
4 REASONABLE SEARCHES AND SEIZURES.—Evidence
5 which is otherwise excludable under paragraph (1)
6 shall not be excluded if the search or seizure was
7 carried out in circumstances justifying an objectively
8 reasonable belief that the search or seizure was in
9 conformity with the statute, administrative rule or
10 regulation, or rule of procedure, the violation of
11 which occasioned its being excludable.

12 "(c) RULE OF CONSTRUCTION.—This section shall
13 not be construed to require or authorize the exclusion of
14 evidence in any proceeding."

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of chapter 223 of title 13, United States
17 Code, is amended by adding at the end the following:

"8510. Admissibility of evidence obtained by search or seizure."

Elliston, Montana
Feb. 27th, 1995

EXHIBIT NO. 5
From Vern C. Knoff DATE 3/17/95
P. O. BOX 207
Elliston, Montana 59728 HB 160
ph.# 406-442-1131

Honorable Dick Arney
Wash. D. C.

Re: IRS TACTICS AND
ILLEGAL ACTS:

Dear Sir:

I have listened to you on G. G. Liddy Show and I understand that you are working on a plan to eliminate the IRS, and replace them with a fair Flat Tax or a Consumption Tax. I prefer a Consumption Tax, as this would irradiate the Malicious system together and be fair to all people.

My wife and I have a horrendous story to tell what the IRS did to us elderly citizens on Oct 30th, 1985. and are still harrassing us today. They attacked us at our log home near Elliston, Montana with a 30 member SWAT TEAM made up of 7 U. S. Marshalls, Hiway Patrol, & others. Ronald B. Phillips of Eugene, Oregon led the attack. circumvented our Powell county Sherriff, Dave Collings and descended on us by a National Guard Copter, appeared at our door disguised as LOST HUNTERS. They never informed us who they were. They hid behind trees and used Bull Horns shouting at us to come out of our home or they would BLOW us out. My wife was scared to death. and told them they were trespassing to get out... Kept us hostage for nearly 4 hours til my wife radioed our Deputy Sherriff at Deer Lodge, Mont. and he came and took charge. The Agents held him up for 1 1/2 hrs Then the Deputy let two Marshalls in and they said that they had information that we had Machine guns and automatic weapons. I said that is a DAMN LIE as I had not even ever seen a machine gun or a automatic weapon of any kind. I demanded that they inspect all our old regular guns hanging on the wall, BUT the two Marshalls would not even look at them. We had Deputy Haugie, a Lawyer and a Minister AS witnesses in our house. They showed us a reduced copy of a Warrant and said that we had not filed certain Taxes. and took us to wrong Lewis & Clark county Jail. and promised us we would be back in our beds that nite. HUH, we were placed in jail. We live in Powell county. Wrong jail. They treated us as violent criminals. They never had any supporting Affidavit in writing stating any cause or who our accusers were, Totally Illegal. No Due Process. They took us to a fed bldg. and Mug shot us and finger printed us, many questions about all our relations etc. We found out later that a Chuck and Carol Williamson of Brookings, Oregon signed a Perjured False Affidavit that we had Machine Guns and Automatic Weapons. We had a copy of their Affidavit later. Also these people had not filed any tax returns for several years and they owed the IRS \$150,000.00, BUT the IRS never did do any prosecuting of them, or make them pay. The IRS no doubt forgave their Taxes in exchange for their many LIES and perjured affidavit about us. So IRS used them as INFORMERS, Totally False at that.

We had purchased a Dahlstrom Trust in 1977 from a legal Bonded and Licensed Financial Planner in Bellvue, Washington and had everything we owned deeded in to this Trust. We were in Mining for many years and had not made any profits up until 1982. In the Mean time the IRS had taken Dahlstrom to court on selling these Trusts. Dahlstrom won the case in 1983 along with 4 of his salesmen. One of these sold us our Trust, was Dave Morris Morrisgavetti. IRS Agent Roger Wirth Information that we had the same Trust, BUT Roger Wirth told Dave Morris that was too much involved and he was not going to investigate our Trust. We have copy of Wirth's Report verifying this. The IRS went from Discovery about us right into Prosecution, circumventing all their normal 20 some various categories they are supposed to go thru first. again No Due Process.

Vern C. Knoff

Mr. Karl Dahlstrom who made and sold the Trusts won the case in the 9th circuit court in San Fran Cisco, Calif. a Supreme court. the verdict was these Trusts were LEGAL Enties, and so was the Trust that we purchased from Dave Morris in 1977. The IRS would not investigate our Trust at all. We were told by Morris that we did NOT own anything and that we did not have to file taxes as the Trust owned all our Assets and were recorded in Helena Montana court House.

So, we were advised by our then attorney to sign a Plea Bargain Agreement in 1988.

Along in late 1982, we had a partner in our famous Jay Gould Mines and he wanted our 51% and offered to TRADE us gold and silver for our 51% so we eventually did trade. We have always had 300,000 tons of DUMP stockpiled gold-silver ORE, and so we had an Attorney make out all the papers on the LIKE KIND EXCHANGE, of the un-refined unprocessed gold -silver in the Dumps for gold and silver processed Buillion gold coins and silver bars. We paid Big 8 Andersen firm in Denver colo. who are CPA Experts, (\$4000.00) to research and file us a Report that our Like-Kind Exchange did qualify for the Like Kind Exchange under IRS Code 1031, thereby we would not have any Taxes due until or unless we sold the Buillion for CASH-Money, as we NEVER cashed in according to IRS code laws.

The gold & silver content in the dumps were tested many times by many Mine co's. and always assayed at 1/8th ounce per ton, or 12/100ths ounce gold per ton and ONE ounce silver per ton. Total value was \$10 to 14, Million dollars gross value. We traded our 51% to our Partner for \$3.56, Million Dollars, in gold & Silver. We have a letter from Mr. Cahill of the U. S, Treasury Dept. saying that Gold Maple Leaf gold coins and silver bars ARE NOT MONEY. The IRS said it was money and then in Dec. 8th, 1988 Robert J, Brooks the U. S. Assistant Attorney at Butte, Montana when we were forced to pay the IRS \$ONE Million Dollars, My attorney told Brooks that he would have to take the gold and silver Buillion as pay. Brooks blowed up and said oh NO that is NOT MONEY, that I would have to sell it and give him the money???? First he said that it WAS money (which it is NOT), then he would not take it as pay and said that it was NOT money. All documented...

The IRS broke and violated our Plea Agreement 3 or 4 ways. NEVER any Justice. IRS ran over us like a Steam Roller on every single right of ours, total disregard of every right we had. Put me on probation for 3 years. I never had the slightest smell of a crime against me in all my life. We never did anything wrong at any time. So, we were forced again to sell all our Buillion we had for a great loss and pay the IRS, as gold and silver had depreciated 40% from when we got it from our partner thru a coin dealer in Helena, Montana. The Coin Dealer we dealt with Wayne Miller Coins, (As our partner gave Miller two checks for the 3.56 Million and Miller was supposed to deliver the Buillion to us, but he took 2 yrs, to do so. Then our CPA, Mc Elroy and associates of Missoula, Montana found over \$500,000.00 that Miller shorted us. OUR CPA Dick Schroedel, analyzed Wayne Miller's Affidavit that he gave to the IRS, and found the enormous theft and shortage to us and the IRS would NOT allow the shortage to our CPA's. This Dick Schroedel Cpa with Mc Elroy and associates of Missoula, Montana. was a former employee for the IRS, and had quit for IRS failing to keep their promise to Dick. So after Dick figured all our taxes. THEN the IRS persuaded Schroedel to go to work for them and still is. so IRS has denied us use of our own CPA, I think as done by IRS on purpose, so we could not use him even now, Also we had a BOB Steel a sharp CPA in Missoula do all our taxes and paid him several thousand dollars, when he was done then the IRS told us we have to fire Bob Steel as they would NOT accept his work then we lost all that money and had to get Dick Schroedel. Schroedel always told us NOT to tell him anything that we did not want to be told. ???

Franc. Knapp

Of course we know now that Schroedel would have told the IRS our Business. A real low down dirty unjust traitor.

The Main 2 culprits in our deal was the SPECIAL AGENT, Ronald B. Phillips of Eugene, Oregon, who put the Swat Team on us a total surprise attack. and the other was and is the Assistant U. S. Attorney Robert J. Brooks of Butte, Mont. Brooks wrote up a 26 page Report dated and signed by him on Aug. 5th, 1987 that he gave to the District Judge Charles C. Lovell. The Report says that we lied and NEVER did have any Stockpiled or Dump Ore; hence we do NOT get any Like Kind Exchange, He said several times that Vern Knopf Lied and The Fact was that Vern Knopf never did have any 300,000 tons of stockpiled ore. Most outrageous LIES as we have always had the second class gold ore in these dumps ever since 1887 and 1917. We have St. Joe minerals reports their Geologist assayed them in 1986; We have 1887 and 1917 Geologists Report saying there is thousands of tons of ore on these dumps; We have a Report by Anaconda Minerals co. dated June 9th, 1982 saying that there are 500,000 tons of dump ore and assaying .2 to .25 oz. gold per ton. and several major company's Reports all about the same. So Robert Brooks U.S. Attorney perjured his Report to deny us our Large tax credits we would have had on our Like Kind Exchange. An Absolute OBSTRUCTION OF JUSTICE, and withholding all Exculpatory Evidence hidden from the District Judge. How can a U. S. - Assistant Attorney commit such lies and IN Justice against us citizens and get away with it ??? Then later in Sept. 25th, 1987, I took two IRS Agents, (Ron Phillips and Kent Creebo; my two attorneys Mac Elerson, and Doug Kelly and Walt- Everly from Butte, Mont, took them all to our Gould Mine and they got their own samples from the dumps and panned a whole string of free gold from their own samples and also walked on most of the dumps, they were shocked at all the gold they panned and Ron Phillips said to us that we had OVER 300,000 tons of dumps and ~~he~~ he believed it. Brooks made his false report Aug 5th, 1987, These guys all went our Mines on Sept, 25th 1987, about 50 days later. So, Ron Phillips had 50 days to inform Robert Brooks that He and Creebo went to our Mines and panned gold and walked on the dumps. BUT no one ever corrected Brooks. If Brooks had not made such a False Report we would have never been prosecuted by Charles Lovell in the District Court and we would not have owed the IRS hardly any taxes as we would have had a legal LIKE KIND EXCHANGE, tax free. A horrible Injustice to my family of 34 years of Mining and spent our lives developing our gold Mines. Then to top it all off we were forced to take Bankruptcy in 1991 to save our ASSETS. as the IRS seized our legal Shekinah Corporation we established in 1989 to go on the Vancouver Stock market. Then the Bankruptcy Trustees Wm. Kebe and Neil Jensen forced us into chapt. 7 without us having any Attorney of record, they would not wait til we found a Bankruptcy Attorney, as they were scarce. The IRS put us into Poverty for the past 4 years, and seized our home and our gold Mine and new ore Mill worth 2 million; all our heavy Equipment and the Bankruptcy Trustee Wm. Kebe is trying to sell everything for \$900,000.00 and Arco offered us \$20-million for the Jay Gould Mine in June 1982. IRS claims we owe them more after they got ONE Million in 1988. Our lawyer then Bill Koontz said we did not owe them anymore. We have never had a court trial in tax court or a judgement from any court saying we owed any taxes, We are trying to raise some money for a tax attorney to contest the IRS proof of claim and have our taxes adjudicated thru the Bankruptcy court under IRS code 505. We have no way to borrow any money and so we are now on verge of losing everything we worked for during the past 34 years. One hell of a way to treat citizens. Our whole story is on Tape.

Vern Knopf

exist
The IRS has caused us to live on \$ 303.00 Social Security, plus \$160 SSI.-
plus \$153.00 per month for past 4 years. about \$5600.00 per year.
~~per month~~ STIMPS

We have a researched Lawyer's opinion, Mr. John Daly of Kennewick, Washington
the following about the IRS: Quote:

The IRS violated our Due Process Rights:

No notice or administrative review of the Alleged Assessment was provided;
Further, the contract (Plea Bargain Agreement), required IRS to give Knopf a
statutory notice which would permit Knopf to appeal the matter to the Tax court;

The IRS bypassed these rights by going directly to assessment and Seizure;

The IRS has violated both constitutional and contractual requirements;

Mr. John Daly further states that:

We believe court documents in the Bankruptcy and District courtfile should be
sufficient to prove this case. (Unquote).

Trouble is: We have no way to raise money to pay the lawyer to fight our case.

We would sure like to testify and tell our story before your Oversight committee.
The foregoing 4 pages of our story is only the tip of the iceberg. I am now 76,
nearly 77 yrs. old and the IRS has completely destroyed our whole family by all
their un-godly malicious, illegal ,unfounded, criminal attacks on my wife and I
and my two grown sons.

We were already to go on the Vancouver B.C. Stock Market, withour legal corporation
in April 1991, and have finances to run our ORE MILL and produce gold & silver,-
when a Barbara Davis a NOVICE collection officer from Bozeman ,Montana SEIZED
our Shekinah Gold Mine co. INC. illegally without a 6901 Transferee Notice to
our Corp. or without a recorded Lein in Lewis & Clark county on our Corp. She
claimed we hid our assets in the corp. which was an outright fraudulent lie. A
corp. attorney made it all up, a MR. John Shontz. He told this Barbara Davis that
she had to abide by Montana Law and that she had to have a recorded Lein before
she could seize anything, in Lewis & Clark county, and that we did NOT hide our
assets in the Corporation. All totally illegal. She Seized our Corp. anyway..
just when we were already to go into production withour ORE MILL with capacity
of 80 tons of ore per day. IRS never had any proof of any kind that we even
thought about hiding our assets, we never even thought about such a thing either...

So Mr. Dick Arney, maybe you can see why this out of control Malicious Swat
teaming money wasting Bureau the IRS has to be replaced by a constitutional
form of taxation like a Consumption Tax fairly administered to our U.S. citizens
that produce the bulk of the Economy of this nation.

There are many others who have been illegally attacked by this IRS too.
They Illegally TOOK OUR PROPERTIES WITHOUT JUST COMPENSATION, OR NO DUE PROCESS etc.
so please create some new LAWS that no government Branch can (TAKE) our
private properties from us citizens. STOP THIS unconstitutional GRAB or call
it Extortion . Enforce our 4th Amendment constitutional GOD GIVEN RIGHTS...

The IRS BUNCH has violated our 1st, 5th, 6th, 8th, 13th, constitutional-
amendments RIGHTS, and all our Civil Rights, with their fraudulent acts against us.
For GOD'S AND US CITIZEN'S RIGHTS and America's future stop all this TYRANNY NOW...
Tax wise we have still got \$2 Million dollars of legal deductions that IRS never
allowed us they added false Fraud charges on us too, & penalties on our ONE
Misdemeanor count.

Sincerely,

Donna Knopf

MR. ARNEY: WILL YOU PLEASE GIVE A COPY OF THIS 5 PAGE REPORT TO EACH MEMBER OF
IRS OVERSIGHT COMMITTEE and those on the TAXPAYER'S BILL OF RIGHTS COMMITTEE. THANKS VERY MUCH.

Dick Arney:

To sum it up briefly;

We never were Tax Protestors, in fact my wife was a Justice of the Peace in the town of Lincoln, Montana for 2½ years, being appointed by the county commissioners of Lewis & Clark county, Montana.

We always had reputable tax Cpa's figure our taxes and never had any disputes with the IRS. We always relied on Attorneys, and licensed ones to make out our papers.

We figure that the IRS Agent Ronald B. Phillips had an extreme EGO to go up the ladder to fame with the IRS, Fact is that he got a BIG CITATION from Washington D.C. for doing his great Illegal 'jobby' on us, Our lawyer asked Phillips to tell him about it, but of course he would not.

Another Agent was Michael Schultz of Coos Bay Oregon who first jumped on us while we lived in Brookings, Ore. for 2 yrs., then he got promoted to Big office in Portland, Oregon.

While we lived in Brookings, Oregon, the IRS Agents along with Arrol Downs, local county police entered our posted home at 01048 Winchuck road, thru locked gate and was in our home and unlocked and unblocked our garage doors and drove our vintage 1976 cadillac out and took pictures, that we now have, with words on the photo of: pictures by Arrol Downs. This all done without our knowledge and without any search warrant. Also when we returned from a trip we found many of our Trust Papers missing from our Files ~~in~~ in our Home... We figure that the IRS Agents took them, who else ?? This was in 1983.

A great crime on us was in 1985 after the Swat team on us near Elliston, Mont. was the IRS filed 6 criminal counts on us and filed it in the wrong Jurisdiction in Montana, when we lived in Brookings, Oregon, put us in wrong county jail, as we lived in Powell, county, they had to dismiss all 6 charges, as our lawyer got on the Judge Lovell, Dist. Judge. Was dismissed in Feb. 13th, 1986. IRS made my wife and I go thru this ordeal totally, illegal. None of them ever even thought of apologizing to us, and we have suffered real slander and trauma on this and other ordeals. Too many to tell here.

When we paid the IRS in District court Dec. 8, 1988 the ONE Million dollars in money and properties, then the next day Dec, 9th, 1988, the IRS placed a fraud penalty on us of \$412,142.10. and started adding interest on it.??? We do not know to this day, Feb. 28th, 1995, where we stand as the IRS figured our taxes and all we know is that the IRS ^{has} way too much power to charge penalties, compound interest, and fraud charges at their own volition and it all has to be changed. We have newspapers from several states how the IRS wrote articles about us and told that we could spend 15 years in jail and pay big fines etc. BEFORE we ever had a trial, or ever our taxes were figured, in 1985, We were told that we were innocent til proven guilty in a court of law. The IRS figured because we spent 34 years of our lives mining we were rich and it was said anyway that they were going to make an example out of us. We worked for 34 years for NOTHING????? They would have killed us by the swat team just like WACO, IF my wife had not radioed our sheriff and he came & stopped them. They had an ambulance and fire truck standing by. In the eyes of Justice, we should have a presidential Pardon. and the government should pay us restitution and give us our gold Mines and Home back to us. 10 long years of this Tyranny is too much for us citizens. We would like to have a full CONGRESSIONAL INVESTIGATION OF OUR ORDEAL.....

John C. Knopf

Gold miner forfeits \$1.7 million to IRS

'Staunch American' pays record cash income tax settlement

By Bill Wilke
Standard State Bureau

HELENA — A 70-year-old Elliston-area gold miner handed over \$490,000 in cash and a \$500,000 piece of property to federal court Thursday as part of a plea agreement struck with federal officials over income tax violations.

Vern Knopf, who said he had

spent some 30 years living in "a log cabin worse than Abe Lincoln had," also signed over to the government some \$770,000 out of the recent \$3.5 million sale of a mine near Stemple Pass.

Internal Revenue Service officials say the agreement amounts to the largest cash federal income tax settlement in the state's history.

Knopf, described by his lawyer as the victim of a "trust peddler," was arrested at his home in a wooded area near Elliston last April.

The arrest came after a 90-minute wait by federal marshals, who feared Knopf might have had automatic weapons in the house, according to news accounts at the

time.

Knopf was charged with failing to file tax returns on \$3.7 million earned between 1980 and 1982. IRS officials estimated he owed some \$714,000 in taxes on the income.

In testimony Thursday, Knopf described himself as a "staunch American" who was misled by a now-deceased Washington investment counselor.

Knopf said he was told by the counselor in 1977 that he would not have to file income tax returns if he signed all his assets over to an offshore charitable trust.

"I didn't know anything about them," Knopf said. "I'm a gold miner."

Knopf said he struggled financially much of his life as a small miner and sought out the investment counselor when he realized he had accumulated considerable of wealth. He said he wanted to see the money "do some good" through the charitable trust.

"I'm sorry if I caused any offense to the government," he said, "because I'm a staunch American."

U.S. Attorney Pete Dunbar in Billings said in a telephone interview after the sentencing that, in his experience, a defendant "pleads guilty to a criminal violation only because they are in fact guilty."

"I hope it illustrates we will jump on people with a lot of money, as

well as those without quite so much."

Knopf was initially charged with felony tax evasion, but the charge was reduced to misdemeanor failure to file an income tax return as part of the plea bargain. Charges against Knopf's wife, Lorene, were dropped as part of the agreement.

Knopf paid off the delinquent taxes and penalties with a \$430,000 certified check raised through the sale of gold and silver bullion, a deed on an estimated \$500,000 piece of Oregon property, \$60,000 from a down payment on the sale of a mine near Stemple Pass, and the assignment of another \$770,000 he will receive later from the mine sale.

Knopf said he recently sold the mine to a group of investors for \$3.5 million.

He also was sentenced by U.S. District Judge Charles Lovell to three years of probation for the tax violation.

Knopf's attorney, Douglas Kelley of Helena, said the financial arrangements with the IRS were completed only minutes before Thursday's sentencing.

"We really had to scramble," Knopf told the court.

Kelley said after the sentencing that his client was not left destitute by the settlement, but had felt distressed over treatment he received from the IRS.

Montana

Vo-tech dental plans head regents' agenda

Commissioner says U-System lacks money to fund hygiene programs

By Bob Anex
Associated Press Writer

HELENA — The Board of Regents will be asked next week to delay any decision on three competing proposals to create dental hygiene programs at vocational-technical centers because of the high cost of such courses, said Carrol Krause, commissioner of higher

education. The program is \$150,000 to \$200,000 and that much money is not available in the Montana University System.

The state has purchased two of the facilities — Helena and Missoula — and is assuming responsibility for paying off bonds that financed construction of the other three, Krause said. The regents may consider refinancing the bonds if that would save money, he added.

Also on the regents' agenda is a report on the growing nursing shortage in Montana and the nation. The university system has trimmed its nursing programs, reducing the Montana State University courses because of dwindling funds and enrollment.

the state will need in the future and the regents will be looking for ways to increase enrollment in such programs. The solution certainly will require more money because nursing courses require a large number of faculty, he said.

"It would be very difficult for any of our institutions to divert that kind of money to offer a program," said Krause, whose office will recommend the regents defer action at their meeting here next Thursday and Friday.

In addition to the expense, dental hygiene has been losing popularity among students and that's an added concern for the school that would eventually start such a program, he

workers, if another institution doesn't offer a program.

Plans were submitted by the vo-tech centers in Butte, Great Falls and Helena; the Butte proposal was in conjunction with Montana Tech. The regents are involved because the 1987 Legislature voted to turn over control of the state's five vo-techs to the board.

In a related matter, the regents will review a progress report on the transition of vo-tech control from local school districts to the board.

Krause said a major issue to be decided will be how closely the vo-tech centers in Billings, Butte and Missoula will be affiliated with the colleges in those cities. Close ties

Butte's Freebourn urges decision this year

Butte Vo-Tech and Montana Tech officials will attend the state's Board of Regents meeting next week in Helena to present their proposals for a new dental hygiene program at the Vo-Tech.

The delegation's proposal will be made even though Montana's commissioner for higher education says he will ask the regents to delay a decision on the matter.

Commissioner Carrol Krause says the regents' priorities should be funding existing programs rather than new programs, especially since funding existing programs already is a problem.

For example, regents will discuss at the meeting the state's nursing shortage and how the University System can remedy the problem. Nursing programs have been cut, and Krause says the system will produce only half the nurses needed in the state in the future.

Butte Vo-Tech Director Harry Freebourn

Elliston couple arrested for tax evasion

By MICHAEL CRATER
R Staff Writer

Posing as hunters didn't help our deputy U.S. Marshals Wednesday as they tried to arrest an Elliston couple accused of evading taxes on more than \$3.6 million in income.

After their first effort failed to get them within reach of the couple, the marshals regrouped with three more colleagues and five IRS officers in the woods.

They allegedly owe \$714,239

Their targets called a Powell County sheriff's deputy, complaining of trespassers, and the deputy aided in the arrest.

Vern Clinton Knopf, 67, and Loren M. Knopf, 47, were charged with evading taxes in 1980, 1981 and 1982 when they lived in Brookings, Ore. They were jailed

in Helena in lieu of \$50,000 bail apiece.

The Knopfs were indicted by a federal grand jury in Billings Tuesday. The indictment charges them with failing to file income tax returns on incomes of \$318,049 in 1980, \$217,188 in 1981 and \$3,141,004 in 1982. The indictment

ment charged that they owed \$714,239 in federal income taxes for those three years.

The marshals first approached the Knopfs' home six miles from Elliston posing as hunters seeking permission to hunt on their land. "You just don't go up and start banging on doors" in such cases, U.S. Marshal Ron Alles of Billings said. There was a report that the couple might have auto-

(More on COUPLE, back page)

Couple

Continued from Page 1A

matic weapons, he said.

But the ruse failed. The couple merely shouted from inside the house for the "hunters" to leave. Instead, they went into the woods nearby, then Alles and a deputy in a vehicle used a loudspeaker to identify themselves.

During the next hour, the couple could be seen inside the house, Alles said, and he considered the possibility of using tear gas. That would have required calling in an ambulance and fire truck because of the hazards of the gas.

he said. Before any decision was reached, the couple called the sheriff's office. A deputy arrived and identified the marshals to the couple, who then gave themselves up to be arrested.

If convicted, they could each face up to 15 years in prison and fines of up to \$120,000, plus civil action by the IRS for the unpaid taxes, penalties and interest. The two will be arraigned soon before U.S. District Judge Charles Lovell of Helena.

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IN CROSSCOUNTRY CRUISING Page 5B

FRIDAY
AFTERNOON

INDEPENDENT RECORD

November 1, 1985
Helena, Montana
Vol. 41 No. 345
Single copy 35c

Help is available

People don't have
to feel there is no
one to talk with

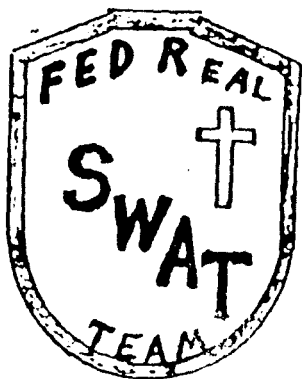
(Sixth in a six-part series.)
By KAREN E. DAVIS

Pact proposes deep arms cuts

GENEVA, Switzerland (AP) — U.S. arms negotiators today presented a new arms control proposal to the Soviets that President Reagan said calls for deep cuts in superpower offensive nuclear arsenals.

The U.S. and Soviet sides met for two hours in plenary session, and neither released details of

Reagan made the request for a week-long extension public on Thursday, when he announced basic outlines of the new U.S. arms control proposal. The president said the plan, a counterproposal to one offered earlier by Soviet leader Mikhail S. Gorbachev, also calls for "no cheating" or arms accords and would



JESUS IS LORD OF ALL !

Eph. 6 : 17

EXHIBIT 5

DATE 3-17-95

HB160



FRIENDS, EDUCATED and DEDICATED for REAL
SPIRITUAL WARFARE ATTACK with TRUTH.

"BE SOBER BE VIGILANT" 2 Pet. 5 : 8

★ ★ ★ ★ ★ ★ ★ ★

★ What you don't ★
★ know CAN hurt you! ★

★ ★ ★ ★ ★ ★ ★ ★

REPORT ON LOST "HUNTERS" TRIGGERS STATEWIDE ALERT INVOLVING THE

VIGILANTES OF MONTANA

The story of the "lost hunters" involved in a Federal "SWAT" instigated upon an elderly Elliston couple at their peaceful mountain home, has triggered an ALERT to the MONTANA VIGILANTES and other concerned citizens. This Statewide ALERT is designed to draw attention of the un-informed public, to the dangerous activity that is taking place under the ruse of "Law enforcement", not just in Montana but nationwide. On October 30, 1985 an unbelievable event occurred like a "Halloween Nightmare" as impersonators dressed as hunters and, armed, camouflaged agents trespassed upon posted private property with the aid of seven U.S. Marshals unadvised by the local sheriff, threatening to use tear gas if the couple did not remove themselves from their home. Such "terrorist activity" is indeed unbecoming to American life-style and established Constitutional protections.

It is expected that the ALERT will instigate an investigation through the office of the U.S. Attorney General and the United States Justice Dept. Reports, for those interested, will be available from: THE VIGILANTE REPORT, Box 1544, Billings, Montana 59103

Is FREEDOM for You?

Remember this truth, a government that will steal your freedoms today will not stop at taking your life tomorrow or as soon as they have an iron grip on the people. It's fight or die and you really have no choice if you value life or freedom.

'Halloween nightmare'

Having read the article in the Independent Record dated Oct. 31 concerning the Elliston couple who were arrested and allegedly charged with owing \$714,239, it was interesting and favorable that your report indicated that "the ruse failed."

The unbelievable event of being attacked by hunters and camouflaged, armed, "trick-or-treaters" sounds like something formerly restricted to comic book publications.

Realizing that seven of the U.S. Marshals located in Montana took part in the reported "attack" makes it appear that a new type of "control" is being imposed upon innocent individuals. A "control" of this design would violate all intents of the U.S. Constitution.

The request given for "stand-by" fire trucks for the event and suggested intent to use tear gas without advisement from the sheriff, indicates that an "alien" has invaded with full intent of usurping all local authority.

It might be well to note that the procedures used to obtain the "indictment" were handled in a deceptive and fraudulent manner with further falsification used in determining a monetary liability. The recent Supreme Court decision determining commodity valuations would void the already fraudulent indictment.

This is one case that should be turned over to the United States Attorney General for investigation and proper correction.

Fortunately the victims were able to summon several witnesses to the scene of a "Halloween Nightmare."

Jack Nason
4630 N. Montana

HB160

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 6
DATE 3/17/95
BILL NO. HB160

**TESTIMONY IN OPPOSITION TO HOUSE BILL 160
MARCH 17, 1995**

**SHERRY SCHEEL MATTEUCCI
UNITED STATES ATTORNEY
FOR THE DISTRICT OF MONTANA**

House Bill 160 attempts to address a phantom problem. The sponsors have apparently concluded that there is insufficient communication between and among federal, state and local law enforcement professionals. While communication, being imperfect, can always be improved, Montana is fortunate to enjoy strong partnership relationships among those persons at every level of government who devote their lives to public safety. In our cities, towns, tribal communities and rural areas, effective law enforcement depends on these partnerships. This bill, if adopted, would do nothing to strengthen relationships; it would instead foster an atmosphere of exclusion, distrust and disharmony, none of which serve the interests of Montana's citizens. No piece of legislation can require people to work well together but poorly considered legislation such as this can create difficulties where none existed.

In a closely connected and sparsely populated state like Montana, it is appropriate, in most situations, for federal law enforcement officers to let a local sheriff know when they will be carrying out their duties in the sheriff's county. The judgment, however, of when it is and when it is not appropriate must rest with law enforcement...it cannot be mandated.

What really happens most of the time is that a federal law enforcement officer needs and wants the assistance of the sheriff in order to carry out his or her responsibilities more effectively. Conversely, many times when a federal agent is in a county it is at the request of

the sheriff and the agent is providing professional assistance, either on a matter of mutual interest or one in which such assistance is thought to be valuable by the sheriff.

The partnership of state, local and federal law enforcement extends far beyond the relatively simple and straightforward issue of physical communication. There are a number of formal organizations voluntarily established to facilitate mutual support at every level. There are eight area drug enforcement task forces, each made up of at least five counties' law enforcement professionals plus federal and state representatives. All of these task forces are funded primarily with federal monies administered by the Board of Crime Control. In 1995 the Board will administer more than \$2.25 million provided by the United States Department of Justice. In addition to the anti-drug task forces, tribal, local, state and federal law enforcement officers work together on task forces to address border issues, crime on Indian Reservations, environmental crimes, violent crime, health care fraud, violence against abortion-services providers and their patients, and actions of anti-government activists. There are also mutually supported task forces to address children's justice issues, violence against children, and compensation for victims of crime.

An extremely significant federal, state and local partnership effort involves community policing. Many towns, Indian Reservations, cities and counties, and the State of Montana itself, have benefited from federal efforts to enhance local law enforcement. The Violent Crime Control and Law Enforcement Act of 1994 has permitted the United States Department of Justice and my office to distribute over \$4.5 million to fund hiring of sixty-five law enforcement officers in twenty-one towns, nineteen counties, six Reservations and the State Highway Patrol.

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DATE 3-17-95
HB 160

perpetrators. In 1994 \$500,000 was given to local law enforcement to assist in their drug prevention efforts. In 1995 to date, nearly \$120,000 has already been distributed.

All of these facts and factors demonstrate that there is no problem with mutual respect, cooperative effort, and professional support between federal and local law enforcement professionals. Each has an important contribution to make and none could be as effective without the other's strength. Please do not create controversy where none exists. I request your vote in opposition to House Bill 160. Thank you for your consideration.

Spence, Moriarity & Schuster
ATTORNEYS
AT LAW

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 7

DATE 3/17/95

FILE NO. HB 160

GERRY L. SPENCE
EDWARD P. MORIARITY
ROBERT P. SCHUSTER
GARY L. SHOCKEY
J. DOUGLAS MCCALLA
ROY A. JACOBSON, JR.

GLEN G. DEBRODER
KENT W. SPENCE
ROBERT A. KRAUSE
HEATHER NOBLE
ROBERT R. ROSE, JR.
ROBERT R. ROSE, III

November 9, 1992

Walter Hammermeister
P. O. Box 1153
Conrad, Montana 59425

Dear Mr. Hammermeister:

Thank you for your letter. I especially appreciated your letter to Sheriff Bruce Whittaker. You make good sense, my friend. Too bad the country is not populated with sheriffs like you.

My respect,


G. L. Spence
Of SPENCE, MORIARITY & SCHUSTER

GLS/lm

September 15, 1992

Sheriff Bruce Whittaker
Boundry County Sheriffs Office
Bonners Ferry, ID 83805

Dear Sir:

I support your efforts to investigate the confrontation between U.S. Marshals with other Federal law enforcement agents and Randy Weaver and his family and Kevin Harris.

All I know of the situation is what I've read in the newspaper. I suspect the Federal Officers exceeded their authority and certainly did not use good discretion in their actions. When a person has been isolated and neutralized for a year and a half, that is probably more time than he would serve in jail for selling 2 sawed off shot guns, if he was convicted.

In the United States of America a person is still supposed to be innocent until proven guilty. This minor charge certainly is no reason to shoot a 14 year old boy in the back, while he is running away, nor to shoot a woman through a window while she is in her own home, holding open a door for her family so they can get in the house. I suspect the Federal Officers was trespassing on private property and doing it at night. I have worked with Federal law enforcement officers long enough, it will be very hard for me to even believe the 2 shots that killed the boy and mother could ever have been an accident.

I strongly believe if this investigation is strong enough to crack the resistance you will run into, there will be and certainly should be some deliberate Homicide charges filed and I hope you also can charge what ever superiors that suggested that type of surveillance as he knew or should have know that type of confrontation would have resulted from the Federal Officer's action, and that confrontation reaction would have happened in a much larger area than just Idaho.

I really don't like writing such a letter, I am receiving good retirement pay as a sheriff. I have been sued many times but never once did a case against me or my department ever get to trial. I can match situation and my experience with just about anyone or department, my deputies have been shot and shot at including situations by mentally demented and highly drugged

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1 HB 160

LETTER - Sheriff Bruce Whittaker
September 15, 1992
Page 2

individuals. Each case was quickly defused with me usually being the one taking the person into physical custody, yet you will have a hard time finding anyone that has ever seen me with a firearm visible on me, while I was on the job. I can shoot, I believe Dick Cade can vouch that I am a member of the FBI-NA possible club. I have been well trained how to aggravate an irate person to slightly assault you so you can arrest them, even the way an officer walks up to a truck can get a person on the fight, conversely proper action can neutralize a situation without any violence.

At the very least, Section 1983 Civil Rights as been used to bring and keep local and State officials down to earth. The Bevins decision can do the same thing to Federal Officials.

Good investigation and good luck.

Sincerely,

Walter Hammermeister

cc: Honorable Governor Cecil Andrus
Attorney General of Idaho
County Attorney Boundry County
Gerry Spence

Federal law would weaken Fourth Amendment

3/6/95

By Steve Gorton of The Montanian

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

—Fourth Amendment to the U.S. Constitution

A provision in the proposed U.S. 1995 crime bill would allow evidence seized without a proper

search warrant to be used in court against the defendant. But an amendment to the bill would exclude the Bureau of Alcohol, Tobacco and Firearms (ATF) from the looser standards.

The ominously-titled H.R. 666, known as the exclusionary rule exemption, passed the Republican-controlled U.S. House of Representatives on Feb. 8. The lawmakers passed the bill in an attempt to decrease the number of criminal suspects who have been acquitted because evidence against them was seized with an illegal search warrant.

H.R. 666 would allow federal judges to accept evidence taken in

illegal searches as long as law enforcement authorities had good reason to think the search was lawful. Under the current legal doctrine known as the *exclusionary rule*, evidence gathered in illegal searches generally cannot be used in court. The bill would codify a 1984 U.S. Supreme Court ruling in *United States vs. Leon* allowing a "good faith" exception to the exclusionary rule when a search warrant was later found to be illegal. The bill would also legalize some searches that were conducted without a warrant.

Republican lawmakers said society is unfairly punished when criminals escape on legal technicalities because of a police mistake.

Some Democratic lawmakers fought the bill, saying it would remove the incentive for police officers to obtain legal search warrants and thus undermine the Fourth Amendment prohibition against unreasonable search and seizure. The bill passed 289-142. Rep. Pat Williams, D-Mont., voted against the bill.

The following day, Feb. 9, Rep. Harold Volkmer, D-Mo. — a gun-rights advocate — succeeded in attaching an amendment that would exempt ATF from the exclusion. Volkmer said the ATF has been over-zealous in searching for illegal guns. Volkmer's amendment passed 228-198. Williams voted for the amendment.

The bill awaits Senate ap-

proval.

A spokesman for U.S. Sen. Conrad Burns, R-Mont., believes the bill has a good chance of passing in the Senate.

"Criminals have been let off the hook on a technicality too many times," Burns press secretary Dick Wadhams said Feb. 22. "Conrad does have some concerns about this, but at the same time he doesn't want to see criminals get off scot-free ... this bill is not designed to allow any law enforcement officer to go into people's homes without a search warrant. And Conrad also does share strong concerns about how ATF behaved in Waco [Texas]. He supports that ATF exemption."

H1B 160
JAMES V. HANSEN
1ST DISTRICT UTAH

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FEB.

23, 1995

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SENATE DOCUMENT
EXHIBIT NO. 9
DATE 3/17/95
H1B 160

The Honorable Janet Reno
Attorney General of the United States
Main Justice Building
10th and Constitution Ave., Room 5111
Washington, D.C. 20530

Dear Ms. Reno:

As the Member of Congress representing the First Congressional District of Utah, I have been approached by literally dozens of constituents who are deeply concerned regarding statements attributed to you during a "60 Minutes" broadcast regarding Second Amendment rights to keep and bear arms. My purpose in writing is to request a written clarification from you on your statements, as well as to obtain a statement of Department of Justice policy on such matters.

First, it has been alleged by some of my constituents that you made the following statements during the 60 Minutes interview in response to a question on what your definition of a "cultist" would be. You allegedly responded:

"A cultist is one who has a strong belief in the Bible and the Second Coming of Christ; who frequently attends Bible studies; who has a high level of financial giving to a Christian cause; who home schools for their children; who has accumulated survival foods and has a strong belief in the Second Amendment; and who distrusts big government. Any of these may qualify (a person as a cultist) but certainly more than one would cause us to strongly look at this person as a threat, and his family as being in a risk situation that qualified for government interference. Waco was one of those situations that qualified under our definition of people being at risk that necessitates government action to save them."

I would appreciate specific answers to the following questions.

(1) Did you, in fact, make such a statement and does that accurately reflect your views as the Attorney General of the United States?

The Honorable Janet Reno
PAGE 2:
February 23, 1995

(2) If so, how has this manifested itself into official Departmental guidelines or policy? Most specifically, is there a policy or ongoing operation targeting individuals for federal scrutiny based solely on their fitting one or more of the above-mentioned criteria?

Second, my constituents have been contacting me of late to inform me that the Department of Justice, in conjunction with law enforcement agents from the Bureau of Alcohol, Tobacco and Firearms (BATF), are planning nation-wide raids on the private homes of individuals primarily in the Western United States in the coming weeks because of suspected violations of federal gun laws.

During my fourteen years in Congress, I have heard many rumors and government "conspiracy theories." While I usually take them with a "grain of salt," I must confess that this specific allegation appears to be gaining in frequency and consistency. Some individuals for whom I have great respect and a long association have come forward recently to give me this information. In fact, one such individual, whom I consider to be very reliable and credible, told me that he personally counted 35 agents from the BATF together in Moab, Utah, recently, and that each agent was equipped with a sidearm.

(3) Is the Department of Justice currently planning to work with the BATF, the FBI, or any other federal law enforcement agency, to engage in special raids on the private homes of U.S. citizens because of suspected federal arms violations?

(4) Does the Department of Justice have knowledge of the BATF's recent appearance in Moab, Utah, and if so, what were the reasons for 35 armed BATF agents to congregate in such a small town in my State of Utah?

Please provide me a written response to the above questions as soon as possible. The information you provide will be most helpful in assisting me as I consider what appropriate actions or responses I may undertake in the Congress.

Sincerely yours,


James V. Hansen
Member of Congress

JVH:sp
cc: Stephen E. Higgins

DATE 3/17/95

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 160 HB 332
HB 323

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
ROBERT F. KAMEN	SELF	160	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Connor	Attorney General's Office	160	<input type="checkbox"/>	<input checked="" type="checkbox"/>
SHERIDAN MATTEUCCI	U.S. ATTORNEY	160	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Stoney Burk	SELF	160	<input checked="" type="checkbox"/>	<input type="checkbox"/>
TIM SHANKS	MT Police Protection Assn	160	<input type="checkbox"/>	<input checked="" type="checkbox"/>
A. M. (Bud) F. Howell	WCSM/NWAC	333/160/232	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chuck O'Reilly	Sheriff	160	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. J. Martin	MT Dem Party	160	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Clint Froke	U. W. A	160	<input checked="" type="checkbox"/>	<input type="checkbox"/>
G. W. WEIHART	SELF	160	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ray Henken	SELF	160	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lorna Frank	MT. Farm Bureau	160	<input checked="" type="checkbox"/>	<input type="checkbox"/>
David Hemion	MT Assoc. of Chemists	160	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Christine Kaufmann	Mt. human rights netmt	160	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

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Check One

Name	Representing	Bill No.	Support	Oppose
Chris Mehus	MSGA HB	160	✓	
GARY MARBUT	MSSA 60A CCRKBA WMF6A BSPSC	160	✓	

VISITOR REGISTER

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DATE 3/17/95

SENATE COMMITTEE ON _____

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Check One

Name	Representing	Bill No.	Support	Oppose
Walt Jones	Self	HR 160	✓	

VISITOR REGISTER

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