

MINUTES OF THE MEETING
GENERAL GOVERNMENT AND HIGHWAYS SUBCOMMITTEE
MONTANA STATE
JOINT SUBCOMMITTEE

February 15, 1985

The meeting of the General Government and Highways Subcommittee was called to order by Chairman Quilici on February 15, 1985 at 7:00 a.m. in Room 437 of the State Capitol.

ROLL CALL: All members were present with the exception of Senator Stimatz, who was excused. Also present were Cliff Roessner and Don Witmer from the LFA Office, Carolyn Doering and Doug Booker from the Governor's Office.

EXECUTIVE SESSION

DEPARTMENT OF REVENUE

Income Tax Division: There was discussion on the budget issues (68;A;01). Data processing funds, from the LFA's point of view, should be a modified level instead of current level. Postage for returns was discussed because of the rate increase.

Representative Lory moved the 75.15 FTE with 2 percent vacancy savings, the LFA budget with the exception of the OBPP budget for contracted services and communications, the OBPP budget for equipment in FY 1986 and the LFA budget for equipment in FY 1987. The funding to be properly adjusted. The motion PASSED unanimously.

There was then discussion on the budget modifications (68;A;165). The systems development modification was first discussed. Chairman Quilici asked how the increase in collections would be shown. The increase will come about by cross matching. The programmers for this modification, if approved, would not be needed after the system was completed.

Representative Lory moved approval of the budget modification for system development. The motion PASSED unanimously.

There was then discussion on the budget modification for administrative support (68;A;250). Senator Gage moved that the budget modifications for Elderly Homeowner/Renter Assistance and Administrative Support DO NOT PASS.

Representative Lory made a SUBSTITUTE MOTION for 2.5 FTE for the Administrative Support budget modification.

Senator Keating made a MOTION FOR ALL MOTIONS PENDING for 1.5 FTE for Administrative Support. The motion PASSED with 3 yes and 1 no.

There was discussion on the budget modification for increased audit capability (68;A;470). Representative Lory moved approval of the modification.

Senator Keating resisted the motion on the basis that if you lean on the people too hard, you'll ruin the incentive for productivity. Chairman Quilici asked who would be audited. John LaFaver told him the individual income taxpayers, the department can find people out there who aren't even filing income tax. Chairman Quilici then asked how the department comes up with their projections that they can get over 1 million dollars a year increased revenue, and 3.8 million dollars over the biennium. The department has looked on past experience, and they have actually done better than that in the past, and he hopes that they can actually get more than they have shown here (68;A;615).

The committee then voted on the above motion. The motion PASSED with 3 yes and 2 no.

There was then discussion on the budget modification for an increased collection staff (68;B;45). Representative Lory moved approval for the modification. The motion PASSED with 3 yes and 2 no.

The committee recessed until 9:00 a.m.

JUDICIARY HEARINGS

Supreme Court Operations: Mike Abley, Administrator, presented the budget to the committee (68;B;100). Exhibit No. 1 is the budget worksheet for the Supreme Court Operations. Exhibit No. 2 is the agency's budget narrative. Exhibit No. 3 is the LFA budget with inflation taken out.

There was discussion on the equipment (68;B;260). Senator Keating stated that this was an ongoing cost, and asked if this was the end of the expense. Mike Abley told him that this was the end of the substantial cost, but there will be some expenses for software and maintenance.

GENERAL GOVERNMENT AND HIGHWAYS

February 15, 1985

Page 3

Mike Abley then went over the budget modifications (68;B;287). The first modification was for additional staff. The cases are increasing at a rate of 5 percent a year in the Supreme Court. Mike Abley is going to get the committee a list of the cases the court is handling. Exhibit No. 3A is that list.

These cases involve, just on the state basis, hundreds of thousands of dollars. Just the interest on that money alone could cover the costs of the modification they are asking for (68;B;350). Delays in cases of two or three months could get expensive for the state. This delay also costs the citizens very much money.

Next discussed was the budget modification for the Sentencing Data Project (68;B;438). He would like the Department of Administration to write some programs to help do computations, that it now takes him about four weeks to do by hand. Exhibit No. 4 is the information for the revised estimates for the continuation of the Supreme Court Historic Preservation of Court Records Project.

Jean Turnage, Chief Justice, appeared before the committee to support the additional staff for the Supreme Court (68;B;570).

Justice Fred Weber explained the need for the additional secretaries (68;B;584). There are 4.5 FTE secretaries to do work for seven Justices and 14 law clerks. Many times the Justices do their own letter writing by hand and even filing.

Justice Gulbrandson then explained the need for a staff attorney (69;A;26). He told the committee of the large amount of handwritten material, and some typed material from the major law centers of the state, that have to be handled. He feels that a staff attorney should do this, it should not be done by the Justices. An attorney to do preliminary work that the Justices are now doing would stop a lot of the delay in court cases. He also said that this additional staff would benefit the people of this state.

Grants: There was then discussion on the funding of the MONTCLIRC (69;A;133). Exhibit No. 5 explains what MONTCLIRC is and what services it provides.

GENERAL GOVERNMENT AND HIGHWAYS

February 15, 1985

Page 4

Jim Ranney, Research Professor of Law, Director MONTCLIRC, explained the program and the nature of the operations. Exhibits No. 6 and No. 7 are papers put out by the University of Montana. Exhibit No. 8 is a sheet on cost savings, an effort to make some kind of an estimate as to the way in which MONTCLIRC saves the State of Montana twice the costs.

Boards and Commissions: There was then discussion on the budget of the Boards and Commissions found on Exhibit No. 9 (69;A;300). Exhibit No. 10 is a comparison of 84' actual to the Boards and Commissions figures with inflation in FY 86 and FY 87. Page 5 of Exhibit No. 2 is the budget in third level. There was no major difference in the budgets.

District Court Operations: Mike Abley explained the increase in personal services is because there are more judges. Exhibit No. 11 is the budget for the program.

Law Library: Judy Meadows, State Law Librarian, presented the budget (69;A;415). The budget was late because she didn't start working until September of last year. Exhibit No. 12 is the budget for the library. Exhibit No. 13 is the budget broken down into third level, and the modified requests are included in the budget.

There was discussion on the FTE level. Exhibit No. 14 is the 1979 evaluation of the State Law Library. Exhibit No. 15 is the percentage increases of specific function from 1980 to 1985.

Budget modifications request an additional .75 FTE and the purchase of a personal computer.

Water Courts Supervision: Judge Lessley presented the budget for the Montana State Water Courts (69;B;70). Exhibit No. 16 is a handout that explains what the program does and the accomplishments. He told the committee the program will finish with the project as scheduled.

Bill Asher, Private Consultant, complimented the Judge on doing such a great job (69;B;180). He showed the committee the temporary Preliminary decree of Madison River. The decree shows how much computer capabilities the water courts have put to use.

The following people testified in support of the program: Dorothy Bradley from Gallatin County (69;B;285), Mons Teigen represented the Stockgrowers, Woolgrowers, Cowbells and the Association of State Grazing Districts, and

GENERAL GOVERNMENT AND HIGHWAYS

February 15, 1985

Page 5

Jo Brunner, the Montana State Water Chairman for women involved in Farm Economics and as the Director of the Water Development Board supported Judge Lessley.

Exhibit No. 18 is the written testimony of Vernon L. Westlake, who supported the program. Jim Moore from Bozeman, also supported Judge Lessley and the program. Exhibit No. 17 is the budget for the Water Courts Supervision.

It was noted that Judge Lessley reverted around \$83,000 during the last biennium. If he doesn't need it he won't spend it.

Adjourn: There being no further business before the committee, the meeting was adjourned at 11:00 a.m.



JOE QUILICI, Chairman

km

REPORT EBSR106
 DATE : 01/23/85
 TIME : 08/03/17

OFFICE OF BUDGET & PROGRAM PLANNING
 EXECUTIVE BUDGET SYSTEM
 AGENCY/PROGRAM/CONTROL --- BUDGET WORKSHEET

AGENCY : 2110 JUDICIARY
 PROGRAM : 01 SUPREME COURT OPERATIONS
 CONTROL : 00000

AE/OE	DESCRIPTION	OBPP FY 86	LFA FY 86	DIFF. FY 86	SUB-CMT. FY 86	OBPP FY 87	LFA FY 87	DIFF. FY 87	SUB-CMT. FY 87
0000	FULL TIME EQUIVALENT (FTE)	32.00	32.00			32.00	32.00		
1100	SALARIES	839,739	840,328	-589		839,739	840,328	-589	
1400	EMPLOYEE BENEFITS	95,761	95,760	1		97,792	97,792		
1500	HEALTH INSURANCE	38,400	38,400			38,400	38,400		
1600	VACANCY SAVINGS		-38,955	38,955			-39,036	39,036	
	TOTAL FIRST LEVEL	973,900	935,533	38,367		975,931	937,484	38,447	
2021	CONTRACTED SERVICES-INFLATION		3,052	-3,052			4,961	-4,961	
2022	SUPPLIES & MATERIALS-INFLATION		3,158	-3,158			5,183	-5,183	
2023	COMMUNICATIONS-INFLATION		2,824	-2,824			4,507	-4,507	
2024	TRAVEL-INFLATION		964	-964			1,570	-1,570	
2025	RENT-INFLATION		-4,425	4,425			-687	687	
2027	REPAIR & MAINTENANCE-INFLATION		1,007	-1,007			1,639	-1,639	
2028	OTHER EXPENSES-INFLATION		2,919	-2,919			4,748	-4,748	
	TOTAL SECOND LEVEL		9,499	-9,499			21,921	-21,921	
2100	CONTRACTED SERVICES	92,068	41,447	50,621		72,628	27,697	44,931	
2200	SUPPLIES & MATERIALS	38,938	37,442	1,496		38,938	37,442	1,496	
2300	COMMUNICATIONS	37,124	33,147	3,977		39,444	33,147	6,297	
2400	TRAVEL	22,626	21,756	870		22,626	21,756	870	
2500	RENT	94,023	95,436	-1,413		94,858	95,436	-578	
2700	REPAIR & MAINTENANCE	12,907	11,636	1,271		12,907	11,636	1,271	
2800	OTHER EXPENSES	37,136	33,655	3,481		38,975	33,655	5,320	
	TOTAL FIRST LEVEL	334,822	284,018	50,804		320,376	282,690	37,686	
3000	EQUIPMENT & INTANGIBLE ASSETS	28,659		28,659		5,163		5,163	

Exhibit # 1
 2/5/85

REPORT EBSR106
 DATE : 01/23/85
 TIME : 08/03/17

OFFICE OF BUDGET & PROGRAM PLANNING
 EXECUTIVE BUDGET SYSTEM
 AGENCY/PROGRAM/CONTROL --- BUDGET WORKSHEET

AGENCY : 2110 JUDICIARY
 PROGRAM : 01 SUPREME COURT OPERATIONS
 CONTROL : 00000

AE/OE	DESCRIPTION	OBPP FY 86	LFA FY 86	DIFF. FY 86	SUB-CMT. FY 86	OBPP FY 87	LFA FY 87	DIFF. FY 87	SUB-CMT. FY 87
3100	EQUIPMENT	28,659	28,659	-28,659	---	5,163	5,163	-5,163	---
	TOTAL FIRST LEVEL	28,659	28,659		---	5,163	5,163		---
6100	FROM STATE SOURCES	97,542	97,542		---	100,885	100,885		---
	TOTAL FIRST LEVEL	97,542	97,542		---	100,885	100,885		---
	TOTAL PROGRAM	1,434,923	1,345,752	89,171	---	1,402,355	1,326,222	76,133	---
01100	GENERAL FUND	1,434,923	1,345,752	89,171	---	1,402,355	1,326,222	76,133	---
	TOTAL PROGRAM	1,434,923	1,345,752	89,171	---	1,402,355	1,326,222	76,133	---

page 2
2/15/85

SUPREME COURT AND CLERK OPERATIONS

Exhibit # 2
2/15/85

	FY86		FY87	
	CURRENT REQUESTED	MODIFIED REQUESTED	CURRENT REQUESTED	MODIFIED REQUESTED
FTE	32.00	4.00	32.00	4.00
1) Personal Services				
Salaries	839,739	10) 83,953	839,739	83,953
Benefits	95,761	12,165	97,792	12,207
Insurance	38,400	4,800	38,400	4,800
Total	<u>973,900</u>	<u>100,918</u>	<u>975,931</u>	<u>100,960</u>
Operating Expenses				
2) Contracted Services				
Judicial Intern	2,700		2,700	
Printing	12,372		12,372	
Montana Reports	40,560		40,560	
Insurance	2,245		2,255	
Data Processing	14,741		14,741	
Archives	71,500		71,500	
Sentencing Data Project	5,700		-0-	
Judicial Audit	13,750		-0-	
Total	<u>163,568</u>		<u>144,128</u>	
3) Supplies & Materials	38,938	11) 1,200	38,938	1,200
4) Communications	37,124		39,444	
5) Travel	22,626	12) 4,800	22,626	-0-
6) Rent				
Building	92,916		92,916	
Equipment	11,401		11,401	
Total	<u>104,317</u>		<u>104,317</u>	
7) Repair and Maintenance	12,907		12,907	
8) Other Expenses	37,136		38,975	
Total Operating Expenses	416,616	6,000	401,335	1,200
9) Equipment	28,659	13) 29,856	5,163	
Grants				
MONTCLIRC	97,542		100,885	
TOTAL PROGRAM	1,516,717	136,774	1,483,314	102,160

SUPREME COURT OPERATIONS
CURRENT LEVEL
BUDGET NARRATIVE

1) Personal Services

Salary, benefits and insurance at the FY85 level for 32 current level FTE.

2) Contracted Services

FY86 FY87

Judicial Intern: An ongoing arrangement with Denver University to hire a graduate student within their Judicial Administration Masters program. The intern works for the Court on judicial administration improvement projects for two to three months, receiving valuable experience while we receive the benefit of the student's service and the final product of the project which is backed by the University. 2,700 2,700

Montana Reports: The cost of publishing 4 volumes per year of the Montana Reports as required by 3-2-601 through 3-2-604, MCA. 40,560 40,560

Printing: The cost of the forms utilized for all of our data collection - approximately 30,000 forms per year; the Clerk of the Supreme Court forms; assorted certificates; and all other legal forms necessary for the operation of the Court. 12,372 12,372

Insurance: The insurance we are required to fund through the Department of Administration for property and general liability protection. 2,245 2,255

Data Processing: The cost of Westlaw legal research for the Justices and the law clerks; data processing of the district court caseload statistical reports; miscellaneous data processing provided by the Dept. of Administration. 14,741 14,741

Archives Project: Relevant information packet included. 71,500 71,500

Sentencing Data Project: The legislature has mandated regular sentencing reports from the Supreme Court and as yet has not provided the funds necessary for applicable computer software. This money would provide that software. 5,700

Judicial Audit: Mandatory for all branches and agencies. This cost is not included in the FY84 base expenditures. 13,750

3) Supplies and Materials

FY84 base plus 4 percent.

4) Communications

FY84 base plus 12 percent for FY86 and 19 percent for FY87.

5) Travel

FY84 base plus 4 percent.

6) Rent

Building - FY85 rate as charged by the Department of Administration.

Equipment - Rent for current level equipment plus 4 percent as follows:

1 court copier	\$3,556
1 Clerk's office copier	1,374
1 data terminal	3,458
1 lease car	3.013
Total Annual	<u>\$11,401</u>

7) Repair and Maintenance

1) Current IBM word processing system maintenance contracts as follows:

4 printers at \$74.50/mo/yr	\$3,576
7 display stations at \$28.00/mo/yr	2,352
1 central processing unit at \$240.50/mo/yr	2,886
2) Lease car	86
3) General office machines	<u>3,510</u>
Total FY84 Base	<u>\$12,410</u>

A 4 percent inflation factor was applied for the 86-87 biennium.

8) Other

1) National Center for State Courts dues: FY86 \$30,642; FY87 \$32,481

2) The balance is freight, subscriptions, etc., at the FY84 base plus 4 percent.

9) Equipment

Current level IBM Word Processing System costs:

	<u>FY86</u>	<u>FY87</u>
5520 Central Processing Unit	17,250	1,606
2 Display Stations	8,487	2,819
1 Printer	<u>2,952</u>	<u>738</u>
Total	<u>\$28,659</u>	<u>\$5,163</u>

SUPREME COURT OPERATIONS
MODIFIED LEVEL
BUDGET NARRATIVE

10) Personal Services

	<u>FY86</u>	<u>FY87</u>
Salary		
Staff Attorney	35,000	35,000
3 Legal Secretaries	48,953	48,953
Total Salaries	<u>83,953</u>	<u>83,953</u>
Benefits	12,165	12,207
Insurance	4,800	4,800
Total	<u>\$100,918</u>	<u>\$100,960</u>

11) Supplies and Materials

4 FTE at \$300 each/yr.	1,200	1,200
-------------------------	-------	-------

12) Travel

4 FTE at \$1,200 each to attend IBM Word Processing System course	4,800	-0-
--	-------	-----

13) Equipment

4 IBM Terminals	14,120	-0-
2 IBM Printers	<u>15,736</u>	<u>-0-</u>
	\$29,856	

BOARDS AND COMMISSIONS

		FY86 REQUESTED		FY86 REQUESTED
	3.00		3.00	
Practice				
Contracted Services				
Executive Secretary		15,600		15,600
Investigation		4,152		4,152
Transcripts		131		131
Supplies and Materials		1,669		1,669
Communications		1,428		1,517
Travel		6,105		6,105
Total		29,085		29,174
Bar Examiners				
Contracted Services				
Secretarial		15,500		15,500
Graders		6,600		6,600
Questions		5,600		5,600
Member Compensation		4,867		4,867
Supplies and Materials		4,131		4,131
Travel		4,062		4,062
Total		40,760		40,760
Civil Procedure				
Contracted Services				
Research		3,000		3,000
Printing		3,715		3,715
Travel		2,596		2,596
Total		9,311		9,311
Sentence Review				
Personal Services	.50	8,781	.50	8,781
Supplies and Materials		532		532
Communications		1,107		1,176
Travel		924		924
Total		11,344		11,416
Probate				
Personal Services	.50	8,780	.50	8,784
Supplies and Materials				
Total		8,780		8,784
Limited Jurisdiction				
Personal Services	2.00	60,871	2.00	60,897
Operating Expenses				
Contracted Services				
Research				
Printing				
Training		6,613		6,613
Supplies and Materials				
Commission		42		42
Training		4,850		4,850
Communications				
Commission		65		69
Training		551		585
Travel				
Commission		6,052		6,052
Training		7,491		7,491
Total		86,535		86,599
Nominations				
Supplies and Materials		447		447
Travel		1,870		1,870
Total		2,317		2,317
Standards				
Contracted Services				
Investigation		2,770		2,770
Supplies and Materials		1,965		1,965
Travel		1,390		1,390
Total		6,125		6,125
Planning				
Supplies and Materials				
Total		7,394		7,394
TOTAL PROGRAM		201,651		201,880

DISTRICT COURT OPERATIONS

	<u>FY86</u> <u>REQUESTED</u>	<u>FY87</u> <u>REQUESTED</u>
FTE	36.00	36.00
Personal Services		
Salary	1,723,527	1,723,527
Retired Comp.	11,638	11,638
Benefits	215,939	224,039
Insurance	43,200	43,200
Total	<u>1,994,304</u>	<u>2,002,404</u>
Operating Expenses		
Contracted Services		
Insurance (Personnel)	2,245	2,255
Insurance (Cars)	4,091	4,091
Training		
Two 2 1/2 Day Seminars	16,000	16,000
Total	<u>22,336</u>	<u>22,346</u>
Supplies and Materials		
Gas (cars)	5,845	5,845
Total	<u>5,845</u>	<u>5,845</u>
Travel		
Cars (Rental)	23,747	23,747
In-State	68,057	68,057
Seminars	9,000	9,000
Out-of-State		
Six-State Judicial Conf.	11,250	11,250
National Judicial College	4,250	4,250
Total	<u>116,304</u>	<u>116,304</u>
Repair and Maintenance		
Lease Cars	8,557	8,557
Other Expenses		
Registration - Six State	2,250	2,250
Tuition at National Judicial College	3,625	3,625
Total	<u>5,875</u>	<u>5,875</u>
Total Operating Expenses	158,917	158,927
TOTAL PROGRAM	2,153,221	2,161,331

WATER COURT OPERATIONS

	<u>FY86</u> <u>REQUESTED</u>	<u>FY87</u> <u>REQUESTED</u>
FTE	13.50	13.50
Personal Services		
Salaries	267,340	267,340
Benefits	37,744	37,897
Insurance	16,800	16,800
Retirement Comp.	5,000	5,000
Total	<u>326,884</u>	<u>327,037</u>
Operating Expenses		
Contracted Services	73,000	79,500
Supplies and Materials	20,000	20,000
Communications	20,000	22,000
Travel	50,000	52,000
Rent	31,175	34,075
Repair and Maintenance	15,000	17,500
Other	3,000	3,000
Total Operating Expenses	212,175	228,075
Equipment	18,000	17,500
TOTAL PROGRAM	557,059	572,612

SUPREME COURT

	<u>1986</u>	<u>1987</u>
Executive FTE	32	32
LFA Current Level FTE	<u>32</u>	<u>32</u>
Difference	<u><u>0</u></u>	<u><u>0</u></u>

<u>PERSONAL SERVICES</u>	<u>1986</u>	<u>1987</u>
Executive	\$973,900	\$975,931
LFA Current Level	<u>935,533</u>	<u>937,484</u>
Difference	<u><u>\$ 38,367</u></u>	<u><u>\$ 38,447</u></u>

<u>VACANCY SAVINGS</u>	<u>1986</u>	<u>1987</u>
Executive	\$ -0-	\$ -0-
LFA Current Level	<u>38,955</u>	<u>39,036</u>
Difference	<u><u>\$(38,955)</u></u>	<u><u>\$(39,036)</u></u>

<u>CONTRACT SERVICES</u>	<u>1986</u>	<u>1987</u>
Executive	\$87,707	\$68,527
LFA Current Level	<u>41,447</u>	<u>27,697</u>
Difference	<u><u>\$ 46,260</u></u>	<u><u>\$ 40,830</u></u>

LFA did not include \$40,560 in printing costs in fiscal 1986 and fiscal 1987 and \$5,700 for a sentencing data projection in fiscal 1986 as current level. They are included as issues.

<u>SUPPLIES AND MATERIALS</u>	<u>1986</u>	<u>1987</u>
Executive	\$37,442	\$37,442
LFA Current Level	<u>37,442</u>	<u>37,442</u>
Difference	<u>\$ -0-</u>	<u>\$ -0-</u>

<u>COMMUNICATIONS</u>	<u>1986</u>	<u>1987</u>
Executive	\$33,147	\$33,147
LFA Current Level	<u>33,147</u>	<u>33,147</u>
Difference	<u>\$ -0-</u>	<u>\$ -0-</u>

<u>TRAVEL</u>	<u>1986</u>	<u>1987</u>
Executive	\$21,756	\$21,756
LFA Current Level	<u>21,756</u>	<u>21,756</u>
Difference	<u>\$ -0-</u>	<u>\$ -0-</u>

<u>REPAIR AND MAINTENANCE</u>	<u>1986</u>	<u>1987</u>
Executive	\$12,390	\$12,390
LFA Current Level	<u>11,636</u>	<u>11,636</u>
Difference	<u>\$ 754</u>	<u>\$ 754</u>

Difference is in general office machines. The budget office has increased this item over 1984 expenditure level. The LFA budget is at the 1984 level.

<u>OTHER EXPENSES</u>	<u>1986</u>	<u>1987</u>
Executive	\$35,650	\$35,650
LFA Current Level	<u>33,655</u>	<u>33,655</u>
Difference	<u>\$ 1,995</u>	<u>\$ 1,995</u>

The LFA remains at the level of 1984 expenditures.

<u>EQUIPMENT</u>	<u>1986</u>	<u>1987</u>
Executive	\$28,659	\$5,163
LFA Current Level	<u>-0-</u>	<u>-0-</u>
Difference	<u>\$28,659</u>	<u>\$5,163</u>

The budget request did not identify what the equipment was that was to be purchase.

RA CASE # and TITLES

01/04/85

Exhibit #3A
2/15/85

81-034	GEORGE D MC MAHON vs. THE ANACONDA CO 84/04/13 CLOSED
82-003	EARL MYERS vs. DONNA MYERS 84/06/13 CLOSED
82-054	AUTOMATIC GAS DISTRIBUTORS vs. DONALD PURCELL & JOSEPH GARY 84/01/04 CLOSED
82-098	JOHANN J MYDIARZ vs. PALMER DUNCAN CONSTRUCTION 84/05/31 CLOSED
82-224	GOODYEAR TIRE & RUBBER CO vs. DENNIS KUIPER 84/01/19 CLOSED
82-254	DAVID D SOLHEIM vs. TOM DAVIS RANCH 84/03/15 CLOSED
82-269	THE MISSOULIAN vs. BOARD OF REGENTS 84/02/07 CLOSED
82-270	CHARLES SCOTT vs. EWALT & HENSLEY 84/02/09 CLOSED
82-284	BRUCE P OBERG vs. CITY OF BILLINGS 84/01/06 CLOSED
82-291	JAMES CARL BLANKENSHIP vs. FLORENCE R BLANKENSHIP 84/06/01 CLOSED
82-303	ELEANOR STAPLETON vs. FIRST SECURITY BANK 84/02/04 CLOSED
82-329	BRUCE A DESILVA vs. STATE OF MONTANA 84/04/24 CLOSED
82-342	TERRY LITTLE vs. EVA P & EDDIE REED 84/05/31 CLOSED
82-383	R.G.M. ENTERPRISES vs. ST SOCIAL REHABILITATION SRV 84/01/19 CLOSED
82-391	STEPHEN E FARRELL vs. STATE OF MONTANA 84/02/02 CLOSED
82-393	PHILLIP HARRIS vs. STATE OF MONTANA 84/05/25 CLOSED
82-406	LESTER AZURE vs. STATE OF MONTANA 84/03/09 CLOSED
82-428	WACHHOLZ, DITTMAN, NELSON vs. JOAN DEIST 84/04/11 CLOSED
82-438	NOLAN T DANIELS vs. STATE OF MONTANA 84/05/30 CLOSED
82-441	EVELYN & ALLIE FERREL vs. STATE OF MONTANA 84/04/11 CLOSED
82-448	WILLIAM GRIFFEL vs. COVE DITCH CO 84/02/09 CLOSED
82-461	GALLATIN COUNTY vs. D & R MUSIC & VENDING 84/03/02 CLOSED
82-481	THOMAS VAN HAELE, vs. STATE OF MONTANA, 84/02/15 CLOSED
82-497	JOHN C & RUTH G HANLEY vs. DEPARTMENT OF REVENUE 84/01/06 CLOSED

RA CASE # and TITLES

01/04/85

82-502 CAROLYN JEAN NORDAHL vs. STATE OF MONTANA
84/04/13 CLOSED

82-509 ROBERT B & DORIS M McGINNIS vs. ENVIRONMENTAL ELEMENTS CORP
84/01/26 CLOSED

83-001 KENNETH CHARLES KNOX vs. STATE OF MONTANA
84/02/07 CLOSED

83-004 JAMES E GRAY vs. STATE OF MONTANA
84/01/10 CLOSED

83-008 TIMOTHY RAY Mc NEFF vs. CINDY LUELLA McNEFF
84/01/06 CLOSED

83-017 MT HIGHWAY PATROL OFFICERS vs. STATE BRD PERSONNEL APPEALS
84/02/12 CLOSED

83-021 SAM SPICER & JAMES CAVANAUGH vs. STATE OF MONTANA
84/01/10 CLOSED

83-026 MATTER OF C. H. a Youth vs.
84/06/13 CLOSED

83-028 DAN ROBERT GOODWIN vs. STATE OF MONTANA
84/04/13 CLOSED

83-044 WILLIAM LEE RANDY CLARK vs. STATE OF MONTANA
84/05/31 CLOSED

83-048 JESSIE T LEWIS vs. DEPARTMENT OF REVENUE
84/01/19 CLOSED

83-052 SCHESSLER-MILLER READY MIX, vs. LITTLE HORN STATE BANK
84/06/22 CLOSED

83-061 JERRY BOWERMAN vs. EMPLOYMENT SECURITY COMM
84/01/06 CLOSED

83-072 D L GLADUE(A) D A LAPIEP(B) vs. STATE OF MONTANA
84/03/02 CLOSED

83-077 YOUNG, WILCKENS & MAAS vs. IVAN & PATRICA HOEFER
84/06/15 CLOSED

83-079 LINDSAY DRILLING vs. U S FIDELITY & GUARANTY
84/03/02 CLOSED

83-083 DUANE MORAN & HAROLD DEMERS vs. BURTON HUTCHINSON
84/01/13 CLOSED

83-092 GEORGE CHAPMAN vs. STATE OF MONTANA
84/04/17 CLOSED

83-096 LIMA SCHOOL DISTRICT # 12 vs. KENNETH & ANN SIMONSEN
84/06/07 CLOSED

83-099 LARRY NAPUM vs. CITY OF BILLINGS
84/01/26 CLOSED

83-106 IN RE: DALY DITCHES vs.
84/05/02 CLOSED

83-107 NORTHWEST POTATO SALES vs. CHARLES BECK
84/04/24 CLOSED

83-113 JOHN KUHNKE vs. JOHN FISHER & DOUGLAS ALVORD
84/06/07 CLOSED

83-123 CONRAD GEE vs. EVERETT EGBERT & LAPPY BUSCH
84/04/13 CLOSED

RA CASE # and TITLES

01/04/85

83-134 STEVEN T THOMPSON vs. STATE OF MONTANA
84/01/26 CLOSED

83-135 ROGER & KAREN WHITE vs. FRANK & KATHRYN LOBDELL
84/03/19 CLOSED

83-136 BOZEMAN DEACONESS HOSPITAL vs. JERI T PAULSON
84/01/26 CLOSED

83-142 WALTER I. PEGG Deceased vs.
84/04/18 CLOSED

83-143 FORMICOVE INC vs. BUPLINGTON NORTHERN INC
84/01/04 CLOSED

83-144 WILLIAM JOHN GLADUE vs. STATE OF MONTANA
84/05/04 CLOSED

83-147 MICHAEL JOSEPH STAFFORD vs. STATE OF MONTANA
84/03/21 CLOSED

83-157 KARL ERIC GRATZER vs. STATE OF MONTANA
84/05/08 CLOSED

83-161 M G MALEK & R L PATTEN vs. PATTEN & 1ST NAT'L BANK
84/04/10 CLOSED

83-162 STATE OF MONTANA vs. ARTHUR MAGNUSON
84/06/27 CLOSED

83-164 DENNIS MICHAEL CURRAN vs. MT COALITION STREAM ACCESS
84/06/08 CLOSED

83-169 HARLEN, THOMPSON & PARISH vs. CITY OF HELENA
84/02/10 CLOSED

83-172 WILLIAM OWENS vs. PARKER DRILLING CO
84/03/07 CLOSED

83-175 IN RE: ADOPTION OF R.A.S. vs.
84/05/04 CLOSED

83-178 E L MC DANOLD vs. B N TRANSPORT INC also Emplr
84/04/12 CLOSED

83-180 SUSAN POPP vs. ROBERT A POPP
84/03/19 CLOSED

83-181 STATE OF MONTANA vs. KATHLEEN RACHEL WILKINSON
84/04/10 CLOSED

83-183 DENNIS WILLIAMS vs. ROSE WILLIAMS
84/03/19 CLOSED

83-185 RANDALL CLIFFORD BOYER vs. STATE OF MONTANA
84/03/14 CLOSED

83-186 LAKE COUNTY & COMMISSIONERS vs. ALVIN DETERT
84/01/26 CLOSED

83-194 KELLY J BRAULT vs. RICHARD & ALICE SMITH
84/04/13 CLOSED

83-196 FRANKLIN SCHWARK vs. SILVER JET MINES, INC.
84/06/01 CLOSED

83-200 REMINGTON ARMS CO vs. JEAN TANNIEMILL
84/02/02 CLOSED

RA CASE # and TITLES

01/04/85

83-203 CFCIL I. BERNHARD vs. DPT HEALTH & ENVIRON SCIENCE
84/02/10 CLOSED

83-204 DONALD P MATTHEWS vs.
84/04/84 CLOSED

83-217 JAMES NEDROW PILGRIM vs. JOHN KUIPERS
84/04/24 CLOSED

83-215 ELIZABETH L LONG vs. CLIFTON E DILLON
84/05/08 CLOSED

83-223 PATRICK F & EILEEN F SHIMSKY vs. VALLEY CREDIT UNION
84/03/22 CLOSED

83-228 EDWARD FREDERICK vs. STATE OF MONTANA
84/02/17 CLOSED

83-229 TIMOTHY DESS vs. STATE OF MONTANA
84/01/19 CLOSED

83-230 TIMOTHY DESS & RONALD HAAS vs. STATE OF MONTANA
84/01/26 CLOSED

83-232 HARDY CONSTRUCTION CO vs. PAUL & LINDEN CHAGNON
84/05/29 CLOSED

83-237 ROSS W CANNON vs. ALAN D NICHOLSON INC
84/01/26 CLOSED

83-244 UNION OIL CO CALIFORNIA vs. BARNEY REAGAN
84/02/07 CLOSED

83-251 KATHRYN L WYMAN vs. HORACE C WYMAN
84/02/10 CLOSED

83-255 JOHN J & MARIE MING vs. 1ST SECURITY BANK KALISPELL
84/02/17 CLOSED

83-259 JOANNE MC CULLUGH vs. NABORS DRILLING LTS
84/03/23 CLOSED

83-262 MATTER OF LES TAYLOR Estate vs.
84/01/19 CLOSED

83-263 1st SECURITY BK OF MISSOULA vs. SHERWOOD & ROBERTS INC
84/05/31 CLOSED

83-267 J A BRADFORD & DAVID OPPELT vs. STATE OF MONTANA
84/06/07 CLOSED

83-269 JACKSON MONTGOMERY SMITH vs. STATE OF MONTANA
84/02/09 CLOSED

83-270 JACK L KEENEY vs. GARY & RENATE WELDELE
84/01/12 CLOSED

83-272 ECA ENVIRONMENTAL MGMT SERV vs. JOHN TOENYES & MICHAEL F
84/03/27 CLOSED

83-277 PAT LINZ vs. CHAMPION INTERNATIONAL
84/02/15 CLOSED

83-282 WESTERN FIRE INS CO vs. HARRY COE GIBSON
84/06/19 CLOSED

83-283 JOHN AREND PURDIE vs. STATE OF MONTANA
84/05/30 CLOSED

RA CASE # and TITLES

01/04/85

83-284 MT DPT LBR & GREENWOOD vs. DICK IRVIN INC
84/01/16 CLOSED

83-286 JACK, ROBERT & DAVID MARTA vs. DOUGLAS & EFFIE I. SMITH
84/03/15 CLOSED

83-287 JAY LEE GATES vs. STATE OF MONTANA
84/01/05 CLOSED

83-291 HOWARD FRANZ PR J FRANZ Este vs. T T BEDNAREK, MD & ST VIN HOSP
84/03/29 CLOSED

83-292 BEVERLY JEAN ROBERTS vs. SLEEPING GIANT INC
84/04/11 CLOSED

83-293 SFVERIANO (PETE) SOTELO vs. STATE OF MONTANA
84/04/18 CLOSED

83-296 STATE OF MONTANA vs. GREGOPY LYNN JOHNSON
84/02/03 CLOSED

83-297 HELEN J HOYT vs. JOHN C HOYT
84/02/10 CLOSED

83-298 MATTER OF C. S. a youth vs.
84/06/07 CLOSED

83-299 FIRST BANK BILLINGS vs. TRANSAMERICA INSURANCE
84/04/18 CLOSED

83-300 DONALD F WALLACE vs. JON ERIC ELIASON
84/05/15 CLOSED

83-301 AETNA LIFE & CASUALTY INS CO vs. WAYNE JOHNSON CORAL REEF PET
84/01/19 CLOSED

83-304 MICKEY & JANICE HANSEN vs. HENRY RISLEY
84/06/07 CLOSED

83-305 LELAND D TRUSTY vs. CONSOLIDATED FREIGHTWAYS
84/06/07 CLOSED

83-310 BRIDGER EDUCATION ASSOC vs. BRD TRSTS CARBON SCHL DST #2
84/04/13 CLOSED

83-314 STATE ex rel MARCIA DEWYEA vs. LARRY RAY KNAPP
84/02/04 CLOSED

83-319 ROY HANKINS vs. STATE OF MONTANA
84/05/15 CLOSED

83-322 ROGER WILLIAM LORGE vs. ANN MARIE LORGE
84/01/23 CLOSED

83-324 GLORIA SANDHOLM vs. CITY OF SHELBY
84/02/10 CLOSED

83-328 ZEPP, FARNER, KNOWLES vs. SMITH & SATTERFIELD
84/03/02 CLOSED

83-329 DONALD F LLOYD vs. STATE OF MONTANA
84/03/02 CLOSED

83-338 PEARL F WAGNER vs. RICHARD LAMBERT WAGNER
84/04/06 CLOSED

83-339 GEORGE LOREN FRAZIER vs. ZORIE NE FRAZIER
84/03/02 CLOSED

83-340 SEARS, ROEBUCK & CO vs. DWIGHT MC CORMACK
84/06/07 CLOSED

RA CASE # and TITLES

01/04/85

83-341 INRE CUSTODY OF ERICKA M. vs.
84/03/02 CLOSED

83-342 JOHN SANDERS vs. STATE OF MONTANA
84/03/15 CLOSED

83-347 JOHN HARVEY COUNTS, SR vs. STATE OF MONTANA
84/05/04 CLOSED

83-348 CATE & CONNELL & GOODRICH vs. C LEO & ELLEN HARGRAVE
84/05/04 CLOSED

83-349 JANET MYRTLE REDDING vs. STATE OF MONTANA
84/02/08 CLOSED

83-350 COMBUSTION ENGINEERING vs. MAX F SMALL
84/05/16 CLOSED

83-353 TAYLOR RENTAL vs. TED GODWIN LEASING
84/06/19 CLOSED

83-357 WESTERN PIPE INSURANCE CO. vs. CYNTHIA FITZGERALD
84/05/01 CLOSED

83-366 PFALTY TITLE CO vs. K ROBERT FOSTER
84/05/15 CLOSED

83-367 ST MT DPT PUBLIC SERV REGULA vs. MONTANA IRRIGATORS, INC
84/06/01 CLOSED

83-368 ILENE F HILT vs. REESE A HILT
84/04/24 CLOSED

83-373 CITY OF BILLINGS vs. ST MT HUMAN RGHTS COMMISSION
84/05/04 CLOSED

83-375 LARRY G. BROWN vs. STATE OF MONTANA
84/05/23 CLOSED

83-376 M.E.M., JR, YOUTH vs.
84/04/24 CLOSED

83-378 ST MT DEPARTMENT REVENUE vs. CHARLES DAWSON
84/02/09 CLOSED

83-379 LENZ CONSTRUCTION CO vs. EARL CAMERON
84/02/03 CLOSED

83-381 CHARLES M JOSLYN vs. CITY OF CHOTEAU
84/04/13 CLOSED

83-383 IN MATTER GRDNSHP O.S. & G.S vs.
84/06/07 CLOSED

83-389 HENRY OLDENBURG vs. COUNTY OF FLATHEAD
84/02/17 CLOSED

83-391 ST ex rel WILCOX & BRADLEY vs. DIST CRT 13th JUD DST et al
84/03/27 CLOSED

83-393 TRAVIS M. BARKER vs. RICE MOTORS
84/02/10 CLOSED

83-395 GEORGE ALLEN vs. STATE OF MONTANA
84/02/16 CLOSED

83-397 MTRR OF LFT RAC TPV MLB YTHS vs.
84/05/22 CLOSED

83-400 ST MT ex rel DAVID G WELCH vs. DST CRT 7th JUD DST RICH CTY
84/05/16 CLOSED

RA CASE # and TITLES

01/04/85

83-408 LEE R. CARSON vs. STATE OF MONTANA
84/03/20 CLOSED

83-409 JAMES I MESLER vs. STATE OF MONTANA
84/06/07 CLOSED

83-413 J D HAHN & CAROL TIMMONS vs. MICHAEL R & LINDA D WILTON
84/05/15 CLOSED

83-414 CHARLES T & KARYN I. RENO vs. THOR O ERICKSTEIN
84/04/13 CLOSED

83-416 LAVON R BRETZ vs. HENRY RISLEY & MIKE GREELY
84/02/23 CLOSED

83-421 STATE OF MONTANA vs. PATRICK LEO O'NEILL
84/04/24 CLOSED

83-422 GARY G. MATTHEWS vs. BERNICE A. MATTHEWS
84/03/02 CLOSED

83-423 RICHARD & LEONA NAPIER vs. GARY & SHEPPY ADKISON
84/04/23 CLOSED

83-425 ARNOLD F & LORA WIEDRICK vs. LAURENCE R DuBOSE
84/03/05 CLOSED

83-427 ILA ALLEN aka ILA ANDERSON vs. CURTIS ADAMS & J. FAIRBRAIPN
84/04/23 CLOSED

83-429 BETTY DONOVAN/TRAVEL INT'L vs. JOHN BOLAND & CARMEN L WATTS
84/01/17 CLOSED

83-430 JIM FORD vs. MT DEPT FISH, WILDLIFE & PRK
84/02/17 CLOSED

83-431 MATTER OF ADOPTION OF C.F.B. vs.
84/05/04 CLOSED

83-432 FRED L. THOMPSON vs. ANN W. THOMPSON
84/03/02 CLOSED

83-435 RANDALL M. RUDOLPH vs. DANIAL & JACK KELLY
84/01/12 CLOSED

83-437 DAVID L. PIERRE vs. STATE OF MONTANA
84/04/10 CLOSED

83-440 FRED J. RUPLE vs. BOB PETEPSON LOGGING CO.
84/05/04 CLOSED

83-445 GORDON JULIAN vs. G MATTSON, D PRUGH & J LENON
84/04/13 CLOSED

83-446 STATE ex rel., LaRUE SMITH vs. DISTRICT COURT-8th JUD.DIST.
84/03/29 CLOSED

83-447 MISSOULA CNTY BRD CNTY COMM vs. MISSOULA CNTY RENEV PROTECT
84/02/17 CLOSED

83-450 R. R. BECKMAN vs. RICHARD CHAMBEPLAIN
84/01/84 CLOSED

83-453 RAY GROSSMAN vs. ST MT, DEPT of NAT RESOURCES
84/05/23 CLOSED

83-458 FMPI, SEC DV DPT LABOR & IND. vs. WILLIAM & ELSE SLATER
84/03/02 CLOSED

83-462 LEONARD RAY ORTEGA vs. STATE OF MONTANA
84/05/04 CLOSED

RA CASE # and TITLES

01/04/85

83-463 BRD NAT RESOURCES & CONSV MT vs. STATE exrel MONTANA POWER C
84/01/17 CLOSED

83-464 PATRICIA A. PICKERING(SCHELL vs. JIMMIE ROGER SCHELL
84/04/23 CLOSED

83-467 INRE MARRIAGE OLGA D. DUNN vs. JOHN EARL DUNN
84/01/30 CLOSED

83-468 THOMAS CAPL MACEK vs. ST MT exrel COL. RBT LONDON
84/03/02 CLOSED

83-474 HARRY BIRKENBUEL vs. POULSEN'S INC
84/01/13 CLOSED

83-476 OTIS ELEVATOR CO.,et al. vs. KATHERINE CASH
84/06/21 CLOSED

83-478 FERGUS ELEC. COOP., et al. vs. A A R CONSTRUCTION, INC.
84/06/08 CLOSED

83-481 VERN HUGHES & HUGHES MINING vs. GENERAL ELEC. CREDIT & LEASE
84/05/01 CLOSED

83-482 MOUNTAIN WEST FARM MUT. INS. vs. FARMERS INS. EXCHANGE CO,et
84/05/22 CLOSED

83-486 ELSIF L. GIES vs. KARL A. GIES
84/06/15 CLOSED

83-487 JERRY L & VICKI SMITH vs. RAVALLI CTY BRD HEALTH et al
84/05/04 CLOSED

83-488 D. ADSEM PR/R.A.ADSEM Estate vs. CLARK FIN./MARONICK/PECCIA
84/03/01 CLOSED

83-489 MATTER MNTL HLTH A. GREETAN vs.
84/03/27 CLOSED

83-491 JUDY RAE CONNOLLY vs. MICHAEL T. CONNOLLY
84/05/29 CLOSED

83-500 MARK KINSEY VINNER vs. KATHLEEN ANN VINNER
84/04/25 CLOSED

83-504 K. Y. DIXON vs. R. & J. MANNING & R. HOWELL
84/04/05 CLOSED

83-505 SHARON M. VOELLER vs. GERALD A. VOELLER
84/01/26 CLOSED

83-511 EDGAR A BROWN/SLVR CITY CLUB vs. DOR LIQUOR DIV,ST MT, etal
84/04/09 CLOSED

83-518 STATE exrel PHILOMENA SHALZ vs. DST CRT 8th JUD CASCADE, JDG
84/01/23 CLOSED

83-526 EITEL F. TADDAY vs. DST CRT 12th JUD DST ST MT
84/01/26 CLOSED

83-527 ROSALINE VOGEL vs. GIBSON'S DISCOUNT CENTERS
84/05/31 CLOSED

83-535 JOE HARLAN vs. JOHN BORLEDO
84/01/20 CLOSED

83-536 DAVID W. KUGLIN vs. GREGORY M. NEWMAN etal
84/01/25 CLOSED

RA CASE # and TITLES

01/04/85

83-544 PHYLIS L. VERT vs. DANFORD O. VERT
84/05/30 CLOSED

83-546 MARGARET E. BLAKELY vs. RAYMOND E. & BEATRICE A DUPRE
84/05/04 CLOSED

83-548 IN RE BETTY L. CHESTER vs. STEVEN D. CHESTER
84/02/15 CLOSED

83-549 BETTY FRANCES L SCHAAK vs. ADOLPH DUANE SCHAAK, JR
84/06/15 CLOSED

83-550 WARREN E. HILL vs. C. E. DILLON, H.E. SCHAEFER
84/02/23 CLOSED

83-552 JEANETTE KALINA KEIRLE vs. IN RE DEAN ERVIN KEIRLE
84/06/13 CLOSED

83-554 IN RE PETI NORMAN E. HERRERA vs.
84/03/15 CLOSED

84-001 PATRICK F. CONNELL vs. KNUTE KULBECK
84/03/15 CLOSED

84-003 GALE C. ABRAMS vs. STATE OF MONTANA
84/05/25 CLOSED

84-004 G ORLANDO/PR F A Donnes Esta vs. DstCRT 13thJUD/TPSR CNTYetal
84/02/03 CLOSED

84-005 P K RIX GUARDIAN EATON & RIX vs. DstCRT 13thJUD/YLST CNTYetal
84/03/30 CLOSED

84-006 PATRICK JAMES CAMPBELL vs. FLATHEAD COUNTY SHERIFF
84/02/03 CLOSED

84-008 VICKI MILES JARRELL vs. EST B.M.DOLPH / PR J.M.DOLPH
84/04/18 CLOSED

84-013 BUDD, CONBOY, BROWN, et al vs. STATE OF MONTANA
84/01/12 CLOSED

84-014 ST MT exrel KAREN E TACKE vs. DST CRT 6th JUD DST et al
84/01/12 CLOSED

84-018 DAVID ARTHUR CARLSON vs. DST CRT 3rd JUD PWL RJ BOYD
84/02/09 CLOSED

84-020 COMMITTEE FOR EFFECTIVE JUD vs. ST OF MT & WALTERMIRE, SEC ST
84/04/18 CLOSED

84-024 BIRDIE & DAVID E. GENNARA vs. DONALD L. & JEANNE KINDRED
84/05/31 CLOSED

84-026 CLAIMONT, INC., vs. FIRST CONTINENTAL CORP.
84/01/12 CLOSED

84-027 J. R. LEWIS vs. G. K. & MARGARET K. MURPHY
84/03/23 CLOSED

84-029 RONALD DEAN WISSINK vs. STATE OF MONTANA
84/03/05 CLOSED

84-030 ST MT exrel KERMIT PHILLIPS vs. DST CRT 11th DST FLTHD etal
84/03/08 CLOSED

84-031 THOMAS P. MC GUINN, SR vs. HENRY RISLEY
84/05/10 CLOSED & 84/06/19

84-036 GARY L. QUIGG vs. DONALD MORMAN, et al
84/03/01 CLOSED

PA CASE # and TITLES

01/04/85

84-037 TONY REBICH vs. JAMES D. FERRERPO
84/04/24 CLOSED

84-048 THOMAS A. BATES vs. FIRST NATIONAL BANK HELENA
84/06/14 CLOSED

84-052 INRE PETI PAUL BAD HORSE, JR vs.
84/03/15 CLOSED

84-055 TERRY R & KATHERINE SAVAGE vs. JOSEPH A & GLORIA A MANDATA
84/05/10 CLOSED

84-058 RICHARD HARTHUN vs. JUDGE ROBERT J. BOYD
84/05/25 CLOSED

84-061 GEORGE O. APPLE, JR. vs. TOM & DONALD MC MILLAN
84/04/04 CLOSED

84-062 ST MT exrel SPR CRK FRST PRO vs. DT CRT 13th HON R. H. WILSON
84/03/15 CLOSED

84-064 JAMES E. ODEN vs. STEVEN A. ADLER
84/02/16 CLOSED

84-070 ST MT Relation MIKE SALVAGNI vs. JST CRT DPT 1, H.P. GROAN, JP
84/04/19 CLOSED

84-071 MATTER of APPLIC JAMES STONE vs.
84/03/01 CLOSED

84-072 RANDALL VAHID GALINKIN vs. STATE OF MONTANA
84/04/19 CLOSED

84-073 BRIAN J. O'SHAUGHNESSY vs. CITY OF WHITEFISH
84/05/22 CLOSED

84-075 RONALD & BARBARA LA FONTAINE vs. ST FARM MUTUAL AUTO INS. CO
84/04/11 CLOSED

84-076 RICHARD C. LUSSY vs. MARK S. DAVIDSON et al
84/03/15 CLOSED Apl U S Supr Crt

84-081 J. WINDSOR WILSON vs. CHARLES F. REID
84/03/05 CLOSED

84-089 JAY M. & SALLA A. GASVODA vs. FRANK P. & MARTHA GAU
84/03/23 CLOSED

84-090 BECHTEL PWR CRP & MT PWR CO vs. HARRIS L. MALLEY
84/06/28 CLOSED

84-091 MARVIN, JACK, JEAN DAVIS & OIL vs. WILLIAM F. SHEFFAN, JR.
84/06/25 CLOSED

84-095 DAVID JOHN THORKELSON vs. MTP OF APRIL LEE THORKELSON
84/03/13 CLOSED

84-097 ST MT exrel JAMES E. PAISLEY vs. DST CRT 11th JUD ST MT etal
84/03/22 CLOSED

84-103 ST MT exrel TIM F DESS etal vs. HENRY RISLEY, CARROLL SOUTH
84/04/24 CLOSED

84-109 LARRY E. MYERS vs. DEANNA ECLAND Jst Peace Park
84/04/12 CLOSED

RA CASE # and TITLES

01/04/85

84-110 LOIS MAE CARLSON vs. INRE MARRIAGE Geo C Carlson
84/01/03 CLOSED

84-113 STATE OF MONTANA vs. CARLOS HENRY VANDEVELDE
84/04/05 CLOSED

84-114 INRE: PETI ROBERT A. D'AVICO vs.
84/03/30 CLOSED

84-124 ROGER DVORAK vs. BEALL, INC & MATADOR SERV.
84/04/04 CLOSED

84-132 RONALD CARTER vs. GARY STOPPEL CNSTRC/J MARTIN
84/04/25 CLOSED

84-147 ST MT exrel JOSEPH D ROUGH vs. DST CRT 11th CASCADE et al
84/05/08 CLOSED

84-155 ST MT exrel WILLIAM B. BAKER vs. 8th JUD DST CRT JDG MCCARVEL
84/04/19 CLOSED

84-157 ST exrel BARRY ALLAN BEACH vs. DST CRT 14th JUD DST ROOSVLT
84/04/05 CLOSED

84-160 WILLIAM F. MORSE vs. BETTY J. MORSE
84/05/10 CLOSED

84-162 JAMES C. WANGERIN vs. LAKE CNTY ASSESSR WILL TIDDY
84/05/25 CLOSED

84-168 ST MT exrel RONALD E. HAAS vs. RALPH T. RANDONO
84/04/26 CLOSED

84-173 IN MTRR EDDIE TWO TEETH, JR vs. STATE OF MONTANA
84/04/18 CLOSED

84-174 PENATE LUISE (YOUNG) WILSON vs. GERALD LEONARD YOUNG
84/05/29 CLOSED

84-175 ST MT ex rel J DAVID PENWELL vs. DST CRT 13th JUD DST ST MT
84/05/03 CLOSED

84-176 ST MT exrel MAPC F RACICOT vs. DST CRT 8th JUD HON MCCARVEL
84/04/24 CLOSED

84-179 RICHARD C. LUSSY vs. FRANK BENNETT, et al
84/05/24 CLOSED

84-183 IN MTRR APPLIC DAISY BRISBO vs.
84/05/22 CLOSED

84-188 CHARLES WADE LAFLEY vs. WARDEN, HANK RISLEY
84/06/05 CLOSED

84-201 THOM RITTER & EZE DPILL, INC vs. DENNIS PLUMBING, INC.
84/05/07 CLOSED

84-204 INRE MTRR 3rd YR CLASS U M vs.
84/05/10 CLOSED

84-205 TERRANCE ANDREW MACKIE vs. 3rd JUD DST CRT Jdq R J Boyd
84/06/07 CLOSED

84-206 DELBERT H. INSKIP vs. ELIZABETH INSKIP SCHOONOVER
84/06/06 CLOSED

84-209 ED H. & SHIRLEY A. RLOME vs. JACK ROSS & CHARLES W MC RAE
84/06/18 CLOSED

84-213 RICHARD C. LUSSY vs. WM BOONE, SAN HADDON & FIRM
84/06/04 CLOSED

RA CASE # and TITLES

01/04/85

84-217 STANLEY MANY WHITE HORSES vs. H RISLEY,C SOUTH,JANET COX
84/06/12 CLOSED

84-219 IN MTRR EST R L & H I KPATZ vs.
84/05/25 CLOSED

84-221 STexrel D G DONEY/F G GOINGS vs. 3rd JUD DST ROYD/12th ETTIF
84/06/05 CLOSED

84-228 EDA ROMAN KERLEY & V. ROMAN vs. AJ ROMAN,PR EST JJ ROMAN,etc
84/06/06 CLOSED

84-229 EDA KERLEY,V S&J Roman etal vs. AJ Roman PR Est JJ Roman etc
84/06/06 CLOSED

84-237 STATE OF MONTANA vs. PERRY LEE HERBST
84/06/14 CLOSED

84-238 CLARA ANN LUEBECK vs. ALFRED SIMON LUEBECK
84/05/23 CLOSED

84-249 ST MT exrel 8th JUD DST etal vs. WHITAKER,GASVODA & RYAN etal
84/06/25 CLOSED

84-253 INRE MARRIAGE DAVID FLACCUS vs. HARRIET L. FLACCUS
84/06/04 CLOSED

84-261 V WESTLAKE PR LARSON Estate vs. C R & L M OSBORNE,D HARDIN
84/06/28 CLOSED

RA CASE # and TITLES

01/03/85

82-349 MAJOR MUFFLER CENTERS vs. LEO M & LARRAINE DOLL
84/08/17 CLOSED

82-390 OSCAR HILL/MERRIMAC CATLE CO vs. MERRIMAC CATLE CO/OSCAR HILL
84/09/13 CLOSED

82-462 JOSEPH KUTNYAK vs. STATE OF MONTANA
84/08/02 CLOSED

83-024 HUGH BRINDLEY vs. FALLON COUNTY
84/09/24 CLOSED

83-032 H GEHNERT & L BRENNER vs. CULLINAN et al
84/08/24 CLOSED

83-059 DOUCLAS MCKENZIE STROUD vs. STATE OF MONTANA
84/07/05 CLOSED

83-065 CADY & USSIN et al vs. R E EHLY, J A USSIN, et al
84/09/28 CLOSED

83-097 YOUNG MOTOR COMPANY vs. REBECCA CAMPBELL
84/07/13 CLOSED

83-103 TERRI S KEATING vs. JOHN WAYNE KEATING
84/10/26 CLOSED

83-131 KENNETH ANDREW FRIEDMAN vs. DIST COURT JUDGE HARKIN
84/07/26 CLOSED

83-138 WILLIAM RUSSELL SIGLER vs. STATE OF MONTANA
84/10/18 CLOSED

83-174 LOWELL S HILDRETH vs. MT COALITION STREAM ACCESS
84/08/03 CLOSED

83-177 MARK ALLEN CHRISTENSON vs. FARMERS INSURANCE EXCHANGE
84/07/30 CLOSED

83-191 STATE ex rel C W PERMAN, SR vs. DIST. COURT 13THYELLOWSTONE
84/11/15 CLOSED

83-202 SUPERSAVE MARKETS INC vs. GREG C JOHNSON
84/08/28 CLOSED

83-216 CYNTHIA LOUISE OVERTON vs. RICHARD ORVILLE OVERTON
84/07/23 CLOSED

83-252 QUEEN & CLARKS' vs. ST FARM MUTUAL AUTO INS
84/09/04 CLOSED

83-276 JAMES P LIDDELL JR vs. STATE OF MONTANA
84/07/25 CLOSED

83-290 DUANE R BENDER vs. CARL ROOKHUIZEN
84/08/28 CLOSED

83-294 BERNARD & LOIS SMYK vs. HARRY H. JANKE
84/08/02 CLOSED

83-308 MATTER OF ALAN RAY SHENNUM vs.
84/07/05 CLOSED

83-309 DENNIS P WELSH vs. CITY OF GREAT FALLS MT
84/11/13 CLOSED

83-315 MADISON COUNTY COMMISSION vs. DOUCLAS ALLEN, et al
84/07/13 CLOSED

83-316 D IRVIN TRANSPORT vs. ARDELL HULL, A & H TRUCKING
84/11/08 CLOSED

RA CASE # and TITLES

01/03/85

83-323 FELSHEIM, HUCKABA etal vs. MT POWER CO & MONFORTONS
84/08/03 CLOSED

83-325 RODNEY EUGENE WATSON vs. STATE OF MONTANA
84/09/04 CLOSED

83-326 OLSEN (LARS, MARY, RBT, etal) vs. MC QUEARY & BECK et al
84/09/14 CLOSED

83-327 PAUL SCHIENO vs. CITY OF BILLINGS
84/08/02 CLOSED

83-332 BRUCE KENNEDY vs. STATE OF MONTANA
84/09/06 CLOSED

83-343 JAMES & MADELINE COTTRELL vs. BENEFICIAL COMMERCIAL CORP
84/10/29 CLOSED

83-344 DIANE FEELEY FOREMAN vs. M L MINNIE & BOB SMITH
84/11/21 CLOSED

83-345 ST VINCT HSPTL & AETNA LIFE vs. FAYE SOELTER
84/07/12 CLOSED

83-346 ELIAS CONCEPCION vs. DEBRA D CONCEPCION
84/09/14 CLOSED

83-351 KERRY K HAFER vs. ANACONDA ALUMINUM CO
84/08/09 CLOSED

83-363 EDWARD & LUCILLE MASSEY vs. RAY SELENSKY
84/09/04 CLOSED

83-365 GENE N EGGEN vs. DJSTRIC COURT 4th JUD DIST
84/08/17 CLOSED

83-369 EDWARD EATON vs. GERALD MAYKUTH
84/10/05 CLOSED

83-370 PATRICIA D JOHNSON vs. MARIAS RIVER ELECTRIC COOP
84/09/28 CLOSED

83-372 D L ESTERHOLT & WM P ORDWAY vs. ROBERT E EWING
84/07/10 CLOSED

83-374 MATTER OF C.L.A.&J.A. Youth vs.
84/08/17 CLOSED

83-385 MATTER OF ESTATE OF MURNION vs.
84/09/12 CLOSED

83-387 WILLIAM R MORSE vs. ROBERT T EATON
84/10/02 CLOSED

83-392 EAGLE COMMUNICATIONS Inc. vs. TREAS FLTHD CNTY & DPT REV
84/07/25 CLOSED

83-396 DOONER LABS & M.TOMASZEWSKI vs. THOMAS HOWARD
84/08/08 CLOSED

83-402 ARLENE MAE BRUNS vs. STATE OF MONTANA
84/12/05 CLOSED

83-404 LOUIS NATAL GUAGLIO vs. STATE OF MONTANA
84/08/28 CLOSED

83-407 CHESTER R. BAUER vs. STATE OF MONTANA
84/07/05 CLOSED

83-410 JERRY T KORELL vs. STATE OF MONTANA
84/12/03 CLOSED

RA CASE # and TITLES

01/03/85

83-417 CHRISTIANA, INC vs. BETTY J.GAMMON vs E L GAMMON
84/07/05 CLOSED

83-424 MOLLY STRONG vs. BILLY RAY WEAVER
84/08/08 CLOSED

83-428 MATTER OF C.L.R., Yth N Care vs.
84/09/04 CLOSED

83-441 JEANNE SPOTORNO et al vs. BRD COMMISSIONERS/L & C CNTY
84/09/24 CLOSED

83-442 ROGER L. ANDERSON vs. STATE OF MONTANA
84/08/15 CLOSED

83-443 TIMOTHY CUCHINE vs. H. O. BELL INC
84/07/05 CLOSED

83-452 JAMES J WOOD Estate et al vs. M SCOFIELD PR D SANDERS Est.
84/07/12 CLOSED

83-454 ORVILLE K. GOOD vs. JEANNE M. GOOD aka HARGETT
84/11/30 CLOSED

83-457 HILTON-DAVIS vs. STREICH, WILLIAMSON et al
84/12/28 CLOSED

83-459 DEPARTMENT OF INSTITUTIONS vs. MATTER OF PETITION OF M.C.
84/08/03 CLOSED

83-466 ALBERTA R. KRONEN vs. VICKI RICHTER
84/08/09 CLOSED

83-469 STATE exrel STEVEN W ELLIOT vs. DST CRT 6th JUD SWT GRS ROBB
84/07/05 CLOSED

83-470 DPT LBR 24 MBRS AIRTRFC CONT vs. FEDERAL AVIATION ADMINISTRA.
84/08/30 CLOSED

83-471 CARSON H. VEHR, JR. vs. JOHN PIQUETTE, GEO MITCHELL
84/08/03 CLOSED

83-472 INRE MARRIAGE RAE ANN BEITZ vs. ROBERT LEE BEITZ
84/07/13 CLOSED

83-473 ROBERT C. PETERSON vs. ROSALYN H. PETERSON
84/07/13 CLOSED

83-475 IN MATTER OF B.D.C. Youth vs.
84/09/28 CLOSED

83-477 CITY GRT FALLS, ST MT et al vs. PAUL & BERNICE WILHEIM et ux
84/08/21 CLOSED

83-480 DAN P. PETERSON vs. STATE OF MONTANA
84/07/25 CLOSED

83-484 WILLIS G. MADDEN vs. KATHLEEN T. MADDEN
84/07/25 CLOSED

83-494 JOSEPH A. DANIELS III vs. INRE MARRIAGE GLORIA DANIELS
84/09/11 CLOSED

83-496 ST MT, DPT LBR, JB SERV et al vs. CLARE J. JENSEN
84/11/21 CLOSED

83-498 ST MT on RLTN GALLOWAY INC vs. CITY GREAT FALLS, MT et al
84/08/10 CLOSED

83-499 ST MT DPT ADM PUB EMP RETIRE vs. LENNY BAY
84/09/24 CLOSED

RA CASE # and TITLES

01/03/85

83-506 JEON R. HAGEROTT Architect vs. KENNETH D. COLLINS AGENCY
84/07/31 CLOSED

83-507 PATHOLOGY LAB, & McGAFFEY MD vs. DAVID REPOLA, M.D.
84/11/28 CLOSED

83-508 JOHN M. MORLEY vs. THE ANACONDA COMPANY
84/09/14 CLOSED

83-512 PAUL LEASE vs. RUSTICS OF LINDBERGH LAKE
84/11/26 CLOSED

83-513 A. V. DESIGN, INC. vs. FLOYD M. SACK/EMPIRE DVLPMNT
84/07/18 CLOSED

83-517 EARLEND D. WEST vs. ARTHUR C. WEST
84/10/10 CLOSED

83-519 BRUCE E FUNK PR/FUNK Estate vs. RANDOLPH K. ROBBIN
84/11/13 CLOSED

83-521 CHRIS FURLONG vs. STATE OF MONTANA
84/11/26 CLOSED

83-522 BILL ATKIN VOLKS./UNI UNDRWR vs. WILLIAM MC CLAFFERTY
84/11/13 CLOSED

83-523 HILDA M. PETERSON vs. MT BK BZM PR STUBLAR Estate
84/09/27 CLOSED

83-524 TRUCK INSURANCE EXCHANGE vs. M WOLDSTAD PR/WOLDSTAD Estat
84/10/16 CLOSED

83-532 WAYNE R. SOLLIE vs. PEAVEY CO. & TRAVELERS INDEM
84/09/14 CLOSED

83-538 MISSOULA IMPORTS vs. RUSSELL A. LAMB
84/08/10 CLOSED

83-539 JOSEPH KIM KUZARA vs. IN RE MARRIAGE RAE M KUZARA
84/07/05 CLOSED

83-540 PATRICIA A. KNUTSON vs. THE STATE OF MONTANA
84/07/13 CLOSED

83-541 JAMES W. MURNION vs. NORWEST BANK BILLINGS
84/08/15 CLOSED

83-542 JACQUELINE DARE vs. MONTANA PETROLEUM MARKETING
84/09/26 CLOSED

83-545 LELAND GROUND et al vs. DEPT OF HIGHWAYS et al
84/07/25 CLOSED

83-551 TED SCHWINDEN, GOV. et al vs. BURLINGTON NORTHERN, INC.
84/12/10 CLOSED

83-555 LAWRENCE P. O'SHAUGHNESSY vs. WOLFE, DEIST, WOLLAN et al
84/08/30 CLOSED

83-556 JOSEPH K. KUZARA vs. DST CRT 14th JUDICIAL DIST
84/07/05 CLOSED

83-557 JEANETTE ANN PETERSON vs. DEANA HOPKINS, et al
84/08/03 CLOSED

83-559 GREGORY KECSKES vs. KARIN M. KECSKES
84/07/05 CLOSED

84-002 BERNARD & LOIS A. SMYK vs. ROBERT F. DOWNS
84/08/17 CLOSED

PA CASE # and TITLES

01/03/85

84-007 BURLINGTON NORTHERN, INC vs. LOUIS J. DALLAS
84/10/30 CLOSED

84-009 INRE MARRIAGE PIUS H.ROHRICH vs. MARIAN ROHRICH
84/07/13 CLOSED

84-012 EDWIN BARNUM vs. JH,RN,DG,PM THOMAS/L CRAFTON
84/07/13 CLOSED

84-015 IN MATTER ESTATE B E SARTAIN vs.
84/09/14 CLOSED

84-016 E ARGENBRIGHT/CSTER Cty Schl vs. TIM J MASSEY
84/08/08 CLOSED

84-017 MATTHEW PAUL HERNANDEZ vs. STATE OF MONTANA
84/11/16 CLOSED

84-019 BILL E. BRITTON vs. STATE OF MONTANA
84/11/15 CLOSED

84-021 RAE VOLUNTEER FIRE CO et al vs. U. S. FIDELITY & GUARANTY CO
84/10/24 CLOSED

84-022 ROBERT K. & VICTORY POWELL vs. FIRST NATIONAL BANK BOZEMAN
84/10/26 CLOSED

84-025 LAWRENCE & THELMA LIEBMAN vs. DON BRUNELL,Myr;DON PEOPLES,
84/11/08 CLOSED

84-028 CARBON COUNTY vs. ALBERT G. SCHWEND
84/10/29 CLOSED

84-032 CHARLES D. RIPPEY vs. PD TRSTS FLTHD VLY COMM CLGE
84/07/24 CLOSED

84-033 INRE MARRIAGE VIOLET A SMITH vs. VERNON I SMITH
84/09/14 CLOSED

84-038 CITY OF GREAT FALLS, MT vs. BRUCE YOUNG, et al.
84/07/05 CLOSED

84-039 CALVIN METZGER vs. CHEMETRON CORP., et al.
84/10/04 CLOSED

84-041 GEORGE GREEN vs. STATE OF MONTANA
84/08/30 CLOSED

84-042 DENISE P. PEPPARD vs. SARAH GARZA
84/11/08 CLOSED

84-043 CAROUSEL PROPERTIES, et al vs. GAMBLE ROBINSON COMPANY
84/10/02 CLOSED

84-044 ADAM LEROY BUXBAUM vs. INRE MARRIAGE BONITA BUXBAUM
84/12/20 CLOSED

84-045 CAREAGE CORP & GEN SHEET MET vs. NORTH VALLEY HOSPITAL
84/07/27 CLOSED

84-046 INRE MARRIAGE I. C LOEGERING vs. LOUISE M. LOEGERING
84/11/08 CLOSED

84-047 ROBERT LEE NORRIS vs. STATE OF MONTANA
84/10/22 CLOSED

84-049 TERRI B. HANS HARDY vs. MICHAEL A. HANS
84/08/30 CLOSED

84-050 CLARENCE & MARY OWEN vs. M. STEVENSON/ M. MICHUNOVICH
84/09/26 CLOSED

RA CASE # and TITLES

01/03/85

84-051 BRIAN BARKER vs. STATE OF MONTANA
84/08/24 CLOSED

84-053 GALE ABRAMS, et al vs. F FEAVER, M GREELY, ST MT
84/08/31 CLOSED

84-056 WALTER R. RIDDOCK vs. CITY OF HELENA
84/10/12 CLOSED

84-057 DONALD CLAUDE DAVIS vs. STATE OF MONTANA
84/08/15 CLOSED

84-059 INRE MRRGE ALICE SUMMERFELT vs. DONALD A. SUMMERFELT
84/10/04 CLOSED

84-060 LYNETTE PIEDALUE vs. CLINTON EL SCH DST 32 et al
84/12/28 CLOSED

84-063 J. SLACK, WELLS FARGO, et al vs. THE GRAND COMPANY
84/09/12 CLOSED

84-065 1st SEC BK, E DUMKE/POTTS Est vs. VERN HUGHES & HUGHES MINING
84/12/14 CLOSED

84-066 IN MATTR B.L.O.Yth need care vs.
84/11/15 CLOSED

84-068 INRE PETI R M WILLIAMSON vs.
84/08/31 CLOSED

84-069 INRE MARRIAGE GERALD L GAHR vs. LUCINDA GAHRNA
84/10/26 CLOSED

84-074 TERRANCE ANDREW MACKIE vs. 3rd JUD DST, ST, JDG R.J. BOYD
84/07/19 CLOSED

84-077 BUTTREY FOOD STORES vs. DOROTHY MASONOVICH
84/09/24 CLOSED

84-080 MYRON BUFFALO vs. THIEL, SCHAFFER & ESCHLER
84/11/30 CLOSED

84-082 KEVIN ROLLAND HIEB vs. STATE OF MONTANA
84/07/18 CLOSED

84-083 KATHLEEN EDITH BOLTON vs. INRE MARRIAGE J.L. BOLTON
84/09/14 CLOSED

84-085 E. ROY HUTCHIN vs. ST MT, DPT FISH WLDLF PARKS
84/10/31 CLOSED

84-087 LLOYD KNUDSEN, THOMAS TAYLOR vs. THOMAS TAYLOR, LLOYD KNUDSEN
84/08/24 CLOSED

84-088 WAYNE LESLIE KOEPLIN vs. STATE OF MONTANA
84/12/21 CLOSED

84-093 ROBERT H. HICKEY vs. INRE MARRIAGE SHARON HICKEY
84/11/02 CLOSED

84-094 EUROPEAN HEALTH SPA vs. HMAN RGHTS COM/MT & V Haddow
84/10/02 CLOSED

84-098 R.M. & JEAN CRISMORE & INC. vs. CHARLES ADAMS
84/07/25 CLOSED

84-100 STEPHEN E. FARRELL vs. STATE OF MONTANA
84/08/03 CLOSED

84-101 INRE PETI DONALD M. SHORT vs.
84/10/11 CLOSED

RA CASE # and TITLES

01/03/85

84-102 JIMMY RAY HEIDEMA et al vs. FIRST BANK - BILLINGS
84/08/02 CLOSED

84-104 EARL TAYLOR vs. HENRY RISLEY, Warden MT Pris
84/08/17 CLOSED

84-105 INRE PETI FRED ED SCHIRMER vs.
84/08/09 CLOSED

84-106 INRE MARRIAGE LOTTIE BLADES vs. JOSEPH A. BLADES
84/10/10 CLOSED

84-107 IDAHO BUILDING SYSTEMS, INC. vs. RUSSELL D. FAIRBAIRN et al
84/08/17 CLOSED

84-108 TOWN PUMP, INC & BZH TOWN PMP vs. GENERAL INS. CO OF AMERICA
84/12/26 CLOSED

84-111 LEONARD & BONNIE BOLES vs. VERA IER
84/11/29 CLOSED

84-112 L. PETER LAPSON CO Emp & CO vs. METTHEW T. GRINSHAW
84/11/30 CLOSED

84-115 INRE PETI GREGORY K MAXWELL vs.
84/09/10 CLOSED

84-117 INTERNATTIONAL HARVESTER CO. vs. ERICK H. HOFLAND
84/07/20 CLOSED

84-120 INRE MARRIAGE C. E. LAWRENCE vs. ALMA K. LAWRENCE
84/10/02 CLOSED

84-121 DICK HOLZWORTH vs. EARL LUTZENHISER & K RUSSELL
84/11/26 CLOSED

84-122 FLATHEAD COUNTY vs. GARY I. & GAYLE SPENCER et ux
84/10/12 CLOSED

84-125 CRAIG L & LORRAINE E. TWOMBLE vs. FIRST NATIONAL BANK IN LIBBY
84/11/21 CLOSED

84-127 NORTHWESTERN UNION TRUST CO. vs. BEN and DORIT WORM
84/11/15 CLOSED

84-128 BZH HSP, E. DAHLBERT; R. NIELSEN vs. SHIRLEY CRENSHAW
84/12/20 CLOSED

84-131 INRE PETITION DALE CHIPPEWA vs.
84/07/24 CLOSED

84-137 HARVEY W. LAVERDURE vs. STATE OF MONTANA
84/08/30 CLOSED

84-138 ALBERT & LORRAINE JERKE vs. DST CRT 16 JUD vs NRWST BK
84/07/24 CLOSED

84-140 CARL EDWARD KERN vs. STATE OF MONTANA
84/10/10 CLOSED

84-141 J. J., W. D. & I. M. WEBB vs. MERLIN I. & JUDY LORDS
84/10/04 CLOSED

84-142 JAMES G. DUFFY vs.
84/07/26 CLOSED

84-143 GARY A & DIANA M. GRAY et ux vs. CITY OF BILLINGS et al
84/10/30 CLOSED

84-145 DENNIS MATT vs. STATE OF MONTANA
84/07/26 CLOSED

RA CASE # and TITLES

01/03/85

84-146 InRe STEVEN D. NELSON vs.
84/09/05 CLOSED

84-148 STEVEN J. FOX vs. STATE OF MONTANA
84/10/26 CLOSED

84-149 CITY DILLON & MYR C NICHOLAS vs. LAWRENCE L. RICKEY
84/07/16 CLOSED

84-151 GERAIDINE BRODY vs. DONALD MORRISSETTE
84/09/12 CLOSED

84-152 GUY D. & JANICE K. WEIMER vs. VERNON F. WANNER et al
84/07/19 CLOSED

84-154 BERNARD JAMES FITZPATRICK vs. STATE OF MONTANA
84/08/09 CLOSED

84-158 EDWARD CONRAD HAMBURG vs. STATE OF MONTANA
84/07/23 CLOSED

84-164 IN MTR of I M WHITE, Estate vs.
84/09/14 CLOSED

84-169 ROBERT C. FERRANTE vs. DST CRT 7th Jud Dst ST MT
84/08/17 CLOSED

84-170 LEO CHAVEZ vs. STATE OF MONTANA
84/12/14 CLOSED

84-171 BERTA O. KRAVIK vs. Y B LEWIS, MARY BENEPE et al
84/12/19 CLOSED

84-177 HARRY J. HAWTHORNE vs. STATE OF MONTANA
84/07/23 CLOSED

84-178 ANTHONY ROGERS vs. THE STATE OF MONTANA
84/11/30 CLOSED

84-182 GAL CNTY LNDRY & INT MTN INS vs. REXFORD LEE HAI.VORSON, et al
84/10/19 CLOSED

84-184 INRE CUSTODY OF MAYCELLE D vs.
84/12/18 CLOSED

84-185 GERTRUDE JOSUCKS WOOLSEY vs. INRE MARRIAGE GEORGE WOOLSEY
84/12/28 CLOSED

84-186 DARBY SCHL DST 1 INTMTN INS vs. BYRON J. COURSER
84/12/24 CLOSED

84-187 INRE PETI LEONARD E. DONEY vs.
84/09/18 CLOSED

84-192 MICHAEL LAWRENCE BURCHAM vs. THE STATE OF MONTANA
84/07/16 CLOSED

84-195 RONALD LEE RATY vs. STATE OF MONTANA
84/12/27 CLOSED

84-198 HARDIN TOWN PUMP, INC. vs. FRANK L. PIRTZ CONSTRUCTION
84/12/28 CLOSED

84-200 IN MTR PRMUL RJS GVR DTH SEN vs.
84/09/13 CLOSED

84-202 KELLEHER LAW OFFICE vs. STATE COMPENSATION INS.FUND
84/12/13 CLOSED

84-203 STATE OF MONTANA vs. RONALD LEE RONNINGEN
84/12/05 CLOSED

RA CASE # and TITLES

01/03/85

84-208 HARVEY HINTZ & KEN SCHAFFER vs. STATE OF MONTANA
84/12/05 CLOSED

84-212 RENATE LUISE YOUNG vs. MARRIAGE GERALD I. YOUNG
84/07/03 CLOSED

84-214 VERNON F. WANNER vs. G D & J K WEIMER, 1st SEC BK,
84/07/20 CLOSED SEE 84-152

84-216 IN RE TIMOTHY E. DESS vs. STATE OF MONTANA
84/08/02 CLOSED

84-218 BEST BLDG; HANSENKINNEY CO. vs. N R & E E VANDER VEN/M LUND
84/08/09 CLOSED

84-222 L. JOYCE TREICHEL vs. CHAMPION INTERNATIONAL CORP
84/07/19 CLOSED

84-223 JOHN FESLER LANCE vs. INRE MARRIAGE DALE E LANCE
84/12/06 CLOSED

84-225 GEORGE EUGENE WANSER vs. STATE OF MONTANA
84/08/09 CLOSED

84-227 HAROLD JOSEPH LAPIER vs. DST CRT JDG ROTH 8th JUD DST
84/07/05 CLOSED

84-231 J & G PRATER; E & G SPIDEL vs. DELBERT S. & PATRICIA BOWMAN
84/12/19 CLOSED

84-232 INRE MARRIAGE WM I. WARD, JR vs. ROBBY GENE WARD
84/08/30 CLOSED

84-234 IN MTR R.M.B. Yth Needs Care vs.
84/10/31 CLOSED

84-235 JOSEPH W. SCHENCK vs. INRE MARRIAGE JOY M. SCHENCK
84/11/30 CLOSED

84-236 RONALD WISSINK vs. STATE OF MONTANA
84/08/17 CLOSED

84-242 CLINTON & JACQUELINE HOWERY vs. A SMITH; M HANSEN; W GILBERT
84/09/21 CLOSED

84-243 ERA REAL EST HOME & RANCH vs. BIG HORN GAME RANCH, INC
84/11/02 CLOSED

84-244 NANCY MAE BAK (ROE) vs. ST exrel ST ND exrel G R BAK
84/08/13 CLOSED

84-246 LARRY M. SHEPPARD vs. RONALD W. SMITH
84/08/10 CLOSED

84-248 ST MT exrel RANDOLPH M. DOTY vs. DST CRT 4th JUD LAKE COUNTY
84/08/02 CLOSED

84-250 THOMAS P. MC GUINN SR. vs. HENRY RISLEY, Warden, MSP
84/08/09 CLOSED

84-251 ST MT exrel GREG MULLOWNEY vs. HON C LUEDKE, 13th JUD DST
84/07/05 CLOSED

84-252 INMTR RLM & JPM Youths/Care vs.
84/10/09 CLOSED

84-255 ST exrel KUSTOM FIT OF OHIO vs. DST CRT 2nd JUD DST etal
84/10/16 CLOSED

84-256 RICHARD A. GOSTNELL vs. CNSTRCTN PROD W R GRACE etal
84/07/09 CLOSED

RA CASE # and TITLES

01/03/85

84-257 MANUEL WHITE vs. MILDRED WHITE
84/08/16 CLOSED

84-258 MYRON A. FARAASFN vs. HENRY RISLEY
84/08/20 CLOSED

84-259 MARTHA SIMONSON et al vs. SIMKINS-HALLIN LUMBER CO
84/12/26 CLOSED

84-260 LOUIS JAY BRINGGOLD vs. HENRY RISLEY / MIKE GREELY
84/07/05 CLOSED

84-262 SMITH CONST CO & ARGONAUT CO vs. JULIUS PAWLISZ
84/07/20 CLOSED

84-263 BERNARD L. SMYK vs. GEORGE TRUBA
84/08/15 CLOSED

84-264 O'NEIL LUMBER CO. vs. DST CRT 19th & Hon. R HOLTER
84/08/02 CLOSED

84-271 INRE PETI RANDALL M RUDOLPH vs.
84/09/04 CLOSED

84-272 INRE PETI CLYDE MC HENRY vs.
84/09/04 CLOSED

84-273 LEROY H. LEMMON vs. STATE OF MONTANA
84/12/28 CLOSED

84-283 NEIL L & CARL L KLAUDT vs. DST CRT 4th JUD DST OF ST MT
84/07/06 CLOSED

84-285 HUGO ASBECK vs. HON RICHARD L. BEHNKEN
84/07/02 CLOSED

84-286 INRE MARRIAGE JAMES R MALVEY vs. CONSTANCE PETERSON MALVEY
84/09/05 CLOSED

84-291 STATE OF MONTANA vs. FREDERICK WEBER
84/07/19 CLOSED

84-292 RANDOLPH J. SUMMERS vs. EAGLE METAL PRODUCTS, INC.
84/08/31 CLOSED

84-293 INRE CHARLES WADE LAFLEY vs.
84/11/08 CLOSED

84-297 WILLIAM H. DERRENGER vs. CITY OF BILLINGS
84/12/20 CLOSED

84-299 GALE C. ABRAMS vs. ROBERT ASH & ALFRED B COATE
84/09/04 CLOSED

84-300 DALE KEEPERS vs. INRE MRIAGE SYBILLA KEEPERS
84/12/03 CLOSED

84-301 JOHN F. LANCE vs. E.EUGENE & P.C. & J.ATHERTON
84/12/04 CLOSED

84-304 ST exrel DPT PSR,MT PSC etal vs. DC 5th JUD JEFF,HON F DAVIS
84/11/29 CLOSED

84-307 CITY OF KALISPELL vs. G ROBERT MAHRT & W. REC CNTR
84/11/13 CLOSED

84-309 INRE PETI JAMES MONTIE TATE vs.
84/10/18 CLOSED

84-316 ST MT relation RALPH STEVER vs. DISTRICT COURT OF 19th JUD D
84/08/15 CLOSED

RA CASE # and TITLES

01/03/85

84-317 MICHAEL ADAIR, DEE A JOSEPH vs. LAKE COUNTY JUSTICE COURT
84/12/19 CLOSED

84-318 MICHAEL ADAIR vs. JOHN R. FREDERICK
84/10/16 CLOSED

84-324 CLINTON O. SPINDLER vs. STATE OF MONTANA
84/08/21 CLOSED

84-325 BARRY DEAN REDDICK vs. CITY OF HELENA
84/11/14 CLOSED

84-327 ROBERT WARD BOUCHER vs. BILLIE IRENE BOUCHER
84/09/04 CLOSED

84-328 IN MTRR TOM BRANSTETTER Writ vs.
84/08/20 CLOSED

84-331 IN MTRR E.J. & N.J. vs.
84/10/16 CLOSED

84-337 JOHN D. COLE vs. BILLINGS DEACONESS HOSP et al
84/10/01 CLOSED

84-341 1st NAT'L BK HAVRE & GOGGINS vs. TOP HAT LIVESTOCK & KLESSENS
84/10/19 CLOSED

84-342 SCHUTT & MTN W FRM BUR INS vs. T, M, P & R SIEVERS
84/08/31 CLOSED

84-348 CHARLES WILLIAM MURPHY vs. HANK RISLEY
84/09/28 CLOSED

84-349 GARY L. SENN vs. DIST COURT OF 7th JUD DIST
84/09/12 CLOSED

84-353 ROBERT C. FERRANTE vs. DEPT OF INSTITUTIONS
84/09/27 CLOSED

84-355 BETTY EILEEN CLARK vs. JAMES VICTOR CLARK
84/09/27 CLOSED

84-361 DOROTHY MORGAN vs. CULLINARY & MISC EMPLOY LC457
84/08/21 CLOSED

84-364 BUTTE, ANACONDA & PAC RAILWAY vs. JOSEPH E. MACIAG
84/08/23 CLOSED

84-369 COMBUSTION ENGINEERS, & CNA vs. THOMAS J. HAMILTON
84/11/29 CLOSED

84-375 IN MTRR APPLC L TREVEA Writ vs.
84/09/18 CLOSED

84-378 ROSEBUD COUNTY, et al vs. HUNTERS', KINCADE & REYNOLDS
84/10/18 CLOSED

84-379 IN RE PETI KENNETH A FRIEDMAN vs.
84/08/31 CLOSED

84-383 TRACEY GODFREY vs. STATE OF MONTANA
84/10/16 CLOSED

84-384 BYRON CRAIG HAYDEN vs. STATE OF MONTANA
84/10/22 CLOSED

84-385 GEORGE FRANK/JOHN GOUNTANIS vs. LACKMANS' & JACKMANS'
84/09/25 CLOSED

84-390 LEO LEONARD STUMPF vs. RAYMOND J. FROELICH, Sheriff
84/11/27 CLOSED

RA CASE # and TITLES

01/03/85

84-391 ST MTxrl Harper, Waltmire etc vs. WALTERMIRE MT'S BLN FED BUD
84/12/13 CLOSED

84-398 JOHN F. LANCE vs. E.E.ATHERTON, PC & J.ATHERTON
84/10/04 CLOSED

84-399 JOSEPH LEROY GREENFIELD vs. ST MT JACK MC CORMICK/Pardns
84/10/29 CLOSED

84-401 DAVID ARTHUR CARLSON vs. MT DPT CRECTNS & RISLEY, MSP
84/12/13 CLOSED

84-403 INRE PETI TERRY JOHN SCHATZ vs.
84/10/23 CLOSED

84-411 CARL ROGER LUNDBLADE vs. HANK RISLEY, Warden
84/10/11 CLOSED

84-419 ST MT exrel TERRY ALLEN FAH vs. DC 1st DST HON BENNET DstJdg
84/11/08 CLOSED

84-421 INRE PETI DAVID LANDRUM vs.
84/11/14 CLOSED

84-422 ALBERTSON, INC. vs. MT ST DPT LABOR & INDUSTRY
84/12/13 CLOSED

84-428 INRE MARRIAGE HAROLD SCRIVER vs. BETTY P. SCRIVER
84/10/04 CLOSED

84-436 ST MT exrel MICHAEL L LETSON vs. HON. MCPHILLIPS & DC 9th JUD
84/10/25 CLOSED

84-441 STATE OF MONTANA exrel, JO.O. vs. DST CRT 13th JUD DST etal
84/10/18 CLOSED

84-446 JAMES A. HOWARD & BIG JIM'S vs. E. EUGENE ATHERTON
84/12/11 CLOSED

84-455 ST MT relation MIKE SALVAGNI vs. DST CRT 18th JUDICIAL DIST.
84/12/27 CLOSED

84-458 BICKLER, PR BICKLER Est etal vs. DST CRT 13th JUD HON D BARZ
84/10/18 CLOSED

84-460 ST MT exrel DONNA L EHRET vs. DST CRT 16th JUD Dst et al
84/10/25 CLOSED

84-464 MICHAEL JOHN HOLLAND vs. ST MT, DEPARTMENT JUSTICE
84/12/18 CLOSED

84-465 INRE Peti MICHAEL A. MICHELL vs.
84/12/13 CLOSED

84-469 INRE MARRIAGE A L BLANCHARD vs. VERLA J. BLANCHARD
84/11/30

84-470 WILLIAM HARLOW HASS etal vs. HASS LAND COMPANY etal
84/11/14 CLOSED

84-472 ALVIN LEONARD BULL CHILD vs.
84/12/13 CLOSED

84-475 ST MT exrel DALE STATCZAR vs. DC 4th JUD MSLA/HON D HARKIN
84/12/27 CLOSED

84-478 COP CONSTRCTN CO & J WENTZ vs. DC 16th JUD HON. A B COATE
84/11/02 CLOSED

84-480 BT NEHRING; DW NEHRING, PR Est vs. EL & JC LACOUNTE, LENNY'S Bar
84/12/20 CLOSED

RA CASE # and TITLES

01/03/85

84-484 JOHN F. LANCE vs. E EUGENE ATHERTON etal
84/12/6 CLOSED

84-497 INRE PETI JAMES D. ELSHOFF vs.
84/12/31 CLOSED.

84-509 ST MT BRD APPLS & LOC 1023, vs. IN MTRR CERT CHALL # 2/81,
84/12/21 CLOSED

84-514 KENNETH R. BUTLER vs. WARDEN, HENRY RISLEY
84/12/13 CLOSED

84-519 ST MT exrel DAVID C KEITH vs. DST CRT 4th JUD DIS, et al
84/12/21 CLOSED

84-521 GLENN R. KANVICK vs. INRE MARRIAGE D J H KANVICK
84/12/10 CLOSED

84-535 GLEN HABETS, FRONTIER EXPLOR vs. RICKY JAMES HURLEY, etal
84/12/21 CLOSED

84-553 VERNON & GEORGIA ECKERT vs. ST MT, MC ENGLEVAN HEAT TRTM
84/12/28 CLOSED



Memorandum

Exhibit #4
2/15/85

TED SCHWINDEN
GOVERNOR

TO: Mike Abley, Administrator
Supreme Court

FROM: Ed Eaton, Chief
Records Management Bureau

DATE: February 23, 1984

SUBJECT: Revised estimates for the continuation of the Supreme Court
Historic Preservation of Court Records Project.

Here is a revised estimate for the continued Historic Preservation of Court Records Project which may be useful to you in preparing your Executive Planning Process cost estimates.

e anticipate a five percent increase in filming costs in Fy 86 & 87 over the last estimate presented (base year FY 83), and a 6.4 percent increase in the document preparation charge.

Using these figures, the costs for completing the project are:

665 cu.ft. at 2900 images/cu.ft.	1,928,500 images
FILMING: 1,928,500 ÷ 1000 images =	
1928 x \$52.50	\$101,220
DOCUMENT PREPARATION: @ 600 pages/hour;	
1,928,500 ÷ 600/hrs. = 3214 x \$12.50/hr.	39,853
TITLING: 1,928,500 images ÷ 250 images/fiche	
= 7714 total fiche x \$.25/fiche	<u>1,928</u>
Total:	\$143,001

Estimated that one half the amount can be accomplished each year.

$\$143,001 \div 2 = \$71,500$

Thus, the amount to budget for this project is:

<u>FY 86</u>	<u>FY 87</u>
<u>71,500</u>	<u>71,500</u>

If you have any additional questions, don't hesitate to call me at:
444-2716.

Mike Abley
Page 2
January 13, 1983

At the FY 83 price structure, the estimate for completing the project is:

665 cu.ft. at 2900 images/cu.ft. 1,928,500 images

FILMING: $1,928,500 \div 1000 \text{ images} = 1928 \times \$50/1000 = \$ 96,400$

DOCUMENT PREPARATION: @ 600 pages/hour;

$1,928,500 \div 600/\text{hour} = 3214 \text{ hours} \times \$11.75/\text{hour} = 37,764$

TITLING: $1,928,500 \text{ images} \div 250 \text{ images/fiche}$
 $= 7714 \text{ total fiche} \times \$.25/\text{fiche}$

Total: $\frac{1,928}{\$ 136,092}$

Estimated that one half the amount can be accomplished each year.
 $\$136,092 \div 2 = 68,046/\text{year}$

Thus the amount to budget for this project is:

FY 84
68,046

FY 85
68,046

Though these costs are based on a FY 83 base, because of the volume of records, assumed work flow, minimal increases projected for salaries, and volume discounts on film purchases, the Records Management Bureau will guarantee this rate, with one proviso. That if conditions, unknown at this time, should change drastically, the Bureau would have to renegotiate the rate or reduce the project if the cost of providing the service exceeds the revenue derived therefrom.

cc Legislative Fiscal Analyst's Office
Office of Budget & Program Planning

DEPARTMENT OF ADMINISTRATION

COMPUTER SERVICES DIVISION

Records Management Bureau

TED SCHWINDEN GOVERNOR

Capitol Station

STATE OF MONTANA

406-449-2716

HELENA MONTANA 59620

Letter to Van Valkenburg
1983

February 9, 1983

Senator Fred Van Valkenburg
State Senate
Capitol Station
Helena, MT 59620

Dear Senator Van Valkenburg:

During the sub-committee hearing testimony of the Records Management Bureau regarding the microfilming of the Supreme Court records, you raised the question of whose idea was this to begin filming these records.

Attached is a copy of the Court Archives Preservation Committee minutes of June 4, 1977. The goal of the committee was to: (1) preserve the records of the court according to Statute, (2) in a manner useful to both lawyers and Historians and (3) in a form that is inexpensively available to all potential users.

The Supreme Court files are the state's greatest legal history source.

I have also attached a duplicate sample of one microfiche (cost 12c each) to show you the type of records filmed. You will need a microfiche reader available in the Legislative Fiscal Analyst's office to read the fiche.

I encourage you to consider, from the standpoint of goods records management and the preservation of historic records, the continuation of the microfilm project.

In the long run good records management doesn't cost, it pays. The lifetime storage of the Supreme Court files will cost considerably more than microfilming the records. Inexpensive duplicate sets sold to libraries and other legal and historical groups could reduce the original costs.

Sincerely,

Ed Eaton

Ed Eaton, Chief

rr

Supreme Court - Historic Preservation of Court Records

LFA Analysts for microfilming notes:

That \$30,000 was appropriated for each of FY 82 & FY 83 and was to bring the project up to 75% completion.

The implication being that \$30,000 each year was from the start of the project - NOT at the 46% already completed.

The \$68,046 each year projected by us would be for 100% completion in two years.

If we had worked at the \$30,000 level for the past two years we would be at the 75% figure.

The LFA reasoning is faulty in that the \$60,000 for 82 & 83 was not for 0%-75% completion ~~but~~ from 46% to 75% completion. This over looks five years of previous filming.

If we were to use the 75% criteria, we could back off to \$34,000 each year. The difference between 34,000 & 30,000; 4,000 annually can be attributed to a 12% wage increase in FY 82 and another 12% increase in FY 83.

PAUL G. HATFIELD
CHIEF JUSTICE
JOHN CONWAY HARRISON
JUSTICE
FRANK J. HASWELL
JUSTICE
GENE B. DALY
JUSTICE
DANIEL J. SHEA
JUSTICE

State of Montana
Supreme Court
HELENA



RAY STEWART
COURT
ADMINISTRATOR

July 13, 1977

TO: Court Archives Preservation Committee

FROM: Bernie McCarthy, Archives Assistant *BAM*

RE: Minutes of the June 14th Meeting

Enclosed please find a copy of the minutes of the June 14th meeting of the Court Archives Preservation Committee Meeting. I am sorry it took me so long to get them to you, but this office has been under a deluge with the closing of the fiscal year.

I will take the recommendations of the committee to the court for their consideration. I would also like to remind the committee to be sure and do things required of them in the meeting. For instance, Ray and Claire are to draft a letter to the Montana Bar Association for their news letter, requesting any files they (lawyers) might find in their offices. I will be checking to see if you need any help. If something should come up, Please do not hesitate to call and I will try to come up with a solution.

For your information, I went to Virginia City to attempt to locate the Supreme Court files from 1864 to 1867 and discovered that no written record was kept of the proceedings. This was discovered in 1871 when the Supreme Court tried to put the cases in order in the Montana Reports. It was discovered at that time that there was no written record of the proceedings, files or briefs done until 1867, where the Montana Reports picks up the cases. Cosequently our records for the time being, will start with what we now have.

Again, if there are any questions or problems that should arise, please give me a call, or write and I shall try to help you out with anything I can.

Tuesday, June 14, 1977

Court Archives Preservation Committee

Those in attendance were: Margaret Warden, Mike Meloy, Richard Roeder, Margery Brown, Bud Michel, William Evans, Lawrence Small, William Lang Brian Cockhill, Bill Ehreth, Bruce Toole, John C. Harrison, Claire Engel, Thomas Kearney, and Ray Stewart.

10:10 Chairperson Margaret Warden called the meeting to order:

"There is a growing awareness in this state, as well as in the other 50 states, for the need for an effective and efficient records management system for court records. Judges, court administrators, court clerks, lawyers, other officers of the court, laymen and historians are looking toward new and more efficient systems to organize these complex court record systems.

"In the last session of the Legislature, several bills were passed dealing with preservation of state records. HJR 18, Bradley, calls for a select committee to study the collection of Montana's historical and cultural record. HB 493, Harper, reflects administrative changes in the state historical preservation program. HB 152, which I carried in the Senate, was introduced by Metcalf to provide an efficient, centralized records retention program within the Historical Society for all official records. SB 72, that I introduced, created an historic records network between the Montana Historical Society and the Montana University System, while SB 228, introduced by me, provided a centralized records retention and destruction program.

"This committee has been called to assist the Court by recommending written objectives in order to:

- 1) preserve the records of court according to statute,
- 2) in a manner useful to both lawyers and historians,
and
- 3) in a form that is inexpensively available to all potential users.

"The Works Projects Administration's Survey of Federal Archives in the states unearthed a rich lode. Bankruptcy files in the U.S. District Court in Tallahassee, Florida, 1867-71 and in Oxford, Mississippi, 1867-68, revealed economic conditions in these states following the Civil War. In the Federal Court in Louisville, Kentucky, the first minutes of the well-known Filson Club were found. In Richmond, Virginia, District Court records contained the original indictment of Robert E. Lee for treason. In still another court, some 5,000 naturalization applications, 1845-97, were found, arranged and indexed. Such rich and varied contents make court records a new frontier for the venturesome explorer.

"In most of the material I have read concerning legal archives, it would seem that precious information could be put on microfilm or microfiche and this would protect valuable documents from wear and tear. Space is gained by this use. It is estimated that 70 percent of a library's available space could be gained by this method.

"The key for developing an adequate, workable records program is a management study which analyzes the flow of information--where it comes from, who needs it, how it is used, and what happens because of it. Only the records management study can determine

when microfilm is justified. Much depends on the costs and benefits of the microfilm system vs. the Court's current system and on the projected growth rate of the Court's caseload or records."

10:15 Justice John C. Harrison--History of the Montana Supreme Court Archives

Justice Harrison said he thought the Supreme Court Clerk's files were our state's greatest legal history source. However, he found that was not true when he needed a file from the clerk's office and it was incomplete. The Court has had a lack of space in its offices and storeroom, and with too much weight on the third floor of the Capitol, it was necessary to remove these files. Some books were moved to the University of Montana Law Library, while the Montana Historical Society retrieved 1,100 cubic feet of case files and other records that had been stored in the basement of the Capitol building and the clerk's vault. Recently, 200 more cubic feet case files were transferred to the Historical Society.

10:20 Ray Stewart, Court Administrator--History of Project

In November of 1975, Harrison Lowe of the General Services Administration asked about the possibility of trading space--that is, removing Supreme Court case files from storage in room 51 of the Capitol building, as General Services needed to expand its printing offices. Many of the files were found at that time to be in a poor condition. It was estimated that many would not last beyond six months under those conditions. The files were not very accessible in the Capitol so Ray asked permission to remove the files to the Historical Society where they would be properly maintained. Previously, only an occasional lawyer or legislator was interested in them--not historians. Assuming a potential historical significance of the materials, Ray asked permission from former Chief Justice James T. Harrison to ask the Legislature for an appropriation of \$50,000 per each year of the two-year biennium to begin microfilming all of the court records. The Legislature, with the help of many key legislators, subsequently appropriated the requested monies. This committee has resulted from the available funds and the Court's interest in doing the job properly.

10:25 Bill Ehreth, Bureau Chief, Records Management, and Brian Cockhill, Archivist, Montana Historical Society--Presentation of the microfilm project.

Brian--At present, the Montana Historical Society Archives has about 8,400 cubic feet of storage space; 1,300 cubic feet are occupied by the Supreme Court materials. The first materials were removed from the Capitol basement at Brian's recommendation because the materials would not last much longer than six months in that area. This was because of particle migration through the storage cabinets, into the materials, which when ground against the paper caused tears and deterioration. This situation was caused by heat and humidity conditions in the room itself. Many of the files were also stored on their edges, creating a condition that leads to cracking at the bends or folds. The files prior to about 1906 were in great danger so it was recommended that they, at least, be microfilmed. It was also mentioned the amount of plaster dust that was found in some of the cases due to the 1964 remodeling of the Capitol building was literally an inch to an inch-and-a-half thick on the top of the cases.

Bill--The actual microfilming would be done by a step and repeat camera on silver halide film. Copies would be made on diazo. The advantages of this film are that 1) you can get 100-338 documents on one sheet of film using a standard format. Samples were presented on a microfiche reader. 2) There is a greater ease of distribution. There would be approximately 25,000 microfiche

sheets for 2-1/2 million documents. If the enlargement were changed from 24x to 48x, this figure could be cut in half.

Diazo is created by ultraviolet light and has a 40-year life expectancy (tests are still going on). The halide life expectancy is 1,000 years, with all of the impurities removed. The film must meet archival standards, so the processing is checked for impurities every so often. Diazo is widely used because it saves on the cost (about 1/3 the cost of the other film), it has a harder image, meaning it is harder to scratch than silver halide film.

Bill Lang, at this point, asked about the possibility of using ultrafiche. Bill Ehreth stated that they are more compacted, but because the state has no available cameras to do ultrafiche filming, and because there is limited availability of readers, the film is almost worthless in Montana.

Ray mentioned the Statewide Budgeting and Accounting System uses microfiche for some of their accounting records. Users of this SBAS film experience very little eyestrain, which was a concern.

Brian--research would have to be done to make sure the camera could adapt to legal size filming.

Ray--\$50,000 each year of the two year biennium was suggested by a legislative fiscal analyst. It was also recommended that the state General Fund buy the equipment for this project outright, thus, Records Management was appropriated \$35,000/year of the biennium to buy the filming equipment.

Senator Warden--Records Management was a good control over who bought what because then only one agency was buying filming equipment rather than each agency buying its own.

Brian--Records Management handles all purchases of microfilm and equipment, thus keeping it centralized.

At this point, Tom Kearney explained that he had to leave, stating that the meeting had been enlightening. He said: "Space has been a major problem and with the increasing number of cases being heard before the Supreme Court, space is going to become more critical."

(Many bills were passed in the last session of the Legislature concerning archival matters, perhaps because of the Bicentennial or Senator Warden's interest. Montana is not behind other states in archival preservation. In fact, in some instances, we may be forerunners.)

A discussion ensued about the cost of storage versus microfiche. It presently costs \$2 per cubic foot per year for the storage of materials, which will eventually cost the state \$260,000 (1,300 cubic feet x \$2 x 100 years = \$260,000). Prices can expect to go up for storage as well. Microfiche is a one-time charge of about 8¢ - 10¢ a page for the filming. Also, with microfiche, we preserve the records that are in immediate danger of deteriorating and the records become more accessible. We can use microfiche for some profit by selling microfiche copies to law firms or any others who might want them. At \$2,500 per total set, we cover our cost of filming plus postage and handling. Any profit would return to the General Fund.

(It was suggested that when the Legislature next meets that some presentation be made to show what has been done.)

Bruce Toole questioned the need to preserve everything. (Example: debt actions). A discussion ensued as to who would make the choice as to what was to be filmed and what not. Some records, such as probate matters, might give a social history of a community. It cannot be anticipated what will be needed in the future. However, there was some thought that there must be a threshold: that every document did not need to be kept. Perhaps some of the materials are duplicated in another legal document, in which case the bulk of material would be cut down.

Senator Warden mentioned an article she read, suggesting there was a changing social attitude toward archival preservation, thus all the court records should be maintained. It was felt that it is our duty as a public committee to examine costs and to cut down where we could. The cost of having someone go through each file to determine what was to be kept and what wasn't was compared to the one-time cost of 2-1/2-3 cents per page for filming and \$15,000 for personnel out of the \$50,000 per year to prepare the materials for filming. The \$15,000 would include a full-time staff person plus any travel, office equipment and other supplies. The wealth of materials involved in Montana history, found in the cases, makes the court's records important.

The Court has been appropriated \$100,000 (\$50,000 each year) to begin the project, but Bill Ehreth feels he can now go below that figure. However, the more time spent planning, the more it will cost because of the deterioration of the materials. Bill Ehreth suggested we get the filming of the old files done as soon as possible so that we can preserve them, thus we would learn on them and be able to alter our program on the new ones, if need be.

The cost could be considerably less once we started filming on a regular basis. It was suggested that we film a little behind the processing so that filming and processing could all be going continuously.

Justice Harrison stated he has a hard time justifying the cost for Montana Reports. Yet, the Legislature continues to appropriate the money.

The cost of filming would be less than publication of the reports, which would be saving the government some money on publication costs. The Montana Reports offer exchange value for other states' reports, according to the law librarian.

11:30 Claire Engel, Law Librarian--Indexing

Claire explained the need for an extensive indexing method is not necessary for lawyers, since they have access to the Digests and Reporters. An example of how a lawyer would use these was explained by Bernie. For historians, however, a supplemental (a more extensive method) would have to be used because most historians are unfamiliar with the Digests or Reporters. Discussion continued and an affirmative vote was taken to provide a supplemental index for the records as the processing was done. In this way, the processing might be timed to allow filming to keep up with processing.

Missing Case Files--Bernie McCarthy

A variety of figures were presented to the committee concerning the missing case files, the bottom line being 1,090 missing files that we have no idea where they are. The files listed as missing on the inventories were ones in which there was no representation. This means that a great many case files might have parts missing, thus raising the possibility of a greater number of missing or incomplete case files.

In the discussion, it was recommended that every law firm, library, city and county office be contacted to check for missing files. Also that a member of the court speak before the clerk's of court convention in Billings and the State Bar Association meeting in Billings to appeal to these people to check their files for Supreme Court records. We must realize that a large number may never be returned. We should use the Register's of Action in the processing as a means of indexing what each case file has, thus enabling us to tell what is missing and what is not. It is possible that once a file is filmed, we can insert a missing file later.

There was a question raised about the territorial cases from 1864-1867 not in our materials in the archives but maybe in the Madison County Courthouse. Bernie will follow up on that.

Questions were raised about a better quality film than Diazo or Silver Halide and were answered by Bill Ehreth. Because of equipment costs and so on, we are bound to these two types of film.

Copyrighting--discussion on copyrights held to reserve profit for private sale. No agreement could be reached as to whether or not the Court had the right so it was recommended the Court look into it.

No new distribution ideas were brought up, however, Ray mentioned that it might be a good idea not to start duplicating until next July when the members of the Bar might be better able to understand what we are doing because they could see examples. Justice Harrison suggested Ray and Claire draft a letter for the State Bar Magazine explaining what we are doing and why.

It was suggested that we begin with the cases up to 1906 to learn what will happen first. Then, we should put our emphasis on the more current materials as well as the older materials and work toward the middle. The project would need two cameras going full time or two eight hour shifts on one camera to complete the project. Records Management will buy one camera and lease the other one with the option to buy.

This brought us around to the question of what we will do with the originals. It was suggested that we keep the more notorious cases and the territorial cases and destroy the rest. The Chairperson appointed a subcommittee on archival value of original material to consist of Roeder, Brown, Small, Cockhill, Harrison, Engel, Stewart and McCarthy. This subcommittee will also look into the possibility of selling some materials to people who might deal in ancient records.

Discussion was held concerning how the materials will be ordered on fiche. We will need targets to tell us where we are at on the fiche (e.g., 1 sheet of 4, etc.), plus an indication of Supreme Court records, perhaps the state seal and so on. Targets can also be placed on the fiche to determine what cases are missing.

Discussion ensued and it was suggested Bill Ehreth graphically present examples to the committee and any further questions should be presented to him.

Financial details were taken care of concerning travel claims and the meeting was adjourned at 2:15 p.m.

Fact Sheet on MONTCLIRC

WHAT IS MONTCLIRC?

MONTCLIRC (Montana Criminal Law Information Research Center) was created in 1976 by the Law Enforcement Assistance Administration (LEAA) to provide legal research assistance to all Montana judges, county attorneys, public defenders, court-appointed counsel, sheriffs and other command law enforcement officers, juvenile and adult probation officers, parole officers, and correctional personnel. MONTCLIRC was initially funded for one year by a Justice Department grant of \$83,000.00 matched by \$9,200.00 from the University of Montana School of Law. MONTCLIRC was next funded in April, 1978 for a 15-month period (until June 1979) via an emergency \$50,000 grant from the Montana Board of Crime Control and a \$25,000.00 award from the Northwest Area Foundation, this award being conditioned on MONTCLIRC's seeking permanent funding from the state legislature. MONTCLIRC successfully obtained such funding in 1979 in a special bill (H.B.9) which authorized funding via the Montana Board of Crime Control. For the last two bienniums, the funding has come under the budget of the Supreme Court of Montana.

The center is housed at the University of Montana School of Law and utilizes selected senior and junior law students to do research, up to twenty-four part-time during the school year and three full-time in the summer. They are supervised by the director of MONTCLIRC, James T. Ranney, a 1969 graduate of Harvard Law School and former Deputy Chief of the Appeals Division in the Philadelphia District Attorney's Office. Students also have access to other faculty.

HOW DOES MONTCLIRC WORK?

The procedure is simple. Qualified users of the service simply call us collect at 243-6492 or write to us at the School of Law. While requests for copies of past releasable memoranda are handled by a legal secretary, requests for research are taken by the director, who assigns it to one of the part-time research assistants for an initial draft. Upon editing and approval of the memo, it is retyped by the legal secretary (on a word processor) and sent to

the user. Enclosed in the material sent is an evaluation form and a consent to release form. Most users do not object to releasing memos to other users, so that, after deleting the name of the user, the memo can be sent out to other users interested in the same issue. Synopses of past memos are contained in MONTCLIRC's quarterly newsletter and in a Bibliography of Past Memoranda, which has an extensively cross-referenced index by subject matter to all past releasable memos.

WHAT SERVICES DOES MONTCLIRC PROVIDE?

MONTCLIRC provides the following services to all publicly-paid members of Montana's criminal justice system, free of charge: (1) research in criminal cases; (2) copies of past releasable memos; (3) bibliography of past releasable memos; (4) periodic reports in summary form of the most recent criminal cases (available even before advance sheets and organized by subject matter); and (5) copies of other materials not readily available across the state, such as law review articles.

MONTCLIRC has also been engaged in a few long-term projects, mainly a book for judges and attorneys on the 1973 Montana Criminal Code, with complete commission comments, the latest statutory changes and the most recent cases discussing the Code. A possible future project is a Sentencing Data Book, a detailed analysis of all the various sentencing alternatives and their consequences.

HOW DOES MONTCLIRC ACTUALLY SAVE THE STATE MONEY?

Montana faces a problem that many rural states face — lack of adequate law libraries in all but a few cities (in Montana, only Helena and Missoula). This problem was especially great in Montana due to the simply huge distances required in order to reach adequate legal research

facilities. The need for access to better law libraries has continually increased in the criminal law area in large part because of increased "constitutionalization" of much of the criminal procedure area and due to increased use and adoption of model codes, such as Montana's Criminal Code and the Montana Rules of Evidence (1976).

In mid-1975, a task force formed by the Montana Board of Crime Control consisting of representatives of the Montana Supreme Court, the State Bar of Montana, the District Judges and County Attorneys Associations, the Governor's office, the Attorney General's office, the State Legislature, and Montana Citizens for Court Improvement studied the need for increased access to legal research facilities throughout the state of Montana. The task force considered two alternatives before recommending that the University of Montana School of Law seek federal funding for a central research center modeled upon a similar center at Creighton Law School. First, the possibility of upgrading county law libraries was considered. But the cost of law books today is so prohibitive that it was found that even the one-time capital outlay would be in the millions of dollars. Second, the possibility of more judicial law clerks was considered, and this was rejected not because of the cost (approximately \$240,000.00 a year for twenty new clerks) but because clerks without access to an adequate research facility would be relatively useless.

MONTCLIRC was the ideal solution because it utilized three preexisting resources which had already been created and maintained (at tremendous capital expense). Those resources are: (1) the excellent library at the University of Montana Law School, which has an annual update and acquisitions expense of over \$100,000.00 (compared to an average annual cost per county law library of less than \$1,000.00); (2) the ready availability of a pool of talented legal researchers who work at a fraction of the cost of regular attorneys (\$5.00 per hour); and (3) the access of these student researchers to top faculty who cumulatively have several decades of experience in the relevant research area and who personally drafted the Montana Criminal Code, the Montana Code of Criminal Procedure, and the Montana Rules of Evidence. As a result of this unique concentration of resources, MONTCLIRC is able to do what criminal justice personnel in Montana would otherwise have to do twice as fast, twice as well, and at a fraction of the cost.

MONTCLIRC thus saves money that would otherwise have to be paid to cover less cost-effective research by court-appointed counsel and prosecutors who lack access to a major law library or the time to travel to such a library. In some of the more populous counties, MONTCLIRC has done sufficient work to have effectively removed the need to hire additional personnel. And access to better legal

research facilities on both difficult issues and on easy ones, where a quick answer is increasingly possible, cannot help but reduce the number of appeals, retrials, and pointless litigation generally. Many times, we've noticed, a MONTCLIRC memo will result in a guilty plea or, on the other hand, the dropping of charges. This saves the state of Montana, through its individual counties, many thousands of dollars.

We have no doubt that MONTCLIRC is cost-effective in the short run. And in the long run it is even more cost-effective. For one thing, we are able to use the same research over and over again, as users request copies of prior memos. Repeatedly, as we continue to gain expertise, we are collecting a valuable bank of past memos upon which to draw in responding quickly to questions or in beginning research on new but related problems. Finally, we are training attorneys who are gaining an invaluable experience which will benefit the state of Montana for years and years.

WHO'S BEEN USING MONTCLIRC?

MONTCLIRC has been receiving about fifty to sixty requests of one kind or another per month. About half of these are for actual research. At last count, requests were coming in in almost exactly equal numbers from prosecutors and defense counsel (MONTCLIRC has a "first-come, first-serve" policy to avoid any possible problems and, in practice, his policy has worked very well). Judges were the next most frequent requesters of research. Requests have come from almost every county in Montana, both populous and less-populated counties.

WHO SUPPORTS MONTCLIRC?

Amongst others: Chief Justice Frank I. Haswell of the Montana Supreme Court, Attorney General Mike Greeley, the heads of the County Attorneys, Public Defenders and Justices of the Peace Associations.

Last, but hardly least, the users of the research service have been extremely supportive. One hundred percent of those surveyed felt MONTCLIRC was a good idea. Evaluations received on memoranda have been 78% in the excellent category, 22% in the good category, and 0% in the fair, poor and very poor categories. Our users have said the following about MONTCLIRC:

"I am writing to compliment your organization on a

prompt and efficient service you have been able to provide to our office. We have used your services on several occasions, and have been extremely pleased with the results and the promptness of your replies, either by telephone or letter.” (Unsolicited letter from Keith Haker, Custer County Attorney).

“MONTCLIRC has filled a definite need in rural communities in Montana and . . . its services to date have been excellent.” (James Nelson, Court-appointed Counsel, Cut Bank).

“Speaking as a law enforcement officer, it is of particular benefit for members of this department to have at their fingertips concise, easily understood memoranda of Montana criminal statutes, procedural statutes, case law, and pertinent administrative regulations. . . . [T]he entire staff of this department would like to extend a ‘thank you’ to the MONTCLIRC staff for helping to make our job easier. The case law contained in every one of your newsletters has been reviewed and discussed at length in staff meetings.” (Sheriff Michael McMeekin, Libby).

“We have found the services rendered by MONTCLIRC to be most beneficial to this office. Due to the heavy work load in this office and lack of time for personal research, we often rely on MONTCLIRC for legal research, and find them to do a very good job. Likewise, many of the attorneys, both prosecution and defense, use their services to great avail.” (Mary Riedel, Justice of the Peace, Kalispell).

“Your thorough and thoughtful research will have lasting impact on the executive clemency process in Montana.” (D. Robert Lohn, Former Counsel to the Governor).

“Am very happy with the quality of assistance provided: very prompt, giving me ample time to use MONTCLIRC material for my own brief/argument; the memorandum was well-written, with good case authority. Well-reasoned and well organized.” (Evaluation from K. Kent Koolen, Deputy County Attorney, Billings).

“I have employed the services of the Research Center on two or three occasions and have been entirely satisfied with their results. I believe they have saved the county money in the past because their research seems to be impartial and the court is willing to lend credence to their findings.” (Joseph Swindlehurst, Public Defender, Livingston).

“The project is especially welcome and necessary in Montana for the reason that forty-nine of the fifty-six counties are staffed by only one or two part-time county attorneys who have a great many civil duties to perform for their counties as well as trying to maintain a private practice and in most cases the necessary time to properly research the various criminal cases that must be handled

is simply not available. The research center has done an excellent job in filling this need.” (James McCann, Wolf Point, Former President, County Attorney’s Association).

“For those of us small practitioners in the outlying districts of Montana the chance of getting to a law library to do the type of intensive research often necessary in a criminal case is many times lacking because of our relative isolation from law libraries. There are only two adequate public law libraries in the State of Montana, one of which is located in Missoula, Montana, and the other is in the Justice Building, Helena, Montana. While the staffs of these libraries are very courteous and helpful to attorneys from outlying districts, the traveling time of twelve hours for a round trip from Havre, Montana to Missoula or eight hours roundtrip from Havre to Helena makes consulting these facilities very difficult. The Montana Criminal Law Information Research Center provides the court-appointed attorney in Montana with the information that they need to adequately prepare for trial with the speed necessary for this information to be usable and with the depth of research necessary for the attorney to adequately inform himself or herself of the rule of law in that particular area.

. . . All of the people that I have come in contact with who have used this service feel it is a fine addition to the legal resources available in the State of Montana. . . . I would heartily urge that the Montana Criminal Law Information Research Center be fully funded.” (James Spangelo, Court-appointed Counsel, Havre).

“[M]y time extended on such cases (court-appointed cases) is dramatically reduced — thus resulting in considerable savings to the public.” (Frank Altman, Court-appointed Counsel, Havre).

“For too long I have procrastinated in sending you a note of appreciation for your newsletters. I find them invaluable. I have a set of M.C.A.’s, and material from our semi-annual training sessions, but when I really need some help I peruse my file of your newsletters and always find some enlightenment. Thank you!” (Justice of the Peace Pat Bradley).

“Please be advised that I personally consider this project to be one of the more useful applications of LEAA money in the State of Montana, or for that matter in any state.” (Robert L. “Dusty” Deschamps III, Missoula County Attorney).

“Everyone I have talked to in Montana agrees that MONTCLIRC is one of the most useful projects that the LEAA has funded in Montana.” (U.S. Senator John Melcher).





A PROJECT OF THE
UNIVERSITY OF MONTANA
SCHOOL OF LAW

montelirc

SCHOOL OF LAW
MISSOULA, MONTANA 59812
(406) 243-6492

EXHIBIT #6
2/15/85

MONTANA CRIMINAL LAW INFORMATION RESEARCH CENTER

Vol. 5, No. 3

September 1984

SUMMER STAFF

CHEYE ANN BUTLER



Returning as MONTCLIRC Legal Secretary after a five year absence (in which she worked as the Administrator's Secretary at the Facility Siting Division of the Department of Natural Resources & Conser-

vation in Helena, and most recently as secretary to Dennis Lind at the law firm of Datsopoulos, MacDonald & Lind in Missoula), Cheye Ann is certainly a welcome re-addition to the staff. Those of you who used our services five years ago will probably remember her.

KAREN McRAE

Karen, from Kalispell, graduated magna cum laude (3.99 GPA, where'd you fall down, Karen?) from Eastern Montana College in English, with History and German minors. Elected class



representative to Women's Law Caucus, she has been active throughout college and law school in such "outside activities" as working with battered women, pre-school teaching, and interning in the Governor's office.

KELLY O'SULLIVAN



Kelly is from Billings, and received a B.A. in Philosophy, with honors, at the University of Montana. She surprised herself by taking the high "A" in Criminal Procedure last Spring. She is one of our Student Directors this year.

CHRIS RAGAR

Chris habla Espanol muy bien following his honors degree in Spanish from the University of Montana. Chris surprised himself and just about everyone else by tying for the second highest grade on the Criminal Procedure exam (he thought I was kidding him when I told him). Chris has worked on oil-pipeline crews, on oil rigs, and on a railroad steel gang. He would like to do general practice, especially personal injury, workers' compensation, water law and natural resource law.



School Year Begins

It doesn't seem possible that summer is over, and the law school is back in business. But we're back, with the following MONTCLIRC Research Assistants returning: Valerie Bashor, Jeanne Bender, Darcy Crum, Elaine Hightower, Margaret Hills-Crawford, Mark Mattioli, Karen McRae, Marshall Mickleson, Kelly O'Sullivan, Chris Ragar, Brendon Rohan, Roger Sullivan, and Leslie Vining. Welcome back.



JIM RANNEY
Research Professor
of Law
Director, MONTCLIRC

MARCEY FEMLING SCHWARZ



Marcey lengthened her name a bit recently by marrying fellow law student Dan Schwarz. They make a real neat two-some, for sure. Marcey graduated from Eastern with a B.S. in Psychology and a minor in General Business.

LESLIE VINING

Leslie graduated with high honors from the University of Montana in Political Science and Journalism, with a minor in Economics. A Truman Scholar, and foreign student in Vienna and Germany, she hales from Greybull, Wyoming. She worked as a Legislative Intern to five Senators for the Montana Legislative Council.



COLLECT CALLS OK ONCE AGAIN

Please be advised that MONTCLIRC will once again be able to accept collect telephone calls. Our telephone number is still 243-6492. The Univer-

sity re-did its telephone system, and we apologize for any inconvenience the temporary unavailability of collect calls has caused you.

New Releasable Memoranda

Since the last newsletter the following memos have been written and released for public distribution. If you would like a copy of a memo, just ask for it by number (limit two dozen per customer).

No. 2975

Q: Does Montana's power to regulate plumbers extend onto the Northern Cheyenne Reservation when the plumber being regulated is a non-Indian?

A: Probably not. It appears that Montana's regulation, as applied on the Northern Cheyenne Reservation, is in violation of the constitutional provision which gives Congress the power to regulate commerce with Indians. Absent a finding of such constitution violation, the courts would determine whether a federal statute regulates plumbers on the Northern Cheyenne Reservation, thereby preempting the state's regulation. It is arguable that the federal Indian trading statutes are broad enough to include the regulation of plumbers. If so, Montana's regulation would not be enforceable on the Northern Cheyenne Reservation. If, however, the court determines that the Indian trading statutes only regulate the exchange of goods and not services (which includes plumbing) it would balance the interest of the state in regulating plumbers doing business on the reservation against the infringement on tribal self-government which would result from the enforcement of the state's regulation. The court would not enforce the regulations if it finds that the state has only a weak interest in the regulation while the tribal right to self regulation would be greatly impaired.

No. 2983-A

Q: Can a city levy a five dollar fine for non-compliance with a one dollar parking citation?

A: No. The Montana Supreme Court has held that a fine cannot be escalated for nonpayment.

No. 2983-B

Q: Does attachment of copies of parking violations to the sworn complaint constitute sufficient notice to the defendant?

A: Yes. A complaint is sufficient if a person of common understanding would know what is intended to be charged.

No. 2983-C

Q: Is a parking ordinance invalid if it states

that the registered owner of a vehicle shall be presumed responsible for any parking violations?

A: Yes, the Montana Supreme Court has held that such a presumption is an unconstitutional shifting of the burden of proof.

No. 2988-A

Q: Can the state charge a person with careless driving if the offense occurs in a public school parking lot which has been opened to public parking and is regularly used by the public?

A: Yes. Careless driving is prohibited on a public highway and such a parking lot would probably be considered a "public highway" under the statutory definition.

No. 2988-B

Q: If a public school parking lot is not considered a "public highway" under the statutory definition, is careless driving still a lesser offense included under reckless driving?

A: No, at least not under the standard definition of lesser included offense. Since careless driving requires proof of an additional fact—occurrence on a public highway—it is not included in reckless driving and is not a crime which can be charged if the offense did not occur on a public highway.

No. 2992

Q: Are reports pertaining to general investigative activity submitted by undercover agents discoverable by a pre-trial motion made by one of the defendants arrested as a result of such investigation?

A: Although the Montana code allows broad pretrial discovery in criminal matters, reports and investigative information that are not exculpatory as to that particular defendant, are not discoverable by him.

No. 2998

Q: May a sentence of probation conditioned upon restitution for issuing worthless checks be revoked and the defendant incarcerated if he fails to make restitution because he filed a petition in bankruptcy?

A: Probation can be revoked only for wilful acts and not due to mere inability to pay. Thus, the answer depends upon whether bankruptcy would necessarily result in such inability.

No. 2988-A

Q: Can the state charge a person with careless driving if the offense occurs in a public school parking lot which has been opened to public parking and is regularly used by the public?

A: Yes. Careless driving is prohibited on a public highway and such a parking lot would probably be considered a "public highway" under the statutory definition.

No. 2988-B

Q: If a public school parking lot is not considered a "public highway" under the statutory definition, is careless driving still a lesser offense included under reckless driving?

A: No, at least not under the standard definition of lesser included offense. Since careless driving requires proof of an additional fact—occurrence on a public highway—it is not included in reckless driving and is not a crime which can be charged if the offense did not occur on a public highway.

No. 3000

Q: What power does the city police department have to arrest Indians on the Crow Indian Reservation for violations of Montana law which took place off the reservation?

A: In general, the state has no power in Indian country absent compliance with federal law and must seek extradition from the tribes. However, the Montana Supreme Court has sustained the validity of an arrest on the Crow Reservation when the tribe had no extradition procedure. The Crow Tribe now has an extradition procedure, so this exception no longer applies. There is also a common recognized right of fresh pursuit. But that requires compliance with interstate extradition laws.

The state-tribal cooperative agreement act provides a method whereby counties and cities may enter into agreements with tribal governments to facilitate the extradition procedure. The agreement could authorize county and city police to make arrests on the Reservation. Two foreseeable areas of tribal concern will be: (1) protection of tribal members throughout the judicial process; and (2) expansion of tribal arresting power to allow the tribal police to arrest Indian violators of tribal ordinances off the reservation.

No. 3001

Q: Must Miranda warnings be given to someone charged with driving under the influence of alcohol prior to administering a breathalyzer test at the stationhouse?

A: No. Although a person being given a breathalyzer test is generally "in custody" with the meaning of *Miranda v. Arizona*, he is not being subjected to "interrogation" within the meaning of *Miranda*. Further, the results of a breathalyzer are not "testimonial" evidence, so the fifth amendment privilege is inapplicable. While it might even be argued, as some courts have held, that *Miranda* is in any event inapplicable to any misdemeanor case, the better view is to the contrary on this point.

No. 3007

Q: What challenges are available to a defendant sentenced to a total of two years in the county jail without opportunity for parole and without the facilities usually associated with long term imprisonment where the defendant entered into a plea bargain in which he pleaded guilty to four counts of criminal trespass and agreed to serve four consecutive six month sentences in the county jail in exchange for the county's abandonment of prosecution on four burglary counts?

A: Since a guilty plea waives all non-jurisdictional defects, and an appeal is limited to the voluntariness of the plea and the legality of the sentence, and given that the guilty plea was entered with full understanding of the consequences involved, defendant's challenge is limited to a claim that the conditions of imprisonment violate the eighth amendment's prohibition against cruel and unusual punishment.

No. 3014

Q: Are reports pertaining to general investigative activity submitted by undercover agents discoverable by a pre-trial motion made by one of the defendants arrested as a result of such investigation?

A: Although the Montana code allows broad pretrial discovery in criminal matters, reports and investigative information that are not exculpatory as to that particular defendant, are not discoverable by him.

No. 3017-A

Q: Is aerial surveillance via a helicopter hovering over defendant's greenhouse at an altitude of 100 to 200 feet a "search," and

if so, was it justified where the sheriff had received information via an anonymous tip that defendant was growing marijuana some place on his property?

Both answers are determined by the suspect's reasonable expectation of privacy and the degree of intrusion of the surveillance. Here the suspect's marijuana was in a greenhouse shielding it from aerial observation, and the low altitude of the helicopter alerted all his neighbors, thus in effect "singling out" the suspect as a "wrong-doer." This degree of intrusiveness constitutes a "search" and probably cannot be justified without a showing of probable cause and exigent circumstances.

No. 3017-B

Q: Assuming the above-discussed aerial surveillance was reasonable, is evidence that the officers observed plants in the greenhouse but could not specifically identify them as marijuana plants plus the tip from an unknown person to a retired sheriff to the eventual applicants for the warrant sufficient to establish the probable cause necessary to obtain a search warrant?

A: Probably not. While hearsay evidence may be sufficient, the magistrate must be informed, from the four-corners of the affidavit, of the underlying circumstances from which the informant concluded that the narcotics were where he claimed they were. No such circumstances are found in the application. The surveillance only confirmed that green plants were in the greenhouse not marijuana.

No. 3020

Q: When do discrepancies in a witness' testimony justify revoking a previous prosecutorial promise of immunity for an offense to which the testimony relates?

A: Although there are no cases on point, defense counsel can make a good argument that the minor discrepancies in defendant's statements are not sufficient to negate the prosecution's promise of immunity, especially in light of the prosecution's knowledge that defendant was implicated in the murder and is an alcoholic. The discrepancies are not so great as to lead one to logically conclude that defendant misled the prosecution in order to induce a promise of immunity. Furthermore, defendant can argue (either in the case of formal statutory immunity, under Mont. Code Ann. § 46-15-311, or informal plea bargain immunity) that she is entitled to

equitable enforcement of the prosecution's promise. Both the Montana and U.S. Supreme courts have recognized plea bargaining as an essential component of criminal justice which should be encouraged. In doing so the courts now focus on procedural fairness and the reasonable expectations of defense counsel, formed in reliance upon prosecutorial promises. Indeed, considerable case law supports the proposition that the prosecution should be forced to fulfill its promises of immunity even if subsequent events indicate that those promises should not have been made.

No. 3027

Q: Is expert testimony on the "battered woman syndrome" admissible in evidence where a defendant accused of deliberate homicide raises the affirmative defense of justifiable use of force?

A: Probably. The issue would be one of first impression in the Montana Supreme Court. Other jurisdictions have split over the admissibility of such evidence, with the weight of authority favoring reception of the evidence.

No. 3035

Q: Does a jury instruction which defines under the influence as impairment of the driver's ability to the slightest degree conflict with the statutory rebuttable presumption that a driver is not under the influence if found with a blood-alcohol concentration of 0.05 or less?

A: Arguably yes. Although there are jurisdictions which use similar jury instructions in conjunction with the rebuttable presumption of innocence, such an instruction may not meet the requirement under the Montana rules of Evidence that a rebuttable presumption may be overcome by a mere preponderance of the evidence.

No. 3042

Q: Does Montana Code Annotated § 46-17-205 (1983), which allows justice and city courts to try defendants in absentia, violate their constitutional right to be present at trial?

A: Probably not. Although the United States Supreme Court has never directly faced the issue of a defendant's right to be present at a misdemeanor trial, it is likely the court will follow dicta which allows defendants to consensually waive the right to be present.

No. 3045

Q: Where defendant's step-children were subjected to repeated child abuse and sexual assault by him, may a judge suspend execution of sentence and impose as a condition of probation a restriction on the defendant's association with his own step-children?

A: Yes. Although the constitutional right of privacy undoubtedly encompass family relationships, probation conditions which infringe upon this right are not impermissible if the conditions are (1) reasonably related to defendant's rehabilitation and public safety; and (2) not unduly restrictive.

No. 3049

Q: In a prosecution of a minor for possession of an intoxicating substance, is evidence that the minor was intoxicated admissible?

A: Probably. The evidence may be admissible as part of a common scheme or plan, or admissible to show motive or intent. The Montana Courts have been reluctant to admit evidence of other crimes, wrongs, or acts and have required certain procedural safeguards. However, these safeguards do not appear to be required if it can be proved that such crime or act is part of the "same transaction" as the criminal activity at issue.

No. 3055

Q: Did defendant have a duty to retreat where, following an argument with a social guest in the defendant's home, he armed himself with a rifle and stood on the porch of his home threatening to shoot the guest if he came any closer while the guest who voluntarily left the defendant's home and went to his car returned toward the defendant unarmed arguing and imploring the defendant to end their argument and said, "you haven't got the guts" to shoot?

A: Probably yes. Generally, a person has no duty to retreat and is justified in the use of deadly force if he has a reasonable belief that he is being threatened with force likely to cause death or serious bodily harm. However, Mont. Code Ann. § 45-3-105 (1983) proscribes the use of deadly force by an aggressor unless the aggressor is threatened with imminent death or serious bodily harm and he has "exhausted every reasonable means to escape such danger. . . ." The defendant here, by going back into the home and returning with a rifle precipitated the

events which resulted in the shooting, and could have readily retreated. The defendant is therefore the aggressor and had a duty to retreat before firing the fatal shot.

No. 3059-A

Q: Does the inclusion of "attempt" as an element of the tampering statute, Mont. Code Ann. § 45-7-206 (1983), made the statute unconstitutionally overbroad?

A: The tampering statute is unlikely to be held overbroad on its face. The statute applies to conduct as well as speech. Therefore, it is not a "pure speech" statute and must be substantially overbroad to be held unconstitutional. The elements of purposely or knowingly require that an intent to tamper with a witness be proven. Such an interpretation would limit the application of the statute to intentional acts and therefore it would not be overbroad.

No. 3059-B

Q: Does the defendant have a right to present evidence of his motive for the escape without the state presenting evidence of statements made by the defendant which tended to rebut the defendant's evidence?

A: Rule 404(b) of the Montana rules of evidence allows admission of other crimes, acts, or wrongs, for purposes other than proof of character, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. It is the trial judge's discretion to determine if the probative value of the evidence is substantially outweighed by the prejudice to the defendant as required by rule 403 of the Montana rules of evidence. If the defendant was allowed to present evidence to prove his motive for escape, the probative value of the statements made by the defendant tending to rebut this evidence would probably outweigh the prejudicial effects to the defendant.

No. 3061-A

Q: Is a jury foreman's failure to respond affirmatively in voir dire to a question concerning whether he had ever been a victim of a crime, when in fact he had, misconduct sufficient to require granting of a new trial?

A: Possibly. If it can be shown that the juror deliberately concealed information, this will probably give rise to a rebuttable presumption of prejudice which, is un rebutted, would mandate a new trial.

No. 3061-B

Q: Should juror misconduct be raised in a motion for a new trial?

A: Yes. Granting of a new trial on the grounds of juror misconduct is within the discretion of the trial court.

No. 3063

Q: Does a convicted criminal defendant have the right to a speedy appeal?

A: In a limited sense. Although the constitutional right to a speedy "trial" does not extend beyond the trial to appellate review, due process is violated if a delayed appeal causes prejudice to the defendant's rights.

No. 3065

Q: May federal authorities use testimony and evidence obtained under a grant of immunity by state officials, under Mont. Code Ann. § 46-4-305 (1983), against the witness in a federal crime?

A: No. Evidence and testimony, and the fruits thereof, may not be used in a federal prosecution after immunity from such use has been granted for state prosecutions. However, this does not prohibit the use of an independent source to obtain evidence where federal authorities can affirmatively show that it was obtained independent of the protected testimony.

No. 3066

Q: Is St Joseph's Village a "dependent indian community" as per 18 U.S.C. § 1151(b), and thereby within the definition of indian country?

A: Before courts will find the status of dependent indian community, when the land is not located on a reservation, the land in question must be held in trust by the United States for the benefit of indians. The land upon which St. Joseph's Village is located was never part of the reservation when it was created. Also, St. Joseph's Village is not held in trust or otherwise owned by the United States government.

Facts:

St. Joseph's Village is an adjunct to the St. Labre Mission which is a Catholic School run and managed by the Catholic Church in conjunction with some BIA funding. The Church, mission and the included school are administered by officials of the Roman Catholic Church. Catholic priests are responsible for the general administration of the renting of houses located at St. Joseph's Village. The dwelling units

are reserved for members of Indian tribes but may be rented to non-Indians if sufficient housing is available.

The land upon which St. Joseph's Village is located was expressly excluded from the Northern Cheyenne Reservation. The executive order of November 26, 1884, signed by President William McKinley, which created the reservation, excepted land owned by Joseph Scott, R.P. Colbert, and St. Labre's Mission from the reservation's boundaries.

No. 3077

Q: Where the defendant is criminally charged with violation of a section of the Administrative Rules of Montana, how should such a violation be charged?

A: The charge will normally be by complaint and should comport with the constitutional requisites of charging instruments, and, more specifically, should explicitly refer to the statutory authority upon which the administrative rule is based.

No. 3079-A

Q: Was defendant justified in shooting a much larger and more powerful man when the larger man, who was not armed, raised his arm in a threatening manner in an apparent attempt to strike defendant?

A: Perhaps. In order to use deadly force against an aggressor a person must have a reasonable belief that the kind and amount of force is reasonable and necessary to prevent an apparent, imminent prospect of death or serious bodily injury. The size and strength of the assailant is only one factor to consider in assessing the reasonableness of defendant's conduct; bare fear does not justify the use of force likely to cause serious bodily injury. The issues of reasonableness and necessity are jury questions.

No. 3079-B

Q: Under what circumstances would defendant have a duty to retreat from an unarmed but physically superior man before inflicting deadly force?

A: If defendant were the aggressor in the shooting incident then defendant had a duty to retreat to the wall before using deadly force. Here, it is arguable that the witness was the aggressor regardless of whether the two incidents are viewed as separate or one transaction. Assuming defendant were the aggressor in the original incident it is arguable that defendant retreated, restoring his full

right to defend himself. The shooting incident was arguably provoked by the threatening movement of the much stronger man in an attempt to prevent defendant from seeking a peaceful resolution to a land dispute.

No. 3085-A

Q: Can prior convictions from a foreign country (Canada) be used as aggravating factors in a sentencing hearing?

A: Yes. Unless the defendant can show such convictions violated due process as defined by the foreign country's laws or that the foreign legal system lacks procedural protections necessary for fundamental fairness.

No. 3085-B

Q: Was it error to include certain juvenile offenses under the adult category in the presentence report?

A: Probably. Provided the defendant can show the mistake was in fact relied upon by the sentencing judge and that the mistake was not disclosed to the judge and that the defendant was not provided an opportunity to explain the mistake.

No. 3085-C

Q: Where several mitigating circumstances exist (i.e., no prior crimes of violence, use of alcohol and LSD prior to the crime, letters recommending his character) should the court have noted these factors in its sentence, and are they sufficient to require a lesser penalty than death?

A: The court should have considered all relevant mitigating circumstances the defendant brought forward. The weight given to these mitigating factors is left to the discretion of the sentencing judge, but they must be considered.

No. 3085-D

Q: Should the jury make the findings of aggravating and mitigating factors in determining whether the death penalty should be imposed?

A: In Montana the finding of aggravating and mitigating factors is performed by the sentencing judge, and since these factors are not elements necessary to prove the crime, it is constitutionally permissible for the judge to make these findings without involving the jury.

No. 3085-E

Q: What is the function of the Montana Supreme Court in undertaking the

automatic review of the judgment of conviction and sentence of death in view of the recent United States Supreme Court decision which indicates that a comparative proportionality review is not constitutionally required whenever a death sentence is imposed?

A: The United States Supreme Court holding did not invalidate the Montana capital sentencing statutes, it only held that a comparative proportionality review of defendant's sentence with the sentences imposed for similar capital offenses was not required by the United States Constitution.

No. 3085-F

Q: Are the terms "scheme or operation" as used in the aggravating factor section of the Montana capital sentencing statute § 46-18-301 M.C.A. (1983) unconstitutionally vague?

A: Probably not. Two states have held that the phrase "common plan, scheme or design" in similar context is not unconstitutionally vague. Since the issue in these cases centered on the dual meaning of "common" the omission of that term may make the statute less ambiguous.

No. 3085-G

Q: Where a psychiatrist is appointed, after the defendant has plead guilty to a capital crime, to evaluate the effects of drugs or alcohol upon the defendant at the time of the crime for the purpose of finding mitigating circumstances at the death sentencing hearing, and that doctor is also required to undertake certain investigative functions as to whether his prior statements are true or not, does this create a conflict of interest for the doctor and what is the legal effect?

A: Probably not, unless the defendant can show that the doctor's role changed to that of an agent for the state in investigating the truthfulness of defendant's prior statements and that such investigation was separate and distinct from the defense initiated investigation concerning the mitigating factor of drug use. If this can be shown the defendant may have been denied Fifth Amendment protection in light of Estille v. Smith, 451 U.S. 454 (1981).

No. 3091

Q: To place the defense of justifiable use of force in issue, must the defendant show an affirmative, positive, intentional act of some type, or an intentional act of killing the

deceased?

A: The case law is unclear in this area. The Montana statute arguably only requires some intentional use of force against the deceased. This is a theoretical argument that has no supporting case law basis. If, however, the placing into evidence that the defendant did some intentional act does raise the issue of self-defense, the defendant may place into evidence testimony about the deceased's reputation to prove the reasonableness of the defendant's apprehension and/or who was the aggressor.

No. 3097

Q: Does filing a petition in bankruptcy stay or prohibit a criminal proceeding for issuing bad checks against the bankrupt if he listed the victim as a creditor?

A: No. The bankruptcy laws provide no shelter to criminal offenders. The only restriction bankruptcy may impose on the criminal process is making restitution unavailable as a remedy for bad check prosecutions.

No. 3099-A

Q: When a speedy trial claim is brought under MCA § 46-13-201(2) which sets a time limit of 6 months, is the court precluded from using the four-part balancing test set forth in *Barker v. Wingo*?

A: Yes, although the four-part test would be relevant to any constitutional claim.

No. 3099-B

Q: Does the retirement of a district judge which results in a vacancy, reassignment of all his cases to the three remaining district judges, and temporary congestion of the dockets constitute "good cause" for delay?

A: Arguably yes. Although institutional delays are still chargeable to the state, temporary congestion owing to exceptional circumstances may constitute "good cause."

No. 3099-C

Q: Can a defendant waive his claim to a speedy trial if he fails to assert it at the omnibus hearing?

A: Arguably yes, if at the time of the omnibus hearing the trial date has been set and the defendant is aware that the date surpasses the 6-month limitation of MCA § 46-13-201(2).

No. 3103-A

Q: Must a plea colloquy include the

enumeration of defendant's right to remain silent?

A: Not necessarily. The Montana Court requires only that, given the circumstances of the case, defendant's plea be voluntarily and intelligently entered. An in depth examination by the court has been described as desirable and, in some cases, mandatory, but a court's omission of this specific right is not by itself likely to invalidate the plea.

No. 3103-B

Q: Is a separate post-conviction hearing and notice required where the state seeks to designate defendant as a persistent felony offender?

A: No. Neither the governing statute nor applicable case law requires a separate hearing. Although section 46-18-503(3) requires that defendant be given three days' notice of the hearing, the court has ruled that the notice is a procedural requirement the absence of which does not deprive the court of jurisdiction to designate defendant as a persistent felony offender.

No. 3103-C

Q: Does MCA § 46-18-404 give the sentencing court authority to designate a defendant as dangerous, and if so, must the court set forth findings in support of the designation?

A: Yes to both. The authority to make a "dangerous" designation is implicitly contained in § 46-18-1404; case law requires that a designation as dangerous be supported by substantial credible evidence.

No. 3104

Q: May a defense of insanity be raised in federal court to a charge of first degree murder and assault with intent to commit murder if the defense is based on drug or chemically induced psychosis or mental disorder?

A: Yes. In addition to evidence of this nature being relevant to negate specific intent, the ninth circuit's modified form of the American Law Institute test for insanity would permit this.

No. 3109-A

Q: Does a "reserve" law enforcement officer, who has radio or telephonic capabilities to communicate with a full-time law enforcement officer, have the authority to independently make a D.U.I. arrest?

A: Yes. An authorized reserve officer, who is functioning within the scope of

his assigned duties, has general powers of arrest. The requirement of Mont. Code Ann. § 7-32-216(3) (b) (1983), that the reserve officer "may not serve unless supervised by a full-time law enforcement officer whose span of control would be considered within reasonable limits," is satisfied if the reserve officer has readily available means to contact a full-time officer.

No. 3109-B

Q: Should a D.U.I. complaint be dismissed because the arresting reserve officer did not take a physical examination within 30 days preceding his appointment which is a prerequisite to qualifying for appointment as a reserve officer?

A: No. MCA § 7-32-213 (8) requires that a reserve law enforcement officer have a physical examination within 30 days before his appointment as a reserve officer. The purpose of this statute is to establish employment standards. This statute does not confer substantive rights upon a defendant which will support a challenge to the legality of a D.U.I. arrest.

No. 3115

Q: Is Montana's careless driving statute, Montana Code Annotated § 61-8-302 (1983) constitutional under the Fourteenth Amendment due process vagueness and overbreadth doctrines?

A: YES.

No. 3120-A

Q: Does a sheriff have authority to set bail on a city prisoner placed in a county jail?

A: A sheriff is generally without authority to admit, set or allow bail for an offender. However, sheriffs may be empowered by statute to accept bail when the amount has been fixed by the proper officer or has been endorsed on a warrant. 8 C.J.S. Bail § 40 (b) (1981).

No. 3120-B

Q: What remedy is available to a city judge if a sheriff exceeds his grant of authority concerning bail?

A: Montana law mandates that the sheriff must take charge and keep the county jail and the prisoners therein. Mont. Code Ann. § 7-32-2121 (7) (1983). Since bail must begin with a judicial order, Mont. Code Ann. § 7-32-2121 (7), a peace officer who accepts bail without authority and releases a prisoner is theoretically civilly liable for "escape" of a prisoner, Mont. Code Ann. §

7-32-2132 (1983). However, such an action has never reached the Montana Supreme Court.

No. 3124

Q: Where defendant was suffering from shock following an automobile accident, would this make the statements he makes to police at the scene of the accident voluntary or would this fact preclude a knowing and intelligent waiver of Miranda rights?

A: Whether a statement is voluntary depends on the particular facts of each case, admissibility being determined by the trial court in evaluating "the totality of the circumstances." However, "the totality of the circumstances" test is not the correct standard to determine the validity of a waiver of Miranda rights. In the absence of an express waiver, the state must prove that the defendant knowingly and intelligently relinquished his rights.

No. 3143-A

Q: In criminal jury trials, policemen generally testify in court wearing their police uniforms and their guns and are routinely referred to as "officer" creating the possibility of unduly influencing the jury and prejudicing the defendant. Is it possible to create a pre-trial motion asking the court to order the party calling the policeman to prevent them from wearing their uniforms and guns in court?

A: Yes. The motion in limine can be used in Montana in criminal action to prevent prejudicial material from influencing the jury, however, in the few cases in the United States where the issue of police uniforms has been raised the courts have consistently held that the defendant is not prejudiced by the dress of the policemen.

No. 3143-B

Q: Are there jury instructions or voir dire questions geared to reducing the undue influence of the police officer's testimony in criminal cases?

A: Yes. Approved jury instruction and voir dire questions are available that are aimed at avoiding undue influence of police testimony.

No. 3147

Q: Did a defendant who had tried to hitch a ride for eleven hours after his truck broke down then took a truck with the keys in the ignition and drove it about forty miles to a busy interchange near Missoula where he was found sleeping in the cab have the

necessary intent to deprive the owners of the truck under Mont. Code Ann. § 45-6-308 (1983), Montana's felony theft statute?

A: Probably not. Although a question of intent is always a question for the trier of fact and may be inferred from the surrounding circumstances, it is not likely that the intent to deprive the owners of their property may be shown here since the defendant did not plan to dispose of the property, nor to deprive the owners of it for such a period as to appropriate a portion of its value: he merely planned to use the truck for transportation. He appears to have committed the lesser included offense of unauthorized use of a motor vehicle.

No. 3181

Q: Are blood alcohol concentration results, obtained during hospitalization, admissible as evidence in a DUI action after defendant expressly refused to submit a bac test and received the statutory penalty for refusal?

A: No. Under the plain language of Montana's implied consent statute, when a person refuses to submit to a bac test, "none shall be given." Mont. Code Ann. § 61-8-402 (1983). The Montana Supreme Court and the majority of jurisdictions hold that evidence obtained in violation of this statutory prohibition is inadmissible in a DUI action.

No. 3186

Q: Are gross vehicle weight (G.V.W.) special permits applicable to motor vehicle travel on county roads?

A: Yes. Montana's motor vehicle code defines highway to include every publicly maintained way when any part thereof is open to the public for vehicular travel. Montana's G.V.W. division, through statutory authority, applies size-weight-load standards, permits and fees to all publicly maintained roadways.

No. 3189

Q: Where a defendant on federal probation is charged with deliberate homicide in state district court, is the defendant's federal probation file discoverable by defense counsel?

A: Given the broad nature of criminal discovery under the Montana code, the federal probation officer may be viewed as a third party within the meaning of Montana Code Annotated § 46-15-302(1). Thus, the district court should grant defense counsel's pretrial motion to produce the probation file. Alternatively, the federal probation officer may be viewed as a prospective

witness subject to deposition within the meaning of Montana Code Annotated § 46-15-201. The probation file is probably not privileged information according to Montana Code Annotated § 26-1-801.

No. 3199

What remedy is available when the defense alleges that the prosecution has incompletely transcribed taperecorded statements taken from a (now hostile) prosecution witness, and law enforcement has since erased the tapes?

Statutory and Constitutional safeguards exist to protect a defendant's right of access to evidence obtained by the government in federal, and similarly in state, prosecutions.

The United States Supreme Court maintains that "the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution," *Brady v. Maryland*, 373 U.S. 83, 87 (1963).

The Court in *United States v. Agurs*, 427 U.S. 97 (1976) reaffirmed the basic holding in *Brady*, underscoring its importance by extending it to hold that the prosecutor's constitutional duty to provide exculpatory evidence to the defense is not limited to cases in which the defendant makes a request for such evidence. *Cf. generally* File No. 2400. The Court in *Agurs* stated that "the purpose of *Brady* is not to foster gamesmanship between prosecution and defense, but to ensure that a trial is indeed a search for the truth based on all relevant material, much of which, is a practical matter, will be in the hands of government." *Id.* at 10. Mr. Justice Marshall noted:

One of the most basic elements of fairness in a criminal trial is that available evidence tending to show innocence, as well as that tending to show guilt, be fully aired before the jury; more particularly, it is that the State in its zeal to convict a defendant not suppress evidence that might exonerate him (citation omitted). . . No interest of the state is served, and no duty of the prosecutor advanced, by the suppression of evidence favorable to the defendant. On the contrary, the prosecutor fulfills his most basic responsibility when he fully airs all the relevant evidence at his command.

Non-profit Organization
U.S. Postage
PAID
Permit No. 100
Missoula, MT 59812

Montana Criminal Law Information
Research Center
University of Montana School of Law
Missoula, MT 59812

U.S. v. Agurs, supra. at .

It is a well-settled principle that the failure of police or a prosecutor to preserve evidence may, in some circumstances, constitute grounds for reversal of a conviction.

In *United States v. Augenblick*, 393 U.S. 348 (1968), tapes had been made of the interrogation of a government witness in a military court martial. When the defendant subsequently requested discovery of the tapes, the government informed him that they could not be found. When the defendant challenged his conviction collaterally on due process grounds, the Supreme Court rejected his claim. The Court noted that there was no evidence that the tapes had been intentionally "suppressed" and that the record revealed the government's "earnest efforts" to find them. Under the circumstances, the Court noted that there had been no violation of due process even though the evidence was clearly discoverable under the Jencks Act.

The leading case dealing with the pro-

blem of missing or lost *Brady* material is *United States v. Bryant*, 439 F.2d 642 (1971). There the government intentionally, although not necessarily in bad faith, destroyed crucial tapes concerning a sale of narcotics which formed the basis of defendant's arrest. Relying on *Augenblick*, the court held that the government's duty to disclose relevant evidence under *Brady* implied the duty to preserve the evidence. Accordingly, the Court of Appeals remanded the case to the district court:

. . . for an evaluation of the circumstances under which the evidence had been destroyed, ordering the trial court to weigh the degree of negligence or bad faith involved, the importance of the evidence lost, and the evidence of guilt adduced at trial in order to come to a determination that will serve the ends of justice. *Id.* at 64 . However, after examination of the "pragmatic balance" between the negligence of FBI agents in destroying potentially relevant tapes and the unintelligibility of the tapes combined

with the evidence of guilt, the Court determined that the conviction should be affirmed, 448 F.2d 421 (1975).

ELIGIBLE USERS:

MONTCLIRC does research on pending *criminal* cases for judges, prosecutors, public defenders, court-appointed counsel, and other publicly paid members of the criminal justice system in Montana. In addition, free of charge to all of the above, as well as privately retained counsel and police officers, are: our newsletter, case synopses, a bibliography of past memos, and copies of the memoranda. Just call us at 243-6492 or write to us at the law school: MONTCLIRC, School of Law, University of Montana, Missoula, Montana 59812.

A brief reminder as to requests from criminal law enforcement officers. Although pre-prepared materials (the copies, etc. noted above) are available free of charge, we ask that any requests for actual new research be channeled via your local county or city attorney.

Exhibits # 7
2/15/85



A PROJECT OF THE
UNIVERSITY OF MONTANA
SCHOOL OF LAW

montclirc

SCHOOL OF LAW
MISSOULA, MONTANA 59812
(406) 243-6492

MONTANA CRIMINAL LAW INFORMATION RESEARCH CENTER

Vol. 3, No. 4

May 1981

UM MOOT COURT TEAM FIRST IN THE NATION



In what has to be viewed as an upset march to victory over 250 teams from 162 law schools, the University of Montana Law School moot court team survived first regional competition in the north-west and then a series of elimination rounds in New York City in order to take *first place* in the National Moot Court Competition, beating a team from Northwestern University School of law in the final round, which was held before a panel of nine judges, including U.S. Supreme Court Justice Potter Stewart, who presided. The three appellate advocacy winners were (from left to right being congratulated by Governor Schwinden): Karl Seel, Carey Matovich, and, last but not least, MONTCLIRC's own Paul Meismer. CONGRATULATIONS to them for covering themselves and their law school with glory! Congratulations also to faculty adviser J. Martin Burke, whose hard work had much to do with their success.

The team and the law school will be receiving numerous awards of cash, books, and trophies.

In order to reach the final round, UM had to beat the following law schools' teams while in New York: Baylor, New Mexico, Alabama, Southern Methodist, and Indiana University. (Midway through the competition a southern team member told Professor Burke that his team's advance resembled Sherman's march to the sea.)

MONTCLIRCers Obtain Clerkships

Quite a few of MONTCLIRC's research assistants have obtained judicial clerkships for next year: Jerry Lynch, one of our Student Directors, with Judge Hatfield; Mary Beth Harney, also with Judge Hatfield; Donna Hefington, with Justice Weber; Mary Ann Moog, Chief Justice Haswell; and Betsy Griffing, with Justice Daly.

GOOD NEWS

Our funding for the next biennium has been obtained, via the appropriation to the Supreme Court of Montana. We thank the Court for acting as our "umbrella" agency, something necessitated by the demise of the Board of Crime Control and the current situation which at least for now precludes, as a practical matter, our seeking the funding via the general University appropriation.

MORE GOOD NEWS

Our Secretary, Kathleen Cassidy, and her husband Kerry, proudly announce the birth of their first child, a strapping 8 lb. 12 oz. boy named Ian, on May 8. Kathleen plans to return to work after a leave of absence. We have hired a temporary secretary in the meantime.

New Staff

Since our last newsletter on our personnel, we have hired quite a few new people, bringing our total to 24 part-time in the school year.

MELANIE COLEMAN



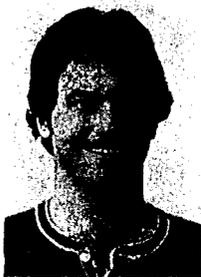
Melanie Coleman is a transfer student from the University of Illinois at Champaign - Urbana. She was a consultant and legal intern for SRS and worked on the Model Indian Children's Code project. She is looking for juvenile or government practice in western Montana or the Pacific Northwest.

RAY DAYTON



Ray Dayton, from Anaconda, stood second in the class after his first year, having graduated with highest honors from MSU in political science and having worked as a correctional officer/resident advisor.

DAN DiRe



Dan DiRe, also from Anaconda and a graduate of MSU, was a legal intern for Judge W. W. Lessley before his work here.

IRA EAKIN



Ira Eakin, an honors graduate of UM (political science), had prior relevant experience as a cook and campus news reporter. Ira is from Missoula.

BETSY GRIFFING

Betsy Griffing, the daughter of our former Board of Crime Control grant advisor, is a top student and softball player, an honors graduate of Smith College with prior work experience with the Commission on Local Government and as a hearing examiner with the Board of Personnel Appeals.

KIMBERLY KRADOLFER



Kimberly Kradolfer, from Bozeman, with degrees in Botany and Speech Communication from MSU, had prior experience as a law clerk with Judges Lessley and Gary, as a teacher at Reedpoint High School and Belgrade High School, and took the Book Award in Criminal Law.

LARRY JONES



Larry Jones was a graduate teaching assistant in the UM philosophy department for several years and was a law intern with the Department of Labor and Industry prior to signing on here. He recently broke the record for longest MONTCLIRC memo (44 pages). He is seeking a job with a law firm or state agency and is primarily interested in labor law and administrative law.

DIANE LaPLANTE



Diane LaPlante, from Browning, graduated with high honors in history from UM and is a highly-ranked student here. She has prior experience with Montana Legal Services and was a Counselor for the Blackfeet Summer Youth Program.

MARY ANN MOOG



Mary Ann Moog is a very highly-ranked senior who had the distinct honor of taking the Book Award in Criminal Procedure (also one in Estate Planning). She is from Joplin, Montana, 5 miles from the Canadian border. She has worked for Judge Hunt and Montana Legal Services. Next year she will clerk for Chief Justice Haswell.

JIM O'BRIEN



Jim O'Brien, from Missoula, is a graduate of both UM (in anthropology, for which he offers no apologies) and St. Thomas Academy, with previous employment with Cross-N-Transport and Montana Legal Services. He is also working for the Law Clinic here. He is a senior and is looking for general private practice with a small/medium law firm in western Montana.

CARL ORESKOVICH



Carl Oreskovich, part of our Butte contingent, graduated magna cum laude (sounds high-powered, doesn't it?) from Seattle University and has some useful general laboring skills (always helpful for lawyers nowadays) developed while working for Missoula Concrete Construction as a concrete finisher.

ROSS RICHARDSON



Ross Richardson, another Butte-e and a graduate of Montana Tech, is a senior with prior relevant experience with the Butte-Silver Bow County Attorney.

TERESA TRACY



Teresa Tracy is a transfer student from Willamette's Law School, having graduated from Mankato State University in Minnesota. Her prior relevant work has been as a law clerk for the

Oregon State Parole Board and for the U.S. Attorney in Seattle.

DEBBIE UPTON



Debbie Upton, raised in the Chicago area, graduated from the University of Illinois with a B.A. in economics. Her prior work for Montana Legal Services was mainly researching land problems for the Bureau of Indian Affairs. She says she is interested in the corporate and tax areas after graduation.

Copies of Memoranda Available

Since the last newsletter the following memos have been written and released for public distribution. If you would like a copy of a memo, just ask for it by number (limit two dozen per customer).

No. 1036

Q: Does an attorney violate M.C.A. § 45-7-206(b) (tampering with witnesses and informants), when he advises a prospective witness against his defendant of the witness' right to remain silent?

A: Probably not.

No. 1276-B (Revised)

Q: If a youth violates a state fish and game law or a state traffic law or a traffic ordinance of a city or town, does the youth court have jurisdiction of the case?

A: The youth court does not have jurisdiction over a youth alleged to have violated a traffic or fish and game law.

No. 1314-B (Revised)

Q: Does a justice court have the power to incarcerate a youth who has been convicted of a second offense of driving while intoxicated?

A: Probably not. Although it appears that the justice courts have concurrent jurisdiction over the relatively serious traffic offense of driving while intoxicated, it appears that the justice court would not have the power to incarcerate a youth for this offense.

No. 1399

Q: Must an indigent defendant be afforded the right to counsel for a direct appeal of a misdemeanor conviction resulting in the imposition of a fine together with a suspended sentence and probationary period?

A: Yes. In any criminal proceeding in which conviction will result in the deprivation of the defendant's liberty, the defendant must be afforded the assistance of counsel. If counsel is appointed in the original proceeding it would not be within the province of the appellate court to deny assistance on the first direct appeal of a conviction.

No. 1476

Q: Can a court sentence a defendant convicted of driving under the influence of

alcohol as a second offender under M.C.A. § 61-8-714 (1979) when the defendant's prior conviction was obtained without his having been represented by counsel?

A: Yes. An enhanced fine may be imposed upon such a defendant; however, under a 1980 U.S. Supreme Court decision, it appears that he may not be sentenced to a term of imprisonment.

No. 1481

Q: Is there sufficient evidence to charge negligent homicide where a poorly clothed, very highly intoxicated girl is abandoned ten miles from town in the roadside on a very cold night and she is later killed by a passing vehicle?

A: Yes, there is evidence from which a finder of fact could reasonably find the elements of that offense.

No. 1526-A

Q: Has a defendant who was under arrest and was being admitted to a hospital abandoned a container of marijuana, for purposes of search and seizure, if during a struggle with hospital attendants the container fell from the defendant's pocket and he then threw it away?

A: Yes. By discarding the container the defendant has relinquished his reasonable expectation of privacy with regard to it so that it will be deemed abandoned for purposes of search and seizure.

No. 1526-B

Q: Is marijuana discovered in a small metal cigar container by an arresting officer upon discard of the container by the arrestee admissible in evidence as the product of a search incident to arrest?

A: Yes. (1) The warrantless seizure of the container was lawful incident to arrest, and (2) since the container was not the type in which the arrestee could maintain an expectation of privacy despite his arrest, the search of its contents was lawful.

No. 1535

Q: Where defendant, in his car, followed a woman who was walking down the sidewalk, made indecent proposals and requested her to engage in sexual acts, stating "I'm going to

rape you. Do you want me to?", when she fled into an alley he followed her in his car, when she then attempted to cross behind his car, he reversed so rapidly she had to jump aside to avoid being struck, and he continued driving around the area for some time after she finally got away, does defendant's behavior warrant his being charged with intimidation?

A: Yes. There is sufficient evidence for a jury to find that the defendant communicated a threat to the woman without lawful authority and with the purpose to cause her to perform or omit to perform an act.

No. 1538

Q: Where a defendant was arrested for traffic violations, posted bail, requested a jury trial, and subsequently forfeited his bail bond by failing to appear, may a justice of the peace enter judgment against the defendant for the court costs as well as the amount of bail?

A: Probably not. Such authority is specifically granted only to district courts by § 46-9-503(4), M.C.A. (1979), even though this statute might be interpreted to grant such authority to justice courts, bail bond forfeiture in misdemeanor cases is a civil judgment, as to which justice courts have no apparent jurisdiction to assess court costs.

No. 1547

Q: Where a defendant is charged in justice court with reckless driving, § 61-8-301, M.C.A. (1979), is convicted of the lesser included offense of careless driving, § 61-8-302, M.C.A. (1972), and subsequently appeals to district court for a trial de novo pursuant to § 46-17-311, M.C.A. (1979), can he be charged in the new trial with the greater offense of reckless driving?

A: No. Double jeopardy precludes re prosecution of an offense of which the defendant has been impliedly acquitted; trial de novo provisions should not affect this result since the defendant appeals only his conviction of the lesser included offense. Moreover, due process considerations prohibit such a course of action because of the possibility of prosecutorial "vindictiveness."

No. 1548

Q: Can an attorney defending a person charged with a crime in Montana require a Montana sheriff to execute an arrest warrant from another state for a different offense, so that he may challenge the validity of the warrant (and hope to avoid any negative consequences of the additional outstanding charge at time of sentencing for the Montana case)?

A: No. If the warrant is not based upon an indictment or information or the defendant's post-conviction escape from custody in the other state, defendant's counsel can only request that state to move for defendant's extradition, basing his request upon the fair trial guarantee under the due process clause of the Fourteenth Amendment. If a warrant does follow a formal charge or conviction in the sister state, he can base his request upon the Sixth Amendment speedy trial guarantee. But generally speaking, a prospective defendant has no constitutional right to be arrested. And it is within the discretion of the governor of Montana to defer the defendant's extradition until after his trial and discharge or conviction and punishment in Montana.

No. 1571-A

Q: Can a peace officer make a warrantless arrest for a traffic violation not committed in the officer's presence on the basis of information provided by a citizen?

A: Yes. M.C.A. § 46-6-401(4) (1979) allows such an arrest, providing the citizen's information establishes probable cause for the arrest and the circumstances require the arrest be made immediately.

No. 1571-B

Q: May a peace officer who arrests an out-of-state driver for reckless driving on the basis of a citizen's complaint accept bail from the arrestee?

A: Yes. A peace officer may accept bail in behalf of a justice of the peace or city judge in accordance with a bail schedule established by the justice of the peace or city judge.

No. 1573

Q: May a city attorney prosecute in district court a trial de novo of a misdemeanor conviction for a state offense on appeal from city court?

A: M.C.A. § 7-4-2716(1) (1979) requires the county attorney to conduct all prosecutions on behalf of the state in district court. However, if the county attorney appoints the city attorney as a deputy the city attorney may then prosecute in district court.

No. 1580

Q: Can a defendant be convicted of two counts of deliberate homicide under M.C.A. § 45-5-102(a) (deliberate homicide committed purposely or knowingly) and M.C.A. § 45-5-102(b) (felony murder) where there is but one death alleged in the information containing the two counts?

A: No. In such a case the two counts must be pleaded alternatively and a conviction may be obtained on only one of the counts.

No. 1586

Q: Is there any provision of Montana law under which a person can be prosecuted for window peaking or being a "peeping Tom?"

A: No. Although disorderly conduct statutes similar to M.C.A. § 45-8-101 (1979) are sometimes used for such prosecutions in other states, it appears the statute was not intended to be so used in Montana.

No. 1596

Q: Can a defendant, who is originally charged with and convicted of robbery, aggravated assault and attempted deliberate homicide, be prosecuted for deliberate homicide in a subsequent action if the victim dies after the original charges are filed?

A: Yes. Ordinarily prosecution for a lesser included offense bars a subsequent prosecution for the greater, but the U.S. Supreme Court has held that when the greater offense was not consummated at the time jeopardy attached for the lesser included offense — or when, in spite of due diligence the state did not discover facts necessary to the proof of the greater offense — the defendant may be prosecuted for the greater offense after conviction of the lesser included offense.

No. 1597

Q: Is a person who has been adjudged an habitual traffic offender prohibited by M.C.A. § 61-11-213 (1979) from operating motor vehicles on private property?

A: No. The designation "habitual traffic offender" results in the revocation of the person's driver's license, thereby depriving him of only the privilege of operating a motor vehicle on the public highways.

No. 1608-A

Q: Is § 45-6-316, M.C.A. (1979), dealing with issuance of bad checks, unconstitutional for failing to require criminal intent as an element of the offense?

A: No. Montana's bad check law specifies that the offense requires knowledge at the time of issuing a check that it will not be paid when presented; this insures a sufficient degree of culpability to constitutionally impose criminal liability.

No. 1608-B

Q: Does § 45-6-316, M.C.A. (1979) place the determination of whether one violates the statute in the hands of third parties, thereby denying due process and equal protection of the law?

A: No. This provision in the bad check statute pertains only to a method of proving the offense, which is committed when all the elements contained in subsection 45-6-316(1) are shown; those elements are not contingent in any way upon third party discretion.

No. 1608-C

Q: Does § 45-6-316, M.C.A. (1979) constitute a debt collection device providing for imprisonment for debt in violation of MONT. CONST. art II, § 27?

A: No. Under § 45-6-316, a person is theoretically guilty of the offense if he knows at the time of issuing a check that it will not be paid by the depository, even if he later makes good on it. There is no question of debt involved in the elements of the offense, and payment is not a defense.

No. 1610-A

Q: Can a defendant who was denied court appointed counsel, convicted of a misdemeanor and sentenced to a fine only, and who refuses to pay the fine be incarcerated in lieu of the fine?

A: No. Although such a procedure is not unconstitutional so long as failure to pay the fine is not the result of indigency if the defendant, Montana law does not provide for modification of a sentence due to nonpayment of a fine. The proper procedure in Montana is to collect the fine by execution against property of the defendant. He may also be charged with criminal contempt for his refusal to pay the fine.

No. 1610-B

Q: Can a city attorney initiate a prosecution in city court by means of a complaint under oath based on information provided by an informant?

A: Yes. Any person with knowledge of the facts may initiate a prosecution by complaint under oath, even where those facts are provided by an informant, so long as the facts show probable cause for the complaint and the informant's reliability is established.

No. 1614

Q: Can a collision with a lamp post involving a vehicle driven by the defendant be admitted in evidence to support a charge that the defendant was driving under the influence of alcohol?

A: Yes. Such evidence is clearly relevant to show both that defendant drove the vehicle and that he was under the influence of alcohol.

No. 1616-C

Q: If a defendant is determined by the court to be unfit to stand trial on one count of an information, but fit to stand trial on another count of the information, can he avoid severance of the counts and immediate trial on the count on which he is fit?

A: Probably not. The court in its discretion may order separate trials of the counts to avoid prejudice to either the defendant or the state, and where the defendant is fit on one charge inability to prosecute would likely be prejudicial to the state.

No. 1616-D

Q: Can a defendant charged with rape succeed in a motion in limine to suppress evidence of a possible prior rape of another person, which the prosecution intends to use to prove defendant's identity?

A: If defendant is willing to stipulate that his identity is not an issue, there is little doubt that the evidence will be found both irrelevant and prejudicial. Even if identity is an issue, or if the prosecution attempts to introduce the evidence to prove intent or plan, the evidence will probably be excluded as being too remote and prejudicial to permit its admission.

No. 1616-E

Q: Is videotape evidence allegedly demonstrating mental illness, which will be testified to by a court appointed psychiatrist, admissible?

A: If the taped evidence is relevant and will aid the jury in understanding the witness' testimony, it would be admissible, providing a proper foundation has been laid.

No. 1616-G

Q: Is evidence that an alleged rape victim had gonorrhea at the time of the rape but the defendant did not contract the disease admissible?

A: Probably. Although the Montana Rape victim shield law, M.C.A. 1979, § 45-5-503(5), strictly limits the admission of evidence about the chastity of the victim, this particular evidence has considerable probative value and some courts have recognized a potential conflict between the rape shield laws and the Sixth Amendment confrontation clause, which could result in the Montana court's interpreting the statute broadly enough to admit this evidence.

No. 1620

Q: Is a city ordinance valid which contains in its title several specific provisions for the control of animals within the city limits, and, while specifying that guard or attack dogs must be licensed, does not refer to the mandatory licensing of all dogs which is included in the body of the ordinance?

A: The Montana Supreme Court has traditionally avoided a rigid interpretation of the constitutional and statutory provisions requiring that no bill shall be passed containing more than one subject which shall be clearly expressed in its title. If (1) the title is sufficient to give the reader a fair idea of the purpose and scope of the ordinance, and (2) the provisions are "germane" to that purpose, the ordinance will be upheld. While the

ordinance in question does not explicitly state a general purpose, it is arguable that the title provisions do indicate a general purpose to regulate animals in the city and that purpose is effected in part by requiring that all dogs be licensed.

No. 1632-A

Q: Does a town marshal have authority to arrest for a violation of state law?

A: Yes. A town marshal is a peace officer similar to a constable or sheriff, with the duty to arrest persons who have committed offenses, including violations of state law.

No. 1632-B

Q: Can a town marshal pursue an offender beyond the town limits and make an arrest for an offense committed within the town and in the presence of the marshal?

A: Yes. Although the marshal's authority to make the arrest as a peace officer ends at the town limits, he can nonetheless make the arrest as a private citizen.

No. 1632-C

Q: Does an arrest, unlawful for lack of authority in the arresting officer, constitute a jurisdictional defect rendering the subsequent conviction of the offender invalid?

A: No. Such an arrest may render evidence seized as a result of the arrest suppressible, but it does not bar prosecution and conviction for the offense.

No. 1638

Q: Can a court revoke a suspended or deferred imposition of sentence on the basis of criminal activity by the probationer if there has not been a conviction for the alleged criminal activity?

A: Yes. Although the court must rely on substantially correct information in ordering the revocation of a suspended or deferred sentence, a criminal conviction is not a prerequisite to revocation on the basis of criminal activity.

No. 1653

Q: Can an accused who was previously committed in the asylum state pursuant to a finding of insanity or incompetence to stand trial, but who escaped from custody, be extradited to another state on charges pending there?

A: Probably. Although the governor of the asylum state, in his discretion, may hold the accused for trial or punishment in the asylum state, if a warrant of extradition is issued the accused can not challenge extradition on the basis of his commitment in the asylum state. In a habeas corpus hearing to test the validity of the extradition proceedings, however, the accused might be able to interpose his incompetence to understand the nature of the habeas corpus extradition proceeding or to assist counsel in testing the legality of his arrest as a bar to extradition until his competence is restored.

No. 1657

Q: Can a defendant be convicted of both burglary and theft when the charges arose from the same transaction?

A: Yes. Neither double jeopardy principles nor M.C.A. § 46-11-502 (1979) prohibit such conviction.

No. 1671-A

Q: If a telephone repairman doing routine maintenance work while on a raised platform

identifies plants growing in a nearby enclosed yard as marijuana, will his observation provide sufficient probable cause for a search warrant?

A: Yes. If a reliable informant provides information within his area of knowledge, then probable cause is present to support a search warrant.

No. 1671-B

Q: If the repairman only has a suspicion that the plants he observes are marijuana but does not have sufficient knowledge may he seek the assistance of an experienced individual (here a police officer) to validate his suspicions?

A: Yes. A policeman is permitted to make any observation which is routinely available to another person.

No. 1671-C

Q: Does observation and positive identification of marijuana plants growing in an enclosed back yard by a trained police officer who positions himself on a raised platform being used by telephone personnel for routine maintenance constitute probable cause for issuance of a search warrant?

A: Yes. The observation does not violate any reasonable expectation of privacy in an unreasonable way and it provides a solid basis for information by a reliable informant, therefore issuance of a search warrant is justified.

No. 1672

Q: If a defendant commits successive misdemeanor assaults against two victims at the same location and pleads guilty in justice court to one assault, can he subsequently be prosecuted for the other assault?

A: Possibly. Although the second prosecution is constitutionally permissible, M.C.A. § 46-1-503 (1979) would bar the second prosecution where the two assaults are part of the same transaction.

No. 1674

Q: If the prosecution fails to present expert testimony rebutting other expert testimony that the defendant lacked capacity to form the requisite intent to commit a crime, will a motion for dismissal or directed verdict of acquittal be granted?

A: Not necessarily. Since the jury is free to accept or reject expert opinion testimony even where it is uncontradicted, the issue of intent remains a question for the jury's determination in view of all other relevant evidence in the case.

No. 1676-A-1

Q: Does detention of a person which occurs two days after the crime in issue and for a period of fifteen to twenty minutes, for the purpose of exhibiting that person to a witness for identification purposes, at a place different than the situs of the initial detention, amount to an arrest of that person for fourth amendment purposes?

A: Yes. A detention which occurs two days after the crime in issue is not a "lesser intrusion" as envisioned by *Terry v. Ohio*, 392 U.S. 1 (1968) to which the "reasonable suspicion" standard would apply; the traditional probable cause requirement must be met.

No. 1676-A-2

Q: Is a warrantless arrest conducted by

officers two days after the crime in issue on the basis of a general physical description valid under the "reasonable belief" and exigent circumstance requirements of § 46-6-601 M.C.A. (1979)?

A: Arguably not. If the description is one general in nature and equally applicable to a great many individuals in the area, it alone does not provide sufficient probable cause for arrest. Also, when an arrest occurs after the crime has been completed, there must exist circumstances which require the defendant's immediate arrest to justify the warrantless arrest.

No. 1676-B

Q: Is testimony relating to an eyewitness' pre-trial identification suppressible as a "fruit of the poisonous tree" if such identification was obtained as a result of an illegal arrest.

A: Yes.

No. 1676-C

Q: If pre-trial identification testimony by a witness is suppressed as the fruit of an illegal arrest, does it follow that an "in-court" identification by the same witness must also be suppressed as a fruit of the illegal arrest?

A: No. *United States v. Crews*, 100 S.Ct. 1244 (1980) specifically rejected such "but for" reasoning as a basis for suppressing an "in-court" identification. However, the Supreme Court did acknowledge that an in-court identification may be suppressed on Fourth Amendment grounds (i.e. *Wong Sun*) if one of three elements involved in an "in-court" identification was obtained by exploitation of official misconduct.

No. 1676-D

Q: Is pre-trial identification testimony, relating to an identification made after an arrest but prior to the commencement of judicial criminal proceedings, subject to suppression because of the lack of counsel at the identification proceeding?

A: No.

No. 1676-E

Q: Does a viable due process challenge to an in-court identification exist, when a defendant was subjected to a one-on-one confrontation conducted while the defendant was seated in the back seat of a police vehicle, two days after the occurrence of the crime?

A: Arguably yes. While it seems clear that such a confrontation is unnecessarily suggestive, the defense must also establish that the procedure was conducive to irreparable mistaken identification. The two day period between the crime and identification, coupled with the dangers of misidentification associated with one man show-ups, provides a viable argument that in this factual setting the procedure was a violation of due process.

No. 1680-A

Q: Must a driver endanger the life, limb or property of a person to be considered a careless driver?

A: Yes, careless driving is an offense which is relative to the surrounding conditions and circumstances.

No. 1680-B

Q: Does the power to regulate dogs running at large which has been given to a city include the power to provide either an equitable

solution (abatement) or a criminal penalty (fine) for violation of an ordinance?

A: Yes. A city council has a full range of powers to control the actions of dogs and their owners.

No. 1685

Q: When a justice of the peace is absent from the county, is it proper to take a person who has been arrested to a neighboring county for the purpose of having the justice of the peace of that county hold the initial appearance required by § 46-7-101, M.C.A.?

A: Probably. Although § 46-7-101, M.C.A. (1979) appears to require an initial appearance in the same county, that provision, viewed in light of its statutory context and legislative intent, may arguably be read without the "same county" language.

No. 1688

Q: Is a defendant who appears to be a pathological liar incompetent to stand trial?

A: Depending on the facts of the particular case and the nature of the defendant's alleged offense, it is just conceivable that the defendant would be found incompetent to stand trial.

No. 1689

Q: May a judge properly include in an amount set for bail of a criminal defendant charged with issuing a bad check, an amount which will be used as restitution for the injured party in the event the bail deposit is forfeited?

A: No. Section 46-9-101, M.C.A. (1979) specifically states that the purpose of bail is to insure the presence of the defendant in a pending criminal proceeding. No statutory authority exists for the use of bail for any other purpose.

No. 1692

Q: Does the requirement that a hearing be begun within 15 days under M.C.A. § 41-5-516 (1979) mandate dismissal of the cause if the delay is a result of the youth's exercising his right to a jury trial?

A: Arguably yes.

No. 1700

Q: Can § 25-31-601 M.C.A. (1979), which allows a party in a justice court civil action to have a nonlawyer act as his attorney, be extended to all justice court matters, including criminal prosecutions?

A: It is probable within the discretion of the justice of the peace to allow such representation, particularly in the case of summary offenses.

No. 1704

Q: Where defendant confessed as a result of the prosecutor's implied promise as to the likely sentence, would such a "confession bargain" render the confession involuntary and, hence, inadmissible?

A: Probably not.

No. 1706

Q: Are there any constitutional problems in a proposed city vagrancy ordinance which would make it a misdemeanor if a person a) while without visible means of support, b) is idle, and c) loiters around a saloon; bar business, or public sidewalk, street or other public place; where, "without visible means of support" is defined as, a) to beg for money or property around a saloon, bar, business, or

public sidewalk, street, or other public place, or b) to be able bodied but unemployed, or c) to be inadequately clothed, nourished, or housed so as to substantially endanger one's own health; and where, "loiters" is defined as, "remaining for any unreasonable period of time at a place for no apparent legitimate purpose?"

A: It appears that the proposed ordinance is unconstitutionally vague in that it fails to give a person or ordinary intelligence fair notice of what conduct is forbidden, and because it encourages arbitrary and erratic arrests and convictions. There may also be a problem in applying such a statute of encroaching upon the right to privacy or the substantive due process right to be free of the stigma of a criminal conviction in the absence of some valid state police power interest.

No. 1707

Q: What is the mental intent required to establish guilt under M.C.A. 1979, § 87-2-103(3), which provides that "it is unlawful to pursue, hunt, trap, take, shoot, or kill any game animal, game bird, or fur-bearing animal . . . without first having obtained a proper license or permit. . . ."

A: The wording of M.C.A. 1979, § 87-2-103 provides no clue as to the mental intent intended by the legislature. M.C.A. 1979, § 45-2-104 precludes imposition of absolute liability unless the offense is punishable by a fine of \$500 or less and the statute clearly indicates a legislative purpose to impose absolute liability. Since M.C.A. 1979, § 87-2-103 clearly does not so indicate, the mental state must be one of three possibilities specified in M.C.A. § 45-2-103: knowingly, negligently or purposely. Of these three a "knowing" requirement is the one the legislature probably would have chosen had it explicitly indicated the mental intent required.

No. 1711

Q: Were a defendant's due process rights violated when his picture was identified out of an eight picture photo display by a rape victim who saw her assailant for only a split second before the rape but who was able to describe him to the police as being the man who had once delivered a message to her and who, also, along with another man, had once delivered furniture to her, although of the two men who delivered the furniture only the defendant's picture was included in the photo display?

A: Probably not, unless there are additional facts developed at trial which would indicate that the identification procedure was unreliable. To establish a due process violation the identification procedure must be unnecessarily suggestive and conducive to irreparable misidentification. The mere fact that the picture of only one of the two men who delivered furniture was included in the photo display would probably not be unnecessarily suggestive since the witness described only one of the men to the police as being her assailant.

No. 1712

Q: May prior recorded cross-examination testimony, elicited by an attorney who failed to provide effective assistance of counsel, be admitted at retrial over defendant's objection,

without infringing upon defendant's constitutional right to have effective assistance of counsel and the right of confrontation?

A: Prior recorded cross-examination may be admitted at retrial, although elicited by an ineffective attorney, so long as the prior cross-examination was not an aspect of or related to the attorney's ineffectiveness.

No. 1722

Q: Should a motion to dismiss a traffic offense be granted due to the failure to sign the complaint in front of a judge?

A: Not if the defect is corrected by amendment under § 46-11-403(2) M.C.A. (1979).

No. 1730

Q: If a person is questioned under hypnosis about an incident, can that person later testify as a witness to that incident?

A: Yes. At least where a witness related the principal facts of the incident prior to hypnosis and the fact of hypnosis is disclosed to the jury, the fact that the witness was previously hypnotized has been held to affect only the credibility of testimony, not admissibility.

No. 1732

Q: Is the imposition of an administrative prison disciplinary sanction combined with a criminal prosecution for the offense of escape constitute double jeopardy?

A: No.

No. 1733-A

Q: May a district court acquit a defendant at a pre-trial hearing by reason of mental disease or defect, following repeal of § 46-14-211, M.C.A. (1978), which specifically gave the district court the authority to render such an acquittal?

A: No.

No. 1733-B

Q: Are Montana's new mental competency statutes, which provide that mental disease or defect may be used only to refute the requisite mental state for a crime, constitutional?

A: Arguments may be made that the new procedures violate the prohibition against cruel and unusual punishments, and due process. Such arguments will be difficult to make, however, because the statutes do not totally abolish the use of mental disease or defect as a "defense" at trial, and because the new sentencing procedures may provide a constitutional alternative to the stigma which normally results from a "criminal" conviction.

No. 1733-C

Q: Does double jeopardy bar the appeal or rehearing of a defendant acquitted by reason of insanity at a pretrial hearing, where the statute giving the district court the authority to order such an acquittal had been repealed?

A: A double jeopardy argument will probably not be successful. The defendant was not placed in jeopardy in the first instance since there was no possibility of conviction at the pretrial hearing. The jury had not been sworn, so jeopardy could not attach.

No. 1733-A

Q: Where evidence is found in a motel room occupied by three suspects, pursuant to a warrantless search, can the evidence be suppressed where one suspect was present and consented to the search, one suspect (the

defendant) was not present and was not asked to consent, and one suspect refused to consent because he claimed the room did not belong to him.

A: It is unlikely that the evidence would be suppressed. As a general rule if one cotenant is present and consents to the search and one cotenant is absent and is not asked to consent, the consent of the present cotenant is sufficient because he has the right to consent to the search in his own right and the other cotenants are presumed to have assumed the risk a co-occupant may consent to a search. If two cotenants are present with one consenting to the search and one objecting to it, the search may not be valid because both have equal authority and the objecting party cannot be said to have assumed the risk that a cotenant will allow a search. Where as here, however, the objecting cotenant says the room does not belong to him, it may reasonably appear to the police that the cotenants do not have equal authority.

No. 1773-B

Q: Is the situation changed if the motel registration card has the room listed in the name of the consenting suspect but the names of the other defendants are marked in various places on the card?

A: Probable not, although the appearance of the other names may have some bearing on the policeman's "good faith" belief in the consenting suspect's authority to permit the search.

No. 1773-C

Q: If evidence is found under a bed shared by two of the three suspects with part of the evidence wrapped in a sheet under the half of the bed belonging to the consenting suspect and part of the evidence found in a flight bag under the half of the bed belonging to the suspect who refused to consent to the search, can the evidence in the parcels be suppressed?

A: Possibly. Even though a cotenant may have a right to consent to a general search of a jointly occupied area, he may not have the right to consent to a search of personal effects of others in the area, so that if it can be shown that the police knew the bag belonged to the nonconsenting suspect, the search might be improper.

No. 1796-A

Q: Was defendant lawfully arrested for a violation of M.C.A. § 61-9-109, which prohibits driving vehicles in an unsafe condition, where defendant, who was a passenger in the car, moved into the driver's seat but did not start the motor or attempt to move the vehicle?

A: Probably not.

No. 1796-B

Q: If the defendant runs away from the custody of a police officer after an unlawful arrest and is later charged with misdemeanor escape under M.C.A. § 45-7-306(2) does the

unlaw arrest for the vehicle safety violation constitute a defense to the escape charge?

A: Yes.

No. 1797

Q: Who has jurisdiction of the defendant during the period of time following a finding of probable cause in a justice court preliminary examination but prior to charges being filed in district court by the county attorney [as long as 30 days pursuant to § 46-11-204 M.C.A. (1979)]?

A: The district court's jurisdiction will attach to the defendant when the preliminary examination has ended with a finding of probable cause.

No. 1809-A

Q: May a police officer order a passenger in a car to exit from the car after the officer has stopped the vehicle for a traffic violation?

A: Yes. While it appears that there is no Montana case law or statute on point, the United States Supreme Court when presented with this question in regard to the driver of a vehicle held that it is not unreasonable under the Fourth Amendment to require an individual to exit from a car in the light of the dangers to police officers inherent in vehicle stops.

No. 1809-B

Q: Where the defendant kicked a police officer during a scuffle which ensued when the officer attempted to arrest the defendant pursuant to a warrant which was later determined to be invalid, did the trial court's refusal to allow argument or instructions to the jury on the theory of self-defense constitute reversible error?

A: Probably not. Under M.C.A. § 45-3-108 (1979), the common law rule which allowed an arrestee to resist arrest when the arrest was unlawful has been changed to require the arrestee to submit to the arrest and subsequently pursue any civil or criminal remedies to which he may be entitled. But it appears from the comments to the code that an arrestee may use reasonable force to counter excessive force employed by the arresting officer.

No. 1812

Q: Is M.C.A. § 46-14-221(5) (1979) unconstitutional in that it requires a defendant to pay his own care and maintenance expenses when he is involuntarily committed to a mental institution after being found unfit to proceed to trial?

A: Probably not. Although an argument can be made that such a statute violates Equal Protection guarantees, similar statutes have been found constitutional in several states and by the Ninth Circuit Court of Appeals.

No. 1815

Q: Where a defendant receives a lump sum settlement for a workers' compensation claim, uses that money to purchase a certificate of deposit, and is subsequently charged with deliberate homicide, may a court look to the certificate of deposit to

recoup costs of court-appointed counsel incurred in defense of the felony charge?

A: Arguably, yes. The general rule is that workers' compensation funds are statutorily exempt from assignment or attachment, even where they have changed form, so long as they are identifiable. The policies found to be behind workers' compensation statutes have been used to create two exceptions in other jurisdictions, however. It has been held that voluntary assignment of payments for expenses incurred subsequent to their receipt are not exempt, nor are attachments by government bodies for taxes or expenditures on behalf of the recipient.

No. 1823-A

Q: Must a justice of the peace set a bail amount on an arrest warrant in order for the warrant to be enforced by law enforcement authorities?

A: No. The power to establish bail schedules was created merely to make the bail setting procedure more convenient, especially where a justice of the peace is not readily available, and does not detract from the justice court's power to issue a warrant without a bail amount set.

No. 1823-B

Q: Can a sheriff or his deputies refuse to serve a justice of the peace arrest warrant which does not have a specific bail amount written on it?

A: No.

No. 1824-A

Q: Can a court refuse to dismiss charges against a defendant who was unable to make complete restitution by the end of a three-year deferred sentence?

A: The dismissal of charges upon termination of a deferred sentence is within the discretion of the court. A mere refusal to dismiss charges (as opposed to imposition of a sentence of imprisonment) because of inability to pay would probably withstand an equal protection attack, although the question has not been resolved in the courts.

No. 1824-B

Q: Can one of two defendants, both of whom were convicted for burglary, be held responsible for making total restitution for all of the materials stolen?

A: Yes.

No. 1853

Q: Is the fact that defendant fell asleep while driving, crossing the center line of the highway and killing a passenger in another vehicle, sufficient to show criminal negligence?

A: It appears that in order to establish criminal negligence for falling asleep at the wheel it must be shown that because of previous tiring activities, drowsiness or other premonitory symptoms of sleep, the driver became aware of the risk involved but continued to drive and that his doing so constituted "gross negligence."

Montana Criminal Law Information
Research Center
University of Montana School of Law
Missoula, MT 59812

Non-profit Organization
U.S. Postage
PAID
Permit No. 100
Missoula, MT 59812

COST SAVINGS

Although it is difficult to put a precise value on having higher quality legal research readily available on a phone-up basis across the state, the following categories of estimated minimum cost savings should give some idea of how MONTCLIRC has been of great help.

(1) Less personnel in certain populous counties, (at least 2 people each in Cascade, Missoula, and Yellowstone Counties, at \$18,000/person)	\$108,000
(2) Differential cost between court-appointed attorneys (at least 100 requests/year, average 10 hrs/request) and our researchers (at least \$30/hr; in some counties the difference would be \$45/hr)	30,000
(3) Fewer trials, because defense counsel decide (after being convinced by our research that every possible avenue has been fully explored) to take a plea or (less often) the prosecutor decides not to bring some charges (very conservative estimate, based upon evaluations telling us that our research resulted in a plea, 10 cases/year, at least \$3,000/trial)	30,000
(4) Fewer retrials, due to higher quality information (given cost of both appellate litigation and the retrial, even 10 cases/year would save minimum of \$40,000)	<u>40,000</u>
TOTAL	<u>\$208,000</u>

Finally, the above savings are in a way only half of the value of what MONTCLIRC does. A large portion of our work is the dissemination of prior memoranda, periodic synopses of Montana and U.S. Supreme Court decisions, and long-term book projects such as the MONTANA CRIMINAL CODE ANNOTATED (this book has been playing to "rave reviews," for it has annotations and other research tools unavailable anywhere else).

In sum, the research has to be done anyway, so it should be done the cheapest and best way, which is precisely what MONTCLIRC has been doing.

REPORT EBSR106
 DATE : 01/23/85
 TIME : 08/03/17

OFFICE OF BUDGET & PROGRAM PLANNING
 EXECUTIVE BUDGET SYSTEM
 AGENCY/PROGRAM/CONTROL --- BUDGET WORKSHEET

AGENCY : 2110 JUDICIARY
 PROGRAM : 02 BOARDS AND COMMISSIONS
 CONTROL : 00000

AE/OE	DESCRIPTION	OBPP FY 86	LFA FY 86	DIFF. FY 86	SUB-CMT. FY 86	OBPP FY 87	LFA FY 87	DIFF. FY 87	SUB-CMT. FY 87
0000	FULL TIME EQUIVALENT (FTE)	3.00	3.00			3.00	3.00		
1100	SALARIES	65,361	65,361			65,361	65,361		
1400	EMPLOYEE BENEFITS	9,471	7,497	1,974		9,504	7,529	1,975	
1500	HEALTH INSURANCE	3,600	3,600			3,600	3,600		
1600	VACANCY SAVINGS		-3,058	3,058			-3,059	3,059	
1800			1,974	-1,974			1,975	-1,975	
	TOTAL FIRST LEVEL	78,432	75,374	3,058		78,465	75,406	3,059	
2021	CONTRACTED SERVICES-INFLATION		5,743	-5,743			9,341	-9,341	
2022	SUPPLIES & MATERIALS-INFLATION		918	-918			1,495	-1,495	
2023	COMMUNICATIONS-INFLATION		127	-127			278	-278	
2024	TRAVEL-INFLATION		1,536	-1,536			2,500	-2,500	
2025	RENT-INFLATION		181	-181			295	-295	
2028	OTHER EXPENSES-INFLATION		13	-13			22	-22	
	TOTAL SECOND LEVEL		8,518	-8,518			13,931	-13,931	
2100	CONTRACTED SERVICES	72,227	66,195	6,032		72,227	66,195	6,032	
2200	SUPPLIES & MATERIALS	17,351	10,616	6,735		17,351	10,616	6,735	
2300	COMMUNICATIONS	3,151	4,235	-1,084		3,347	4,235	-888	
2400	TRAVEL	30,490	26,160	4,330		30,490	26,160	4,330	
2500	RENT		2,093	-2,093			2,093	-2,093	
2800	OTHER EXPENSES		161	-161			161	-161	
	TOTAL FIRST LEVEL	123,219	117,978	5,241		123,415	123,391	24	
	TOTAL PROGRAM	201,651	193,352	8,299		201,880	198,797	3,083	
01100	GENERAL FUND	201,651	193,352	8,299		201,880	198,797	3,083	

Exhibit #9
 2/15/85

REPORT EBSR106
 DATE : 01/23/85
 TIME : 08/03/17

OFFICE OF BUDGET & PROGRAM PLANNING
 EXECUTIVE BUDGET SYSTEM
 AGENCY/PROGRAM/CONTROL --- BUDGET WORKSHEET

AGENCY : 2110 JUDICIARY
 PROGRAM : 02 BOARDS AND COMMISSIONS
 CONTROL : 00000

AE/OE	DESCRIPTION	CURRENT LEVEL SERVICES ONLY							
		OBPP FY 86	LFA FY 86	DIFF. FY 86	SUB-CMT. FY 86	OBPP FY 87	LFA FY 87	DIFF. FY 87	SUB-CMT. FY 87
	TOTAL PROGRAM	201,651	193,352	8,299	---	201,880	198,797	3,083	---

BOARDS AND COMMISSIONS

	<u>1986</u>	<u>1987</u>
Executive FTE	3	3
LFA Current Level FTE	<u>3</u>	<u>3</u>
Difference	<u>0</u>	<u>0</u>

<u>PERSONAL Services</u>	<u>1986</u>	<u>1987</u>
Executive	\$75,374	\$75,406
LFA Current Level	<u>78,432</u>	<u>78,468</u>
Difference	<u>\$(3,058)</u>	<u>\$(3,059)</u>

The difference in personal services is due to vacancy savings.
Operating expenses are all budgeted at the level of 1984 expenditures.

Boards and Commission

	<u>FY 84</u>		<u>FY 86 Requested</u>		<u>FY 86 Requested</u>
FTE		3.00		3.00	
Contract Services	17,616		19,883		19,883
Supplies and Materials	1,605		1,669		1,669
Communications	1,275		1,428		1,517
Travel	<u>5,770</u>		<u>6,105</u>		<u>6,105</u>
Total	26,266		29,085		29,174
Bar Examiners					
Contract Services	32,522		32,567		32,567
Supplies and Materials	2,811		4,131		4,131
Travel	<u>3,906</u>		<u>4,062</u>		<u>4,062</u>
Total	39,239		40,760		40,760
Civil Procedure					
Contract Services	2,781		6,715		6,715
Travel	<u>2,496</u>		<u>2,596</u>		<u>2,596</u>
Total	5,277		9,311		9,311
Sentence Review					
Personal Service	8,487	.50	8,781	.50	8,784
Supplies and Materials	423		532		532
Communications	988		1,107		1,176
Travel	<u>888</u>		<u>924</u>		<u>924</u>
Total	10,786		11,344		11,416
Probate					
Personal Services	8,405	.50	8,780	.50	8,784
Supplies and Materials	<u>-0-</u>		<u>-0-</u>		<u>-0-</u>
Total	8,405		8,780		8,784
Limited Jurisdiction					
Personal Services	63,973	2.00	60,871	2.00	60,897
Operating Expenses					
Contract Services	8				
Research					
Printing					
Training	6,359		6,613		6,613
Supplies and Materials	32				
Commission			42		42
Training	<u>4,663</u>		<u>4,850</u>		<u>4,850</u>

Boards and Commission
Continued

	<u>FY 84</u>	<u>FY 86 Requested</u>	<u>FY 86 Requested</u>
Communications	58		
Commission	491	65	69
Training	5,819	551	585
Travel			
Commission		6,052	6,052
Training	<u>5,385</u>	<u>7,491</u>	<u>7,491</u>
Total	86,788	86,535	86,599
Nominations			
Supplies and Materials	335	447	447
Travel	<u>1,763</u>	<u>1,870</u>	<u>1,870</u>
Total	2,098	2,317	2,317
Standards			
Contract Services	-0-		
Investigation		2,770	2,770
Supplies and Materials	-0-	1,965	1,965
Travel	<u>131</u>	<u>1,390</u>	<u>1,390</u>
Total	131	6,125	6,125
Planning			
Supplies and Materials	<u>7,111</u>	<u>7,394</u>	<u>7,394</u>
Total	7,111	7,394	7,394
TOTAL PROGRAM	<u>190,326</u>	<u>201,651</u>	<u>201,880</u>

REPORT EBSR106
 DATE : 01/23/85
 TIME : 08/03/17

OFFICE OF BUDGET & PROGRAM PLANNING
 EXECUTIVE BUDGET SYSTEM
 AGENCY/PROGRAM/CONTROL --- BUDGET WORKSHEET

AGENCY : 2110 JUDICIARY
 PROGRAM : 04 DISTRICT COURT OPERATIONS
 CONTROL : 00000

AE/OE	DESCRIPTION	CURRENT LEVEL SERVICES ONLY							
		OBPP FY 86	LFA FY 86	DIFF. FY 86	SUB-CMT. FY 86	OBPP FY 87	LFA FY 87	DIFF. FY 87	SUB-CMT. FY 87
0000	FULL TIME EQUIVALENT (FTE)	36.00	36.00			36.00	36.00		
1100	SALARIES	1,723,527	1,723,526	1		1,723,527	1,723,526	1	
1300	OTHER COMPENSATION	11,638		11,638		11,638		11,638	
1400	EMPLOYEE BENEFITS	215,939	215,938	1		224,039	224,038	1	
1500	HEALTH INSURANCE	43,200	43,200			43,200	43,200		
1800			11,638	-11,638			11,638	-11,638	
	TOTAL FIRST LEVEL	1,994,304	1,994,302	2		2,002,404	2,002,402	2	
2021	CONTRACTED SERVICES-INFLATION		315	-315			513	-513	
2022	SUPPLIES & MATERIALS-INFLATION		-322	322			-101	101	
2023	COMMUNICATIONS-INFLATION		35	-35			58	-58	
2024	TRAVEL-INFLATION		5,497	-5,497			8,940	-8,940	
2027	REPAIR & MAINTENANCE-INFLATION		711	-711			1,158	-1,158	
2028	OTHER EXPENSES-INFLATION		805	-805			1,309	-1,309	
	TOTAL SECOND LEVEL		7,041	-7,041			11,877	-11,877	
2100	CONTRACTED SERVICES	22,336	3,647	18,689		22,346	3,647	18,699	
2200	SUPPLIES & MATERIALS	5,845	5,804	41		5,845	5,804	41	
2300	COMMUNICATIONS		413	-413			413	-413	
2400	TRAVEL	116,304	96,520	19,784		116,304	96,520	19,784	
2700	REPAIR & MAINTENANCE	8,557	8,228	329		8,557	8,228	329	
2800	OTHER EXPENSES	5,875	9,284	-3,409		5,875	9,284	-3,409	
	TOTAL FIRST LEVEL	158,917	130,937	27,980		158,927	135,773	23,154	
	TOTAL PROGRAM	2,153,221	2,125,239	27,982		2,161,331	2,138,175	23,156	
01100	GENERAL FUND	2,153,221	2,125,239	27,982		2,161,331	2,138,175	23,156	

Exhibit # 11
 21
 16
 28

REPORT EBSR106
 DATE : 01/23/85
 TIME : 08/03/17

OFFICE OF BUDGET & PROGRAM PLANNING
 EXECUTIVE BUDGET SYSTEM
 AGENCY/PROGRAM/CONTROL --- BUDGET WORKSHEET

AGENCY : 2110 JUDICIARY
 PROGRAM : 04 DISTRICT COURT OPERATIONS
 CONTROL : 00000

AE/OE	DESCRIPTION	CURRENT LEVEL SERVICES ONLY							
		OBPP FY 86	LFA FY 86	DIFF. FY 86	SUB-CMT. FY 86	OBPP FY 87	LFA FY 87	DIFF. FY 87	SUB-CMT. FY 87
	TOTAL PROGRAM	2,153,221	2,125,239	27,982	---	2,161,331	2,138,175	23,156	---

REPORT EBSR106
 DATE : 01/23/85
 TIME : 08/03/17

AGENCY : 2110 JUDICIARY
 PROGRAM : 03 LAW LIBRARY
 CONTROL : 00000

OFFICE OF BUDGET & PROGRAM PLANNING
 EXECUTIVE BUDGET SYSTEM
 AGENCY/PROGRAM/CONTROL --- BUDGET WORKSHEET

AE/OE	DESCRIPTION	CURRENT LEVEL SERVICES ONLY				CURRENT LEVEL SERVICES ONLY			
		OBPP FY 86	LFA FY 86	DIFF. FY 86	SUB-CMT. FY 86	OBPP FY 87	LFA FY 87	DIFF. FY 87	SUB-CMT. FY 87
0000	FULL TIME EQUIVALENT (FTE)	6.50	6.50			6.50	6.50		
1100	SALARIES	129,582	130,613	-1,031		129,582	130,613	-1,031	
1400	EMPLOYEE BENEFITS	18,777	16,074	2,703		18,842	16,137	2,705	
1500	HEALTH INSURANCE	8,400	8,402	-2		8,400	8,402	-2	
1600	VACANCY SAVINGS		-6,161	6,161			-6,164	6,164	
	TOTAL FIRST LEVEL	156,759	148,928	7,831		156,824	148,988	7,836	
2021	CONTRACTED SERVICES-INFLATION		1,406	-1,408			2,290	-2,290	
2022	SUPPLIES & MATERIALS-INFLATION		1,122	-1,122			1,824	-1,824	
2023	COMMUNICATIONS-INFLATION		2,328	-2,328			3,897	-3,897	
2024	TRAVEL-INFLATION		50	-50			82	-82	
2025	RENT-INFLATION		-4,149	4,149			-1,552	1,552	
2027	REPAIR & MAINTENANCE-INFLATION		415	-415			676	-676	
2028	OTHER EXPENSES-INFLATION		295	-295			481	-481	
	TOTAL SECOND LEVEL		1,469	-1,469			7,698	-7,698	
2100	CONTRACTED SERVICES	18,289	16,239	2,050		18,291	16,239	2,052	
2200	SUPPLIES & MATERIALS	13,466	12,948	518		13,466	12,948	518	
2300	COMMUNICATIONS	12,164	10,888	1,276		12,925	10,888	2,037	
2400	TRAVEL	1,300	1,250	50		1,300	1,250	50	
2500	RENT	65,973	69,084	-3,111		66,639	69,084	-2,445	
2700	REPAIR & MAINTENANCE	4,995	4,803	192		4,995	4,803	192	
2800	OTHER EXPENSES	3,559	3,423	136		3,559	3,423	136	
	TOTAL FIRST LEVEL	119,746	120,104	-358		121,175	126,333	-5,158	
3000	EQUIPMENT & INTANGIBLE ASSETS	199,884		199,884		199,884		199,884	

Ext Budget #12
 2/15/85

FTF

	FY 84	FY 85	FY 86	FY 87
	Actual	Budget	Proposed	Proposed
	6.5	6.5	7.25	7.25

Personal Services

Salaries

1101 Regular	96,116.44	124,609.00	135,042.00	135,042.00
1102 Overtime	779.09			
1113 Longevity	127.10	177.00		
1121 Retroactive	332.32	200.00		
1133 Sick-Termination Pay	826.53			
1134 Vac.-Termination Pay	4,071.55			
1158 Comp Time Taken	870.24			
1100 Salaries	103,123.27	124,986.00	135,042.00	135,042.00

Employee Benefits

1401 FICA	7,089.60	8,749.00		
1402 Retirement-other	6,297.89	6,674.00		
1403 Group Ins.	5,973.57	6,240.00		
1404 Workers Comp.	217.22	236.00		
1410 State Unemp.	673.40	732.00		
1400 Emp. Benefits	20,251.68	22,631.00	19,568.00	19,636.00

Insurance

1500 Insurance			8,400.00	8,400.00
1500 Insurance			8,400.00	8,400.00

1000 Personal Services

	123,374.95	149,168.00	163,010.00	163,078.00
--	------------	------------	------------	------------

Operating Expenses

Contracted Services

2102 Consult & Prof Serv.			403.00	405.00
2103 Data Processing			208.00	208.00
2104 Ins. & Bonds	179.00	183.00		
2120 Storage Fee	120.00	303.00		
2173 Comp. Serv./Non-State	15,939.55	38,876.00	29,151.00	29,151.00
2100 Contracted Service	16,238.55	39,362.00	29,762.00	29,764.00

	FY 84 Actual	FY 85 Budget	FY 86 Proposed	FY 87 Proposed
Supplies & Materials				
2212 Photo & Repro	8,193.38	10,496.00	13,096.00	13,096.00
2214 Printing	392.13	164.00	408.00	408.00
2245 Data Proc. Sup		760.00		
2219 Forms/CS	104.59		109.00	109.00
2220 Forms/NS	149.66		156.00	156.00
2226 Paper/CS	74.28		77.00	77.00
2236 Off Sup/CS	870.33	677.00	905.00	905.00
2241 Off Sup/NS	3,163.54	650.00	3,291.00	3,291.00
2200 Sup & Materials	12,947.91	12,747.00	18,042.00	18,042.00
Communications				
2301 Phone/Local	2,270.49	4,026.00	2,542.00	2,701.00
2302 Phone/Long Distance	39.22	48.00	44.00	46.00
2304 Postage & Mailing	2,724.86	2,156.00	2,415.00	2,874.00
2307 Messenger Serv	756.00	672.00	786.00	786.00
2313 Lease Line	4,200.00	6,401.00	6,048.00	6,048.00
2314 Phone/STS	870.60	1,875.00	2,100.00	2,231.00
2316 Phone/One-time Serv.	26.90			
2300 Communications	10,888.07	15,178.00	13,935.00	14,686.00
Travel				
2401 I/S Mileage		15.00	57.00	59.00
2402 I/S Commercial	47.00			
2407 I/S Meals		25.00	26.00	27.00
2409 Car Rental I/S	57.88			
2411 O/S Per Mileage	124.00			
2412 O/S Commercial	329.00	1,474.00	1,554.00	1,290.00
2415 O/S Other	36.50	38.00	40.00	41.00
2417 O/S Meals	262.00	225.00	234.00	243.00
2418 O/S Lodging	393.08	800.00	850.00	850.00
2400 Travel	1,249.46	2,577.00	2,761.00	2,510.00

	FY 84 Actual	FY 85 Budget	FY 86 Proposed	FY 87 Proposed
Rent				
2527 Rent	69,084.00	74,198.00	74,198.00	74,198.00
2500 Rent	69,084.00	74,198.00	74,198.00	74,198.00
Repair & Maintenance				
2704 Office Equipment	20.00	165.00	200.00	200.00
2750 Maintenance Contracts	2,582.92	4,017.00	3,645.00	3,845.00
2799 General-Book Binding	2,200.44	1,154.00	3,659.00	3,863.00
2700 Repair & Maint.	4,803.36	5,336.00	7,504.00	7,908.00
Other Expense				
2801 Dues	145.00	350.00	350.00	350.00
2809 Registration Fees	542.50	700.00	700.00	700.00
2810 Relocation				
2814 Tuition	102.50	300.00	800.00	300.00
2822 Freight & Express	2,632.03	2,423.00	2,737.00	2,737.00
2826 Job Candidate	3,448.81			
2800 Other Expense	6,870.84	3,773.00	4,587.00	4,087.00
Equipment				
3100 Equipment	1,800.00		8,504.00	676.00
Total Operating	115,506.41	153,171.00	159,293.00	151,871.00
Books				
Continuations				
3201 Treatise Cont.	65,985.60	59,000.00	62,375.00	64,868.00
3202 Looseleaf	39,770.19	48,000.00	64,727.00	67,316.00
3203 Law Review	7,720.65	9,295.00	10,894.00	11,330.00
3204 Microfiche	2,818.00	3,065.00	3,138.00	3,264.00
3205 Replacement	560.90	600.00	664.00	690.00
3206 Code Exchange	9,588.00		11,050.00	
3207 Reporters	9,081.50	9,500.00	11,300.00	11,752.00
3208 A/V Maintenance	99.00	100.00	200.00	208.00
3209 Other		1,750.00	2,000.00	2,080.00
3200 Continuations	135,623.84	131,310.00	166,348.00	161,508.00

	FY 84 Actual	FY 85 Budget	FY 86 Proposed	FY 87 Proposed
New				
3301 Treatise	28,417.45	38,000.00	30,878.00	33,552.00
3302 Treatise Update	6,166.04	13,440.00	6,700.00	7,282.00
3303 Looseleaf Sub.	8,290.03	9,000.00	9,000.00	9,000.00
3304 Looseleaf Backrun	297.00			
3305 Law Review Sub.	2,540.25	1,000.00	1,000.00	1,000.00
3306 Law Review Backrun	1,009.00	250.00	250.00	250.00
3307 Microforms	7,380.00	1,000.00	5,000.00	5,000.00
3308 Microform Update		1,000.00	1,000.00	1,000.00
3309 Audio-Visual	10,160.42	15,000.00	10,000.00	10,000.00
3300 New	64,260.19	78,690.00	63,828.00	67,084.00
Total Books	199,884.03	210,000.00	230,176.00	228,592.00
Total Costs	447,143.00	512,339	552,479.00	543,541.00
General Fund	438,767.00	482,631.00	518,353.00	509,415.00
Revenue Accounts	8,375.00	29,708.00	34,126.00	34,126.00
1. Online Reference			18,200.00	18,200.00
2. Photocopying			15,206.00	15,206.00
3. Videotape Receipts			720.00	720.00

Exhibit #14
2/15/85
T/A #3A

EVALUATION OF THE MONTANA
STATE LAW LIBRARY

January 1979

Consultants:

C. E. Bolden
Donald L. Garbrecht

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT
The American University Law Institute
4900 Massachusetts Avenue, N.W.
Washington, D.C. 20016

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION CONTRACT NUMBER: J-LEAA-011-78

III. SUMMARY OF RECOMMENDATIONS

● Existing statutes, rules and regulations governing the State Law Library should be re-examined by the Supreme Court in consultation with the State Law Librarian. The statutes and regulations should be amended as necessary to accurately describe the goals, objectives, operations and responsibilities of the Library, and the Supreme Court should actively support the Librarian in achieving these objectives.

The rules and regulations should guarantee a direct and continuing channel of communications between the Supreme Court and the Librarian relative to all policy or program developments of the judicial system potentially impacting on library services.

● Library staff should be increased to the recommended level of 7.5 FTE's by adding the following positions:

- (a) 1 professional reference/circulation librarian
- (b) 1 catalog librarian
- (c) 1 secretary/bookkeeper
- (d) 2 clerk typists

The present staff level is far below the minimum recommended and is totally inadequate to meet existing workload demands. All areas of library service are adversely affected. Solutions to numerous library problems have effectively been precluded. These problems will become more complex and costly in their solution if further delayed--especially as service demands increase.

● An organization of recommended library staff should be established along the lines recommended. Detailed job descriptions should be prepared, setting forth the duties and responsibilities of existing and recommended staff positions.

● An amended budget request should be made to the 1979 Legislature for funds to:

- (a) increase staff FTE's to the recommended level, and

B. Staffing

Unquestionably, the most urgent problem facing the State Law Library--and one which should be addressed immediately and effectively-- is the lack of a minimum staffing level. That the Library has a severe shortage of both professional and clerical support staff is not an item for

legitimate debate by anyone familiar with library operations and services. Sub-standard staffing levels directly, intensely, and adversely impact all areas of library performance, causing a series of complex and inter-related problems which effectively preclude the desirable level of professional library service. As in any endeavor, business or governmental, adequate staff is essential if the operation is to proceed in an efficient and productive manner.

The present library staff consists of:

- 0 State Law Librarian (professional)
- 0 Library Technician (para-professional)
- 0 one 1/2 FTE clerical (non-professional)
- 0 one potential 1/2 FTE clerical (non-professional)

All of the staff are intensely industrious, well-qualified and devoted to providing the highest level library service permit. Their dedication, devotion and accomplishments in light of staff limitations can only be described as exemplary. However, unless the staff problem is immediately and aggressively addressed, the level of library service will deteriorate and future growth and development will become difficult, if not impossible.

Presently, the State Law Librarian and Library Technician are under-

utilized, spending time on work that should be performed by less expensive clerical staff. The State Law Librarian, especially, is forced to spend much time on duties normally assigned to clerical personnel at the expense of her professional duties.

Matters which should be of major concern to the Law Librarian, and which only she can properly manage, include the following:

- (a) Establish policies consistent with the objectives of the Library.
- (b) Represent the Library in the Supreme Court administrative and planning sessions when they concern the Library's operations.
- (c) Interview and select applicants for staff positions.
- (d) Suggest salary ranges for staff and evaluate performance.
- (e) Prepare job descriptions that define duties, responsibilities and requirements of all positions.
- (f) Maintain effective communications with and among all staff members and keep them informed about policy matters that affect their work.
- (g) Provide for staff participation in interpreting library policies and services to library users.
- (h) Establish procedures for all library operations essential for efficient management of the library.
- (i) Institute policies and assume overall responsibilities for book selection, acquisitions, organization and maintenance of the Library collection.
- (j) Plan, organize and evaluate the Library services.
- (k) Assess and plan for space and Library equipment requirements.
- (l) Prepare and submit budget requests.
- (m) Supervise and direct all Library services.
- (n) Prepare a 5 year plan for Library growth and development.

Statistics on staffing guidelines for State Law Libraries and Supreme Court Libraries are generally unavailable. The Standards for Supreme Court Libraries, recently adopted by the Special Interest Section on State, Court and County Law Libraries provide little in the way of meaningful

guidelines. However, staffing levels of other types of law libraries with generally comparable service responsibilities and book collections can and do serve as valuable guides.

A 1977 Statistical Survey of Law School Libraries and Librarians³ revealed 15 libraries with book collections comparable in size to the State Law Library of Montana (50,000--60,000 volumes). A comparison of the average staffing level of the 15 surveyed libraries with the actual staffing level of the State Law Library follows:

	<u>1977 Staffing Levels</u>	
<u>Staff Size (FTE):</u>	<u>State Law Library of Montana</u>	<u>15 Surveyed Law School Libraries of Comparable Size</u>
Professional	1	3.76
Non-Professional	<u>1.5</u>	<u>3.04</u>
Total	<u>2.5</u>	<u>6.80</u>

While those not familiar with law libraries of various types may argue the differences between the goals, objectives and needs of law school libraries as compared with state law libraries, this is to ignore the fact there are many more similarities than differences and that staffing standards of a law school library comparable in size to a state law library will provide a valuable guide for establishing legitimate and productive staffing levels for state law libraries.

³ 72 Law Library Journal 318 (1978).

The addition of the staff recommended below, plus a reorganization of existing duties and responsibilities would: (1) increase productivity through better utilization of valuable staff time; (2) provide the opportunity to solve numerous operational problems heretofore unaddressed due to a lack of staff (i.e., extensive and continuing "weeding" of the collection and (3) provide man-power to meet future increased demands for library service as the collection increases and the scope of service expands.

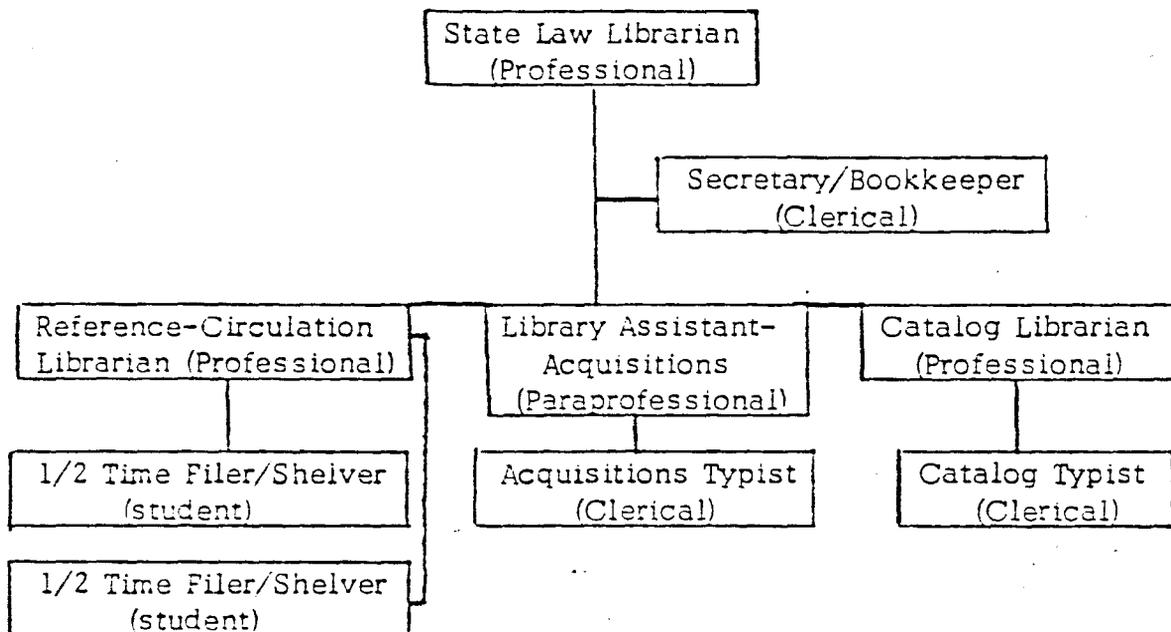
Five new FTE positions should be added to the library staff:

- (a) Catalog Librarian (professional)
- (b) Reference/Circulation Librarian
(professional)
- (c) Bookkeeper/Secretary (clerical)
- (d) Acquisitions Typist (clerical)
- (e) Catalog Typist (clerical)

Both the Catalog Librarian and the Reference/Circulation Librarian should have a Master's Degree in Librarianship and, hopefully, some practical experience, although it need not be in a law library. The Bookkeeper/Secretary should have a sound knowledge of accounting fundamentals and secretarial skills. The need for the Bookkeeper/Secretary will be more fully developed in the discussion of the Library's budget later in this report. The Acquisitions Typist and Catalog Typist can be taught basic library operations relative to their jobs, and need only accurate typing skills.

The organization chart, set forth below, showing the recommended total staff of 8 FTE positions is presented as an example only; there could be many variations. Final staff organization should be in the absolute

discretion of the State Law Librarian.



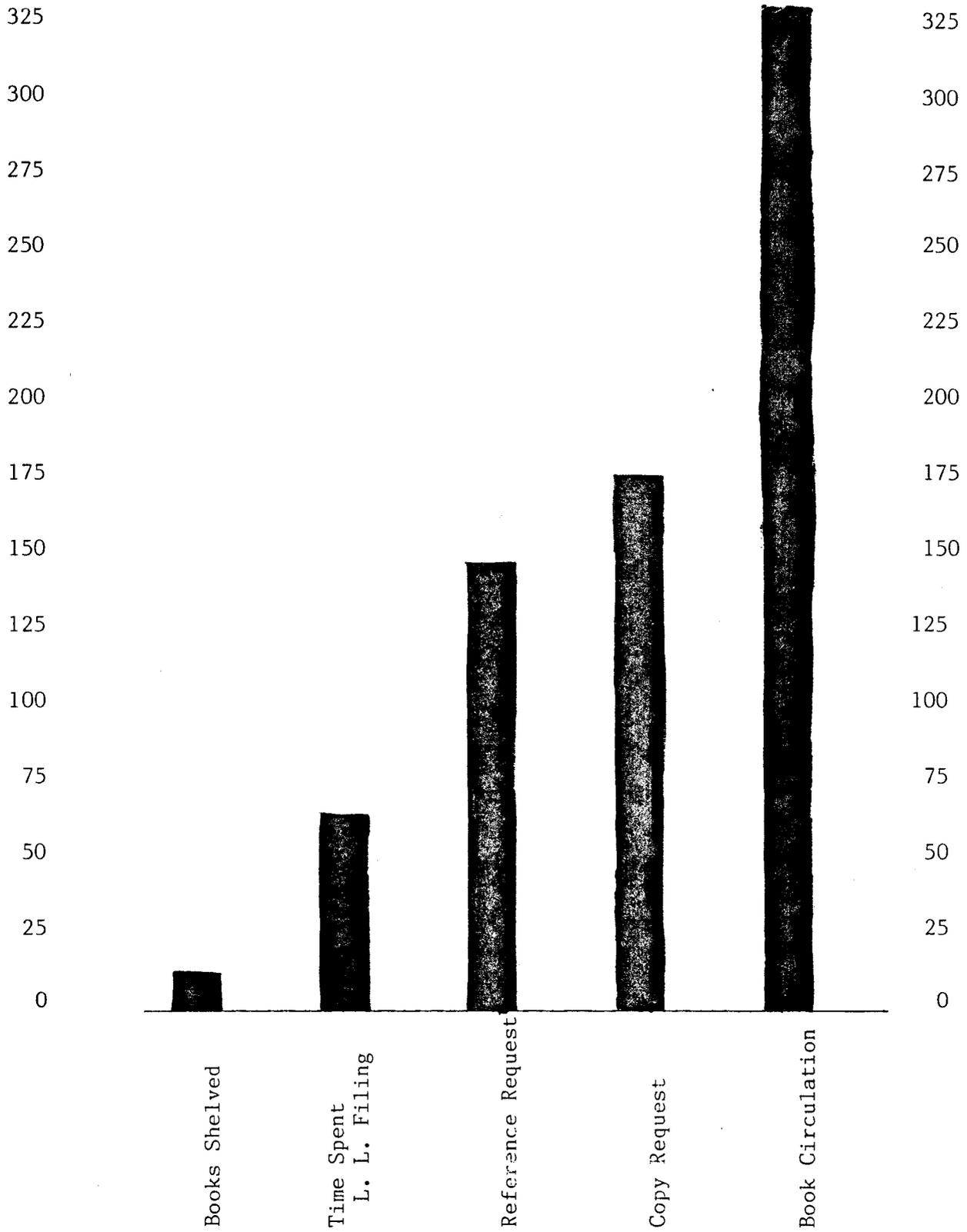
Appended to this report as Appendices A through E are (1) Position Classification Questionnaires, and (2) Job Specifications for each new recommended position, as follows:

- Appendix A (pp. 82) -- Reference/Circulation Librarian
- Appendix B (pp. 94) -- Catalog Librarian
- Appendix C (pp. 100) -- Bookkeeper/Secretary
- Appendix D (pp. 111) -- Acquisitions Typist
- Appendix E (pp. 125) -- Catalog Typist

The Job Specifications are presented as brief illustrative summaries of the major duties involved in the positions recommended. Accurate and detailed descriptions should be prepared by the State Law Librarian. Salaries for new personnel should be at current market levels.

C. Budget

General fund appropriations for the library for the 1977-79 biennium were reported as:



PERCENTAGE INCREASES

1980 - 1985

MONTANA STATE WATER COURTS

DESCRIPTION

The Water Courts of Montana have one task - the adjudication of the water of Montana.

The Legislature, in Senate Bill 76 (Chapter 697, Laws of Montana) command us to do this in these words: "to expedite and facilitate the adjudication of existing water rights."

We are doing what we have been commanded to do.

ACCOMPLISHMENTS

As we presented our budget to the Legislature for the biennium in Fiscal Years 1984 and 1985, we made clear that our one task was ahead; that we planned to finish a minimum of fifteen Basins in 1984; that we hoped to finish the adjudication task in a minimum of five years; and most importantly, "once finished we would fold our tents and silently steal away. . ." The facts show that we have done what we promised to do by 1985, and more!

We have 21 Basins in Preliminary Decrees. Two Basins are Final; four more Basins will be Final in early 1985. Six more Basins will be in Preliminary Decrees during January, 1985!

FINAL DECREES

<u>BASIN</u>		<u>NUMBER OF CLAIMS</u>
42I	Little Powder River)	10,302
42J	Powder River below)	
	Clear Creek)	
38H	Little Missouri Tributary	214
39H	Little Missouri Tributary	200

NOW PRELIMINARY DECREES

40G	Sage Creek	905
40P	Redwater River	1,885

42L	O'Fallon Creek	2,797
41N	Willow Creek	1,432
76C	Fisher River	237
76N	Lower Clark Fork	1,128
76B	Yaak River	97
76D	Kootenai River	1,395
76GJ	Flint Creek	992
76E	Rock Creek	707
41U	Dearborn River	859
41S	Judith River	5,230
41F	Madison River	2,715
76I	Middle Fork Flathead River	226
76J	South Fork Flathead River	121
76K	Swan River	633
40D	Big Dry Creek	2,938
76M	Middle Clark Fork River	2,486
43BV	Sweet Grass Creek	668

BASINS THAT WILL BE IN PRELIMINARY IN JANUARY, 1985

43B	Upper Yellowstone River	4,675
39FJ	Little Beaver Creek	961
39E	Box Elder Creek	2,512
39F	Little Missouri River	2,901
39G	Beaver Creek	665
40L	Frenchman Creek	476

BASINS THAT WILL BE IN PRELIMINARY IN FEBRUARY-MARCH, 1985

76G	Upper Clark Fork	4,625
40E	Fort Peck	2,936
41K	Sun River	2,890

Total number of claims adjudicated in FY 1984 and the 1st three months of FY 1985	50,506
---	--------

Total number of claims adjudicated before FY 1984	10,302
--	--------

Total claims adjudicated	60,808
--------------------------	--------

WE ARE ON SCHEDULE!

GOALS

What of the rest of Fiscal Years 1985, 1986 and 1987?

We will hold to our present speed - of 15 to 20 Basins and somewhere around 60,000 claims adjudicated each Fiscal Year.

Experience is teaching us how to save time in our adjudication. Telephone pre-trials, informal hearings on clerical errors and elimination of many formal trials are part of this speed-up.

I think we can adjudicate from 20 to 25 Basins each Fiscal Year from now on.

Additional problems and work face the Water Courts as we move into actual adjudication of Indian Water Rights and Federal Reserved Water Rights. The Legislature made clear our task in these words: (85-2-702) ". . . it is the intent of the Legislature to conduct unified proceedings for the general adjudication of existing water rights . . . the tribes and federal agencies shall be subject to the special filing requirements. . ." (85-2-217).

It is clear that the Compact Commission will ask this Legislature to extend 85-2-217 M.C.A. for an additional two years to compact Indian Water Rights and Federal Reserved Rights of Federal agencies.

The Water Courts are not opposed to this extension. We hope it is limited. Limited by a three to six month report to the Water Courts, if no progress is made in negotiating for a Compact, so we can adjudicate Indian and Federal Reserved Rights at that time.

In any event, in the months ahead, we may be faced with additional work and problems with adjudicating claims for Indian Water Rights and Federal Reserved Water Rights in the United States' forests of Montana, if compacting fails.

We could follow one of the two approaches to the Federal Reserved Water Rights: (1) sit around slowly adjudicating the seven Basins that have neither Indian or Federal Reserved Rights (out of the total 85 Basins) until July 1, 1985 or whatever the compact termination date, or (2) begin to adjudicate as quickly as possible allowing for a quick repeat after the Reserved waters have been taken care of by compact or compact termination that allows the Water Courts direct adjudication.

The Legislature in Senate Bill 76 (Chapter 697, Laws 1979) gave us a tool to proceed now. In 85-2-231 MCA it states:

This section does not prevent the water judge from issuing an interlocutory decree or other temporary decree if such a decree is necessary for the orderly administration of water rights prior to the issuance of a preliminary decree.

Thus we are now issuing temporary preliminary decrees where Federal Reserved Rights (forest) are involved; if a compact is secured before July 1, 1985, we will re-notice, hear objections and reach a final decree; if no compact, the Water Courts will then hear and decide the Forestry Reserved claims, re-notice and hear objections, if any, and reach a final decree.

The Basins that have Indian Reservations, and those Basins in that Indian Basin galaxy (so close as to have common waters and problems), we have delayed.

We are now planning on adjudication of Indian Water Rights and Federal Reserved Rights of Federal agencies.

When Justice Brennan in Adsit speaks of a complete, comprehensive and fair state system of adjudication, he is

describing ours. This means that if the method for compacting, as set out by the Legislature, of water rights with the Indian Tribes or Federal agencies (forest) has been terminated, then the Water Courts must adjudicate the Indians and Federal Reserved Rights with all other water rights.

Clearly, those rights will deal with "present use" and the "Winters Case" water rights (Indian Water Rights for future needs) and this faces our Water Courts with the serious problem of quantification for the future.

This means our Water Courts will adjudicate all those rights; and that includes the difficult job of quantifying (how much) water in the "Winters Case" phase.

All those Winters' claims of the Indians will be processed directly by the Water Courts. We will use the engineering and other staff of the Department of Natural Resources and Conservation Field Offices as we need their help. That may mean additional staff of Clerk and Water Clerk classifications for the Water Courts.

These Winters' claims and Federal Forest Reserves will be governed by our rules of procedure to assure scope, depth, certainty and speed in hearing and adjudication.

As all of those "future" claims are heard directly by our Water Courts, we are sure that we will be hearing contested cases. While we are hoping the Compact Commission will have compacts or the beginning of compacts and thus shorten the time of the Water Courts in the adjudication of Montana's water rights, we are planning now for the task of adjudicating Indian

and Federal Reserved Water Rights.

THIS WE HAVE DONE:

1. Maintain a minimum of 15 to 20 Basins or (50,000 to 60,000 claims) adjudicated each Fiscal Year.
2. Seek to increase this yearly number of Basins adjudicated - this to allow the Water Courts additional time and personnel to meet, if it comes to us, direct adjudication of Indian and Federal Reserved Rights.
3. Increase use of informal methods of meeting objections to speed the results of the Court; this also shortens the work load of the Courts and saves the water claimant time, money and assures him of the Water Courts concern for his problems and gives full hearing to any claimant.
4. Plan operation of the Water Courts with limited increase of present personnel and equipment. Increase hearing tasks of present Water Judges and secure volunteer help from available District Judges - this we are doing now.
5. Continue the Water Courts' simple and direct procedures now used in the general adjudication of Montana's water.
6. Plan Court procedures to assure accurate, fair and practical formulas in Court hearings for determination of water quantities in the Indian and Federal Reserved Water Rights. (There are Supreme Court cases unchallenged for twenty years that have these formulas.)

These are our goals in the biennium ahead. We know, and hope you appreciate, there are many factors that may influence and change the achievement of these goals.

We think these may be:

1. The ability of the Reserved Rights Compact Commission to reach compacts and the Legislature to approve them.
2. The number of objections and their complexity and the time of hearings in the Basin to be adjudicated.
3. The time lag on our first adjudication of "future" or "Winters" water rights of Indians and Federal agencies.
4. The extension of the Legislature of the 1985 "deadline" for compacting of Indian and Federal Reserved Water Claims.

We try to be fair, direct and honest with the Legislature as to the work and plans of the Water Courts. It was once said:

Everyone has a right to their opinion, but no one has a right to be wrong in their facts.

We have given you the facts as to what we are doing and will do.

EXPLANATION OF BUDGET REQUEST

Our budget has been geared to goals as supported by needs expressed in forms of money.

The result (since we are a new Court) facing uncertain problems, with a definite goal of doing the task within a "hoped for" five to six years, our needs budget-wise have been difficult to nail down. The result has been:

Fiscal Year 1982 - the Courts expended 51% of total monies budgeted

Fiscal Year 1983 - the Courts expended 70% of total monies budgeted

Fiscal Year 1984 - the Courts expended 57% of total monies budgeted

And now we are in Fiscal Year 1985 and it appears we shall spend approximately 70% of the total monies budgeted.

We do not apologize for not spending if we do not need it. We are only asking that we are not penalized in our future needs because we have saved when we could.

We now have some past experience to make reliable projections for budgeted monies. There are still variables that we face of possible increased litigations or hearings in some of the Basins ahead; we may need the increased use of District Court Judges; if we adjudicate Indian Water Rights, our work could increase 20 to 30% in time, personnel and costs; even the more simple adjudication of Federal Reserved Water Rights of the United States Forest Service will increase our tasks. But, we feel our budget requests are in touch with the job ahead.

Personnel.

For the next two Fiscal Years, the Chief Water Judge is the only Judge working fulltime for the Water Courts.

Water Judges Rodeghiero, Holter and Thomas will be helping the Courts with hearings in their Water Divisions and their expenses will be prorated upon the actual time worked for the Water Courts. These expenses are budgeted for under "Other Compensation."

A fifth Water Master has been added to handle the increased workload in Fiscal Year 1986. We will be hearing many contested water cases by then.

The clerical staff includes seven fulltime employees.

Personnel in Fiscal Year 1987 will not change from the pre-

vious year.

Contracted Services.

In Fiscal Years 1986 and 1987, we are continuing to budget for providing notice to claimants within the State. The Water Courts anticipate that at least 60 Basins will require noticing of some kind during each Fiscal Year.

Court reporting services have been provided for 100 days during both Fiscal Years as the number of hearings increase. We will be using our reporting systems as frequently as possible to cut down on these costs.

Also included in Contracted Services are yearly payroll fees, system development fees for our docketing system and the cost of computer time for data inquiries and entries.

Supplies and Materials.

Supplies and materials include the costs of photocopying, gasoline, books, reference materials, office stationary and office supplies.

Communications.

The expense of postage, local phone service, long distance service and the State leased line are provided for in this area.

Travel.

Personal car mileage, commercial transportation, meals and lodging were accounted for as travel expense.

Both Fiscal Years include the cost of continuing legal education, speaking engagements, Water Judge meetings, travel to Helena for mailing out notices, field office trips by

Court personnel to answer questions and travel to hearings.

Rent.

The Water Court offices rent for \$2,537.00 per month for the first nine months and increases to \$2,779.17 per month for the final three months during Fiscal Year 1986, totalling \$31,175.01.

Rent in Fiscal Year 1987 is \$2,779.17 per month for the first nine months and \$3,020.83 per month for the final three months, totalling \$34,075.02.

Repair and Maintenance.

The costs of upkeep on office equipment and vehicles, payment of maintenance contracts on the phone system, word processing system, photocopier and the cost of insurance for the three Water Court vehicles are included in repair and maintenance expense.

Other Expenses.

Subscriptions, registration fees for conferences, continuing education seminars and freight and express mail are covered in this area.

Capital Equipment.

For Fiscal Year 1986, additional desks, chairs, tables, files, shelving, typewriters, dictators, dictaphones, new phone sets and a new photocopier are needed for increased personnel and storage.

In Fiscal Year 1987, an additional automobile will be purchased for the increase in travel to hearings. The Water Courts have budgeted for two additional recording systems and office equipment for storage.

MONTANA STATE WATER COURTS

Proposed Budget Fiscal Year 1986
 July 1, 1985 - June 30, 1986

Personnel

Water Judges -----	1 FTE
Judge Lessley	
*Water Masters -----	5 FTE
Grade 17, Step 3	
Grade 17, Step 3	
Grade 17, Step 2	
Grade 17, Step 2	
Grade 17, Step 1	
*Clerical -----	7 FTE
Grade 13, Step 8 (Accounting Specialist)	
Grade 11, Step 5 (Administrative Assistant)	
Grade 10, Step 2 (Clerk)	
Grade 10, Step 2 (Clerk)	
Grade 9, Step 2 (Clerk)	
Grade 9, Step 1 (Clerk)	
Grade 8, Step 1 (3 half-time secretaries for Water Judges)	

*Salaries are figured on a 1984-1985 pay matrix.

Other Compensation -----	\$ 5,000.00
(expenses paid to Water Judges and District Court Judges who are hearing Water Court matters)	
PERSONNEL EXPENSES -----	\$256,715.00
BENEFITS -----	49,334.87
OTHER COMPENSATION COSTS -----	5,000.00
TOTAL PERSONNEL EXPENSE -----	\$311,049.87

Operating Expense

Contracted Services -----	\$ 73,000.00
Supplies and Materials -----	\$ 20,000.00
Communications -----	\$ 20,000.00
Travel -----	\$ 50,000.00
Rent -----	\$ 31,175.01
Repair and Maintenance -----	\$ 15,000.00
Other Expense -----	\$ 3,000.00
TOTAL OPERATING EXPENSE -----	\$212,175.01

<u>Capital Equipment</u> -----	\$ 18,000.00
TOTAL BUDGET FOR FISCAL YEAR 1986 -----	\$541,224.88

REPORT EBSR106
 DATE : 01/23/85
 TIME : 08/03/17

OFFICE OF BUDGET & PROGRAM PLANNING
 EXECUTIVE BUDGET SYSTEM
 AGENCY/PROGRAM/CONTROL --- BUDGET WORKSHEET

AGENCY : 2110 JUDICIARY
 PROGRAM : 05 WATER COURTS SUPERVISION
 CONTROL : 00000

AE/OE	DESCRIPTION	OBPP FY 86	LFA FY 86	DIFF. FY 86	SUB-CMT. FY 86	OBPP FY 87	LFA FY 87	DIFF. FY 87	SUB-CMT. FY 87
0000	FULL TIME EQUIVALENT (FTE)	13.50	13.50			13.50	13.50		
1100	SALARIES	267,340	267,343	-3		267,340	267,343	-3	
1300	OTHER COMPENSATION	5,000		5,000		5,000		5,000	
1400	EMPLOYEE BENEFITS	37,744	29,099	8,645		37,897	29,233	8,664	
1500	HEALTH INSURANCE	16,800	16,200	600		16,800	16,200	600	
1600	VACANCY SAVINGS		-12,862	12,862			-12,881	12,881	
1800			13,929	-13,929			14,264	-14,264	
	TOTAL FIRST LEVEL	326,884	313,709	13,175		327,037	314,159	12,878	
2021	CONTRACTED SERVICES-INFLATION		480	-480			784	-784	
2022	SUPPLIES & MATERIALS-INFLATION		451	-451			777	-777	
2023	COMMUNICATIONS-INFLATION		1,081	-1,081			1,846	-1,846	
2024	TRAVEL-INFLATION		213	-213			348	-348	
2025	RENT-INFLATION		1,912	-1,912			3,110	-3,110	
2027	REPAIR & MAINTENANCE-INFLATION		222	-222			362	-362	
2028	OTHER EXPENSES-INFLATION		161	-161			262	-262	
	TOTAL SECOND LEVEL		4,520	-4,520			7,489	-7,489	
2100	CONTRACTED SERVICES	73,000	72,520	480		79,500	78,716	784	
2200	SUPPLIES & MATERIALS	20,000	19,549	451		20,000	19,223	777	
2300	COMMUNICATIONS	20,000	18,919	1,081		22,000	20,287	1,713	
2400	TRAVEL	50,000	49,787	213		52,000	51,652	348	
2500	RENT	31,175	29,263	1,912		34,075	30,965	3,110	
2700	REPAIR & MAINTENANCE	15,000	14,778	222		17,500	17,138	362	
2800	OTHER EXPENSES	3,000	2,839	161		3,000	2,738	262	

Exhibit #17
 2/15/85

REPORT EBSR106
 DATE : 01/23/85
 TIME : 08/03/17

OFFICE OF BUDGET & PROGRAM PLANNING
 EXECUTIVE BUDGET SYSTEM
 AGENCY/PROGRAM/CONTROL --- BUDGET WORKSHEET

AGENCY : 2110 JUDICIARY
 PROGRAM : 05 WATER COURTS SUPERVISION
 CONTROL : 00000

AE/OE	DESCRIPTION	CURRENT LEVEL SERVICES ONLY							
		OBPP FY 86	LFA FY 86	DIFF. FY 86	SUB-CMT. FY 86	OBPP FY 87	LFA FY 87	DIFF. FY 87	SUB-CMT. FY 87
	TOTAL FIRST LEVEL	212,175	212,175			228,075	228,208	-133	
3000	EQUIPMENT & INTANGIBLE ASSETS	18,000		18,000		17,500		17,500	
3100	EQUIPMENT	18,000	18,000	-18,000		17,500	17,500	-17,500	
	TOTAL FIRST LEVEL	18,000	18,000			17,500	17,500		
	TOTAL PROGRAM	557,059	543,884	13,175		572,612	559,867	12,745	
02435	WATER DEVELOPMENT	557,059	543,884	13,175		572,612	559,867	12,745	
	TOTAL PROGRAM	557,059	543,884	13,175		572,612	559,867	12,745	

February 15, 1985

General Government Sub-Committee:

Mr. Chairman and Members of the Committee:

For the Record, I am Vernon Westlake, chairman of the Water Committee representing Gallatin, Park and Meagher Counties in the Agricultural Preservation Association. Again, for the Record, the three County Associations support the Water Court's Budget as requested for the upcoming biennium.

The Water Court's record speaks for itself. Judge Lessley has told the Legislature that the Water Court could adjudicate 15 basins in 1984 and they have adjudicated more than 20 basins in 1984. He has predicted that the Water Court can and will complete the adjudication process in five to six years; their performance record to-date proves that his forecast will hold.

Agriculture firmly believes that the completion of the adjudication of Montana's water is the number one priority towards a guarantee against future downstream claims and a firm legal basis for future apportionment. We believe that completion of the record of the existing water use in this State will put Montana in a much stronger position legally, than selling or leasing water for out-of-state use. We believe that out-of-state sale of Montana water could be considered after the adjudication process is completed.

As Judge Lessley has said many times; We must complete the adjudication process, then we will fold our tents and silently steal away.

We urge the Committee to consider the Budget of the Water Court with this thought foremost in mind.

Thank you for this opportunity,

Vernon L. Westlake, chairman
Water Committee, A.P.A.
3186 Love Lane
Bozeman, Mt. 59715

VISITORS' REGISTER

General Moot & Highways COMMITTEE

Agencies
BILL NO.

Dept of Revenue
Supreme Court

DATE 2/15/85

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
John Lafaver	DOR		
Kep Morrison	DOR		
See Jellison	Supreme Court	✓	
Mike Ablong	Support	✓	
Judy Meadows	State Law Librarian	✓	
Chris Amos	Bozeman	✓	
N. W. (Spiller)	Mont Wales Court	✓	
John W. Harrison	Supreme Court	✓	
J. A. Turnage	Supreme Court	✓	
John (Spiller)	Supreme Court	✓	
L. C. Bulbrankin	Supreme Court	✓	
Mo's Trig ^{Stellergrowers, Wildgrowers} _{Controlles, Gr Dist}	Water Court funding	✓	
TERNON H. WEST LAKE	A.P.A. GAL. CO.	✓	
Jim Thore	Bozeman	✓	
BILL ASHER (WATER COURT)	BOZEMAN - SELF + A.P.A.	✓	
JO BRUNDER	WATER Dev. ASSN. + WIFE	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.