

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC SAFETY

Call to Order: By **CHAIRMAN TIM CALLAHAN**, on January 27, 2005 at
8:15 A.M., at Montana Law Enforcement Academy, Helena, MT.

ROLL CALL

Members Present:

Rep. Tim Callahan, Chairman (D)
Sen. Trudi Schmidt, Vice Chairman (D)
Sen. Keith Bales (R)
Sen. Steven Gallus (D)
Rep. Ray Hawk (R)
Rep. Cynthia Hiner (D)

Members Excused: Rep. John E. Witt (R)

Members Absent: None.

Staff Present: Harry Freebourn, Legislative Branch
Shannon Scow, Committee Secretary
Brent Doig, OBPP

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

Committee Business Summary:

Hearing & Date Posted: HB 2; Department of Justice
Overview and Law Enforcement
Academy tour
Executive Action: None

Hearing: Department of Justice

Mike McGrath, Attorney General State of Montana, opened the meeting by introducing the administrators and Department of Justice (DOJ) employees present. He emphasized that the DOJ is one of the largest agencies in the state with over 700 FTE. He welcomed the committee to the Law Enforcement Academy. The Law Enforcement Academy trains and certifies every law enforcement officer in Montana. The Academy involves scenario-based training, as well as training on how to handle crime scenes, investigations and the reports that follow. Meticulous reports are important, so that the offender gets the ultimate sentence that is deserved.

Mr. McGrath then introduced a video that shows the crime spree which led to the case of State v. George Harold Davis, handled by the DOJ. Throughout the course of this case nearly all of the Divisions within the DOJ were involved. The following is a description of the crimes that occurred leading up to the chase scene shown in the video. The case began on June 14, 2003 in Ennis, Montana. George Davis started shooting up the town, killing one man and injuring six others. He then traveled through SW Montana for six hours, ending up on Highway 83 around 8 A.M. in Ravalli County. Davis was stopped for speeding and the deputy recognized him as the suspect in the Ennis murder. Davis then started shooting at the deputy and hit him in the shoulder. Davis was also shot but continued to head north. The video begins with Davis trying to run an officer off the road who is heading south to respond to the call. **Mr. McGrath** emphasized that the video speaks to issues law enforcement deals with every day, as well as tells of the cooperation that is needed from multiple agencies. Not only attorneys and law enforcement officers are needed, but also other agencies such as crime scene investigators and personnel to handle press calls.

{Tape: 1; Side: A; Approx. Time Counter: 19 - 30; Comments: Video and commentary, State v. George Harold Davis}

Mr. McGrath continued to emphasize the level of coordination involved in a case such as Davis's. The state obtained a search warrant, firearms examiners, fingerprints, and photos of the crime scenes, as well as an autopsy examiner. The Missoula Crime Lab (which will be audited in April for National Certification) processed evidence and the Motor Vehicle Division was used to identify the vehicle and suspect immediately. The Legal Services Bureau used all this information to prosecute Davis and, as a result, he will be a resident at Montana State Prison for the rest of his life. Victim's Services was also involved in paying

out claims for the seven victims involved in the shootings. Indirectly, the Gambling Control Division was involved because the shoot out began at the Silver Dollar Saloon in Ennis, which they have licensed. Finally, the Central Services Division kept the case moving by processing all of the paperwork.

{Tape: 1; Side: B; Approx. Time Counter: 16.6 - 20.7; Comments: Technological advances of the Department of Justice}

Mr. McGrath then discussed the new technology that has changed the ability of the DOJ dramatically by creating instant communication in the field. There is now a videotape in every vehicle to be used for evidence. Another advance is in DNA testing; recently DNA was taken from a cigarette butt and tied an offender to blood at a theft scene taken months prior. Technological advances through the Motor Vehicle Division (MVD) has resulted in vehicle titles being turned over on the same day rather than taking six months to process. This resulted from the MVD recent audit, as well as The Team 261 project. The Team 261 Project will be discussed in detail with the committee. It is expected to further increase the technological capacity of this division. The DOJ also maintains a website for sexual offender registration, as well as motor vehicle information that gets 70,000 hits per month.

{Tape: 1; Side: B; Approx. Time Counter: 20.7 - 28.2; Comments: Byrne Grant funding cut}

Attorney General McGrath is concerned about the Byrne Grant funding cut which will suffer a 47% cut in funds that have been used since 1979. He stated that this has a significant impact on employees, totaling \$754,000 to fund state positions. He said the funding cut "cripples the ability to do drug enforcement in Montana," and he does not believe this would be picked up anywhere else.

SEN. GALLUS pointed to the \$754,000 FTE funding, inquiring if the remaining grant money will go directly to counties which, in turn, would fund these employees. **Mr. McGrath** replied that bigger cities will get direct grants from the federal government, while the smaller agencies will get a handful of grants, all less than \$10,000. These will be given through the Montana Board of Crime Control. Bigger cities that apply will get funding. Currently Great Falls, Missoula and Billings do not have Byrne funding, but these cities will get the grants. The state will be eligible for about 40% of the money, but the federal government has not yet defined the use and stipulations of these potential grants.

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***{Tape: 2; Side: A; Approx. Time Counter: 0 - 23.8; Comments:
Department of Justice LFD overview}***

Mr. Freebourn ran the committee through the Legislative Fiscal Division (LFD) issues on the DOJ, shown in the LFD Budget Analysis beginning on Page D-6. There are 10 different programs within the DOJ that seem different, but are very interrelated. He explained that there are four different areas for Decision Packages (DP's); ones presented by Governor Martz, a Governor Schweitzer addendum on the Forensic Lab, Elected Official New Proposals, and other items proposed by Attorney General Mike McGrath that are not yet on paper. Mr. Freebourn will put these together on one worksheet. The total budget of the department is \$111,393,714, with 707.83 FTE. This is an extremely large department with 50 plus DP's that will come before the committee.

Mr. Freebourn explained how the LFD Budget Analysis is laid out for the department, pointing out major budget highlights and LFD issues found on Page D-6 and D-7. The breakdown of general funding, state special funding, federal and proprietary funding is also outlined on D-7. In addition to the four supplemental appropriations on Page D-8, there was also a legal settlement with the Highway Patrol on pay issues that amount to \$8.5 million, which is contingent on the legislature supplying the appropriation.

***{Tape: 2; Side: A; Approx. Time Counter: 23.8 - 30.3}{Tape: 2;
Side: B; Approx. Time Counter: 0 - 26.5; Comments: Description of
the 10 Programs within the Department of Justice}***

Mr. Freebourn continued to walk the committee through pages D-9-D-58, pointing to the base budget, FTE involved, funding source of the programs, new proposals, DP's, rate approvals needed, and major supplemental requests. He noted the Legal Services Division on Page D-13 and the Agency of Legal Services on D-17. The Gambling Control Division begins on Page D-20 and is requesting \$1.8 million for a new automated reporting system. Part of the funding for this project is through the gambling license fee account, most of which is general fund.

SEN. SCHMIDT asked, "What percent is charged to entities for this gambling fee?" She has heard other states are charged 30 percent or 50 percent compared with our 15 percent. She asked, "What is the difference?" **Rick Ask, Gambling Control Division of the DOJ**, reported that these fees are licensing fees collected for each gambling machine, around \$230 to \$240 per machine. Part of this goes to licensing fees. The rest goes to other accounts and a

small portion to general fund. He will supply a sheet with these rates to the committee as requested by SEN. SCHMIDT.

SEN. GALLUS asked the department to include the difference between net and gross taxes in other states, noting that he believes Montana has about 15% gross, while Oregon has approximately 30% net taxes. **Rick Ask** responded that the taxes are just called different names in different states depending on the accounting systems used. **SEN. SCHMIDT** reiterated that she wants to know why the taxes are different and how the taxes are interpreted.

Mr. Freebourn continued with program descriptions, pointing to D-25 for the Motor Vehicle Division, in which we will hear about the Team 261 project. Highway Patrol begins on D-34. **Mr. Freebourn** noted that this program is one of the larger budget items, approximately 50% of the DOJ budget. The committee will hear about HB 35, which will request an increase in FTE for Highway Patrol, as well as an increase in pay to compensate for the pay differential between the state and certain cities. **SEN. GALLUS** asked for a table that explains Highway Patrol pay per city.

SEN. SCHMIDT inquired if HB 35 has been heard. **Larry Fasbender, Deputy Director of the Department of Justice**, responded that Executive Action on HB 35 is being heard this morning. He added that it will be funded mostly by highway special revenue. The language appropriation on D-39 of the LFD budget analysis may go away if this bill passes.

Mr. Freebourn described the Department of Criminal Investigation on Page D-40. This department also includes fire prevention education, inspection and investigative support, as well as the Law Enforcement Academy. **Mr. Fasbender** announced that there was no shortfall this year in Law Enforcement Academy funding, although there has been a shortfall other years.

Mr. Freebourn explained the County Attorney Payroll on D-45, and Central Services Division on D-47. Information Technology Services begins on D-49. **Mr. Freebourn** concluded with the Forensic Science Division on Page D-53. The LFD issues on this section are concerning the effectiveness of the program and the amount of backlog.

{Tape: 2; Side: B; Approx. Time Counter: 26.8 - 30}{Tape: 3; Side: A; Approx. Time Counter: 0 - 9.5; Comments: Larry Fauxbender, DOJ}

Larry Fasbender, described the supplemental appropriations of the DOJ, which he noted are in HB 3 and will go in front of the whole Appropriations Committee. Four areas have supplementals, which begin on D-8. One is in major litigation, which is used to cover cases that arise during the interim. The DOJ is also requesting a full-time lawyer to comply with the tobacco settlements. Exempt Staff Payouts has to do with a recent retirement notification. The Highway Patrol Retirement Fund on Page D-8, is in need of simplification. The fee has been kept, but the DOJ is requesting an adjustment on how these registration fees are collected. This is an oversight wherein the DOJ did not ask for the appropriation to transfer the funds from state special revenue into the retirement accounts. This does not affect the revenue projections. The last supplemental noted in the Legal Issues Contingency, which would cover negotiated settlements on lawsuits in progress related to usage claims by certain highway patrol officers. A global settlement was reached at \$8.5 million, which exempts the DOJ from all costs of finishing the settlement. However, the DOJ needs appropriation authority to satisfy the judgement which will be one-time-only funding. This is a supplemental request because there is a cap on spending, so it will be moved back to FY05 spending. Once again, this will come up under HB 3 for supplemental funding.

CHAIRMAN CALLAHAN closed the Department of Justice overview hearing at 10:30 A.M. A tour of the Law Enforcement Academy proceeded the meeting from 10:30 A.M. until 12:45 P.M.

ADJOURNMENT

Adjournment: 12:45 A.M.

REP. TIM CALLAHAN, Chairman

SHANNON SCOW, Secretary

TC/ss

Additional Exhibits:

EXHIBIT ([jch21aad0.PDF](#))