

**HOUSE JUDICIARY SUBCOMMITTEE**

**ON CRIMINAL LAW**

**May 10, 2005 Hearing Room 357**

**8:30 A.M. Tapes 58 - 59**

**MEMBERS PRESENT:           Rep. Jeff Barker, Chair**

**Rep. Greg Macpherson**

**Rep. Andy Olson**

**Rep. Kim Thatcher**

**GUEST MEMBER:           Rep. Wayne Krieger**

**STAFF PRESENT:           Heidi Moawad, Counsel**

**Elizabeth Howe, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**HB 2320 – Public Hearing**

**HB 3379 – Public Hearing and Work Session**

**HB 3045 – Public Hearing and Work Session**

**HB 2335 – Work Session**

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.**

**TAPE/#    Speaker                    Comments**

**TAPE 58, A**

003 Chair Barker Calls the meeting to order at 8:36 a.m. Opens a public hearing on HB 2320.

**HB 2320 – PUBLIC HEARING**

005 Heidi Moawad Counsel. Provides background on HB 2320, which limits crimes that are subject to civil compromise.

014 Gina Skinner Oregon District Attorneys Association (ODAA). Testifies in support of HB 2320.

052 Kelly Skye Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 2320.

093 Rep. Macpherson Questions how common civil compromise is among family members.

097 Skye Relates that her experience is primarily doing indigent defense, so it is very uncommon in those situations and fairly uncommon generally.

116 Rep. Olson Questions the proposal to remove person crimes from being subject to civil compromise.

121 Moawad Confirms that HB 2320 excludes person crimes, as they are already excluded from the list of crimes that may be civilly compromised.

126 Rep. Macpherson States that HB 2320 adds non-person crimes to the list of crimes that may not be civilly compromised.

128 Chair Barker Mentions that civil compromise often occurs over property crimes.

134 Skye States that civil compromise results in a dismissal of charges. Relates that money often must be paid before charges are dismissed.

148 Rep. Macpherson Inquires how civil compromise works currently, and how the bill will change it.

158 Skinner

Describes which relationships and activities cannot currently be civilly compromised, and which would be added to that list with HB 2320.

- 217 Rep. Macpherson Comments on the broad definition of family or household member. Suggests an amendment to narrow the relationship.
- 240 Skinner Responds that the definition is pulled from the restraining order statute which is often referenced to define relationships.
- 254 Rep. Macpherson States that consistency is important. Suggests the definition is antiquated.
- 273 Skinner Describes the relationships that are targeted by HB 2320.
- 313 Skye States that a call to 911 is not required to become involved in the criminal justice system. Explains that reports are required in most cases to be compensated for loss.
- 332 Moawad Questions whether undue influence of an offender on a victim could cause the victim to back off on charges.
- 350 Skye Relates her experience with people using the criminal justice system when civil litigation is too expensive.
- 376 Skinner States that many crimes added by HB 2320 are not mandatory arrest crimes.

**TAPE 59, A**

- 010 Chair Barker States that the victim can decide not to prosecute.
- 013 Skinner Relates that the District Attorney's office has the authority to take over the case, even if the victim does not want to pursue charges.
- 019 Rep. Macpherson Relates information in statute on civil compromise relating to the discretion of the court to allow dismissal.
- 028 Skinner Explains the disparate application of that statute.

045 Chair Barker Closes the public hearing on HB 2320. Opens a public hearing on HB 3379, which expands definition of “peace officer” to include parole and probation officer for certain purposes.

**HB 3379 – PUBLIC HEARING**

064 Brian DeLashmutt Oregon Council of Police Associations (OCPA). Testifies in support of HB 3379.

085 Brennan Mitchell Federation of Oregon Parole and Probation Officers (FOPPO), Multnomah County. Testifies in support of HB 3379.

120 Brian Montgomery FOPPO, Multnomah County. Testifies in support of HB 3379. Submits copy of related ORS statutes (**EXHIBIT A**). Submits written testimony on behalf of Lisa Settell, a Parole and Probation officer (PPO) from Yamhill County (**EXHIBIT B**).

192 Lucinda Carroll Washington County, PPO. Testifies in support of HB 3379.

214 DeLashmutt Relates that some counties deputize their probation officers.

222 Rep. Olson Inquires how many counties deputize their probation officers.

235 DeLashmutt Relates that Marion County does, but is not sure of other counties.

241 Rep. Olson Inquires about 100 percent efficiency and qualification score.

245 Montgomery Relates that Multnomah County Police Department requires 100 percent efficiency score.

282 Rep. Olson Inquires about expansion for Department of Public Safety Standards and Training (DPSST) training.

286 Montgomery Explains that adding additional duties may require additional training, perhaps by DPSST, perhaps locally.

296 Chair Barker Questions whether John Minnis was contacted.

299 Moawad Relates Mr. Minnis’ comments regarding DPSST additional training.

320 Mary Botkin American Federation of State, County, and Municipal Employees (AFSCME). Submits written testimony (**EXHIBIT C**) and testifies in support of HB 3379.

346 Jennifer Cameron PPO. Testifies in support of HB 3379.

412 Mark Killian PPO. Testifies in support of HB 3379.

**TAPE 58, B**

005 Killian Relates examples of dangerous situations that PPOs encounter where being classified as a peace officer would be beneficial.

037 Botkin Comments on having mandatory reporter status, without being able to make arrests.

050 Cameron Clarifies that PPOs do not want to be police officers, but they do want the tools to act when necessary.

058 Scott Taylor Community Corrections Chief, Department of Corrections. Submits written testimony (**EXHIBIT D**) in opposition to HB 3379.

128 Chair Barker Comments that a uniform policy would be beneficial.

130 Taylor States that DOC would like to explore district attorneys' policy in different counties.

134 Rep. Olson Questions whether it is a possibility for a sheriff to deputize PPOs.

145 Taylor Responds that he cannot speak to the sheriff's authority. Addresses issue of manpower for detaining people with warrants.

157 Chair Barker Inquires if PPOs are deputized in Linn County.

159 Taylor States that Linn County PPOs are under the sheriff.

165 Rep. Olson Questions how many people are under Mr. Taylor's direct supervision. Inquires about the five weeks of DPSST training.

169 Taylor Relates that he has 30 PPOs under his supervision in Linn and Douglas Counties. Describes additional training.

183 Chair Barker Closes public hearing and opens a work session on HB 3379.

### **HB 3379 – WORK SESSION**

186 Rep. Olson **MOTION: Moves HB 3379 to the full committee with a DO PASS recommendation.**

**VOTE: 4-0-0**

**AYE: In a roll call vote, all members present vote Aye.**

190 Chair Barker **The motion CARRIES.**

**REP. BARKER will lead discussion on the floor.**

200 Chair Barker Closes work session on HB 3379. Opens a public hearing on HB 3045.

### **HB 3045 – PUBLIC HEARING**

205 Heidi Moawad Counsel. Provides background on HB 3045, which directs each county sheriff's department and chief of police of city police department to adopt policy addressing whether peace officers may appear in uniform while off-duty. Introduces the -1 amendments **(EXHIBIT E)**.

210 Emory Souza Josephine County Sheriff's Office. Testifies in support of HB 3045 with the -1 amendments.

245 Travis Snyder Josephine County Sheriff's Office. Testifies in support of HB 3045 with the -1 amendments. Explains that citizens cannot distinguish between reserve officers and police officers.

282 Rep. Gordon Anderson House District 3. Testifies in support of HB 3045 with the -1 amendments.

318 Chair Barker Inquires about protection for reserves involved in a shooting.

328	Souza	Relates that they are not union members, but they are afforded the same assistance as a regular officer.
334	Macpherson	Inquires about the number of reserve officers that have been killed in the line of duty since Oregon restored the death penalty.
336	Souza	Relates that there have been no deaths that he is aware of, though there have been injuries.
340	Chair Barker	Recalls a reserve officer was killed or paralyzed in a shooting in Multnomah County.
347	Souza	Relates another case where a reserve officer was shot.
359	Chair Barker	Recalls another case in Portland where a cadet was shot while riding with an officer.
369	Brian DeLashmutt	Oregon Council of Police Associations (OCPA). Testifies in support of HB 3045, without the amendments.

**TAPE 59, B**

033	DeLashmutt	Continues testimony on HB 3045. Explains the issue with uniforms.
038	Rep. Macpherson	Inquires if reserve officers are always in a uniform while on duty.
048	DeLashmutt	States that he is unaware if reserve officers are ever on duty out of uniform. Explains that offenders do not distinguish between uniforms.
057	Rep. Macpherson	Questions whether the amendment could be added without removing the proposed portions of the bill.
063	DeLashmutt	Suggests that the -1 amendment would disrupt the movement of the bill on the Senate side.
075	Chair Barker	Comments on guns in courts in Multnomah County.
080	DeLashmutt	Comments on the "bad guys."

- 083 Sen. Jason Atkinson Senate District 2. Testifies in support of the -1 amendments to HB 3045. Explains his involvement with the issue.
- 110 Kelly Skye Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 3045 with the -1 amendments because it is an expansion of the death penalty.
- 148 John Powell Oregon States Sheriff's Association. Testifies in support of HB 3045 with the -1 amendments, as it enacts the intent of current policy. Expresses opposition to the original bill.
- 168 Rep. Macpherson Comments on the original bill to create a uniform policy.
- 174 Powell Believes the intent of the bill is to allow endorsements to be made by anybody in uniform.
- 180 Chair Barker Closes public hearing and opens a work session on HB 3045.

**HB 3045 – WORK SESSION**

- 182 Rep. Olson **MOTION: Moves to ADOPT HB 3045-1 amendments dated 4/8/05.**
- 185 Rep. Macpherson Expresses opposition to the gut and stuff.
- VOTE: 3-1-0**
- AYE: 3 - Olson, Thatcher, Barker**
- NAY: 1 - Macpherson**
- 192 Chair Barker **The motion CARRIES.**
- 194 Rep. Olson **MOTION: Moves HB 3045 to the full committee with a DO PASS AS AMENDED recommendation.**
- 196 Rep. Macpherson Explains why he will vote for the bill, though he opposed the amendments.



**VOTE: 4-0-0**

**AYE: In a roll call vote, all members present vote Aye.**

- 213 Chair Barker The motion CARRIES.  
**REP. BARKER will lead discussion on the floor.**
- 214 Chair Barker Recesses at 10:15 a.m. Reconvenes at 10:20 a.m. Opens a work session on HB 2335.

**HB 2335 – WORK SESSION**

- 215 Dawn Phillips Legislative Aide to Rep. Jerry Krummel, House District 26. Reviews testimony on HB 2335. Introduces the -4 amendments (**EXHIBIT F**).
- 272 Chair Barker Relates that he has not had a chance to review the amendments.
- 274 Heidi Moawad Counsel. Inquires whether the Oregon District Attorneys Association (ODAA) was involved in the work group. Inquires who from ODAA looked over the amendments.
- 276 Phillips Responds that ODAA was not in the work group. States that the amendments were sent to the President of ODAA.
- 288 Rep. Olson Inquires whether Brad Berry was contacted.
- 290 Phillips Responds negatively.
- 295 Rep. Thatcher Inquires about similar amendments.
- 298 Phillips Relates the differences between amendments.
- 303 John Powell Oregon State Sheriffs Association. Testifies in support of the -4 amendments.
- 341 Moawad Questions what agencies are represented on the multidisciplinary team in any given county.

346	Powell	Relates that he does not know which agencies participate on the teams in each county.
360	Gina Skinner	ODAA. Testifies as neutral on the -4 amendments. Expresses concerns about timelines which may affect investigations and workloads.
390	Rep. Macpherson	Comments that the -4 amendments improve the bill significantly.
398	Chair Barker	Comments on the difficulties in this situation. Closes the work session on HB 2335.
420	Rep. Thatcher	States that the requirements in the amendments are not as daunting as the original bill.
425	Chair Barker	Agrees that the amendments are an improvement. Adjourns the meeting at 10:35 a.m.

### **EXHIBIT SUMMARY**

- A. **HB 3379, ORS statutes, Brian Montgomery, 2 pp**
- B. **HB 3379, written testimony of Lisa Settell, Brian Montgomery, 1 p**
- C. **HB 3379, written testimony, Mary Botkin, 2 pp**
- D. **HB 3379, written testimony, Scott Taylor, 2 pp**
- E. **HB 3045, -1 amendments, staff, 2 pp**
- F. **HB 2335, -4 amendments, Dawn Philips, 2 pp**