

SENATE COMMITTEE ON JUDICIARY

March 24, 2005
1:00 P.M.

Hearing Room 343
Tapes 81 - 82

Corrected 10/26/05

MEMBERS PRESENT: Sen. Ginny Burdick, Chair
Sen. Charles Starr, Vice-Chair
Sen. Roger Beyer
Sen. Floyd Prozanski
Sen. Charlie Ringo
Sen. Vicki Walker
Sen. Doug Whitsett

STAFF PRESENT: Joe O'Leary, Counsel
Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD:

SB 301 – Public Hearing
SB 89 – Work Session
SB 208 – Work Session
SB 489 – 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 81, A		
003	Chair Burdick	Calls the meeting to order at 1:14 p.m. and opens a public hearing on SB 301.
<u>SB 301 – PUBLIC HEARING</u>		
008	Joe O'Leary	Counsel. Describes SB 301 relating to the circumstances under which a peace officer and corrections officer may use deadly physical force. Introduces the -1 amendment (EXHIBIT A).
041	Sen. Avel Gordly	Senate District 23. Commends the groups who have spent time working on this bill. Submits testimony and testifies in support of SB 301 (EXHIBIT C).
080	Sen. Gordly	Commends the Use of Deadly Force Task Force on the work drafting this bill.
097	Sen. Gordly	Discusses the Deadly Force Task Force report.
130	Sen. Gordly	Talks about the reasoning behind SB 301.
151	Hardy Myers	Attorney General. Submits a report on the use of deadly force by peace officers and testifies in support of SB 301 (EXHIBIT B).
200	Myers	Commends the members of the Use of Deadly Force Task Force, the administrators, and the community in putting this bill together.
219	Peter Shepherd	Deputy Attorney General. Testifies in support of SB 301. Talks about the three basic assumptions of the report.
275	Shepherd	Discusses the -1 amendment.
310	Shepherd	Gives a section by section analysis of the -1 amendment.
357	Shepherd	Details section 6 and 7 of the -1 amendment.

395	Shepherd	Goes over section 8 of the -1 amendment.
425	Shepherd	Continues discussion on the -1 amendment, focusing on the sections dealing with the grand jury.
TAPE 82, A		
017	Sen. Beyer	Asks if the term “peace officers” is a correct drafting choice.
022	Shepherd	Replies yes, and cites reasoning.
028	Sen. Beyer	Inquires about line 7 of page 10, dealing with a term “not a true bill”.
033	O’Leary	Responds with information on the drafting.
041	Shepherd	Describes the indictment scenarios for grand jury cases.
051	Sen. Beyer	Wonder about the compelled testimony of a peace officer.
053	O’Leary	Details the circumstances where a peace officer might be compelled to testify.
062	Shepherd	Clarifies the issue of compelled testimony from a peace officer.
078	Martha McMurry	Parent of a deadly force victim. Testifies in support of SB 301.
130	McMurry	Continues discussion on her experience on the Deadly Force Task Force.
196	Sheriff Bob Wolfe	Sheriff, Polk County. President, Oregon Sheriffs Association. Testifies in support of the concept behind SB 301. Raises the concern of grand juries addressed in the bill.
237	Dr. T. Allen Bethel	President Albino Ministerial Alliance. Testifies in conceptual support for SB 301. Talks about the Attorney General’s role in these investigations.
285	Pastor Leroy Haynes, Jr.	Senior Pastor, Chair-Person, Albino Ministerial Alliance. Commends the members for addressing this issue, and expresses his support for SB 301.
339	Sam Adams	Commissioner, City of Portland. Discusses several high profile deadly force incidents that have occurred in his city.
374	Adams	Advocates transparency in grand jury proceedings when involving the use of deadly force.
405	Adams	Stresses that many citizens believe the testimony in grand jury cases dealing with deadly force should be public record.
438	Sen. Whitsett	Asks if there is any precedence in releasing grand jury transcripts.
440	Adams	Replies he is not sure, but believes other states do allow the release of grand jury proceedings.
474	Eriks Gabliks	Deputy Director, Department of Public Safety Standards and Training. Submits testimony and testifies in support of SB 301 (EXHIBIT D).

TAPE 81, B

045	Gabliks	Stresses that the public believes that law enforcement should be able to deal with many situations where deadly force might need to be used.
061	Gabliks	Details the lack of training available for non-lethal methods of law enforcement.
085	Chair Burdick	Closes the public hearing on SB 301 and opens a work session on SB 89, SB 208, and SB 489.

SB 89, SB 208, & SB 489 – WORK SESSION

089	Chair Burdick	Moves SB 89, SB 208, & SB 489 to Monday, March 28, 2005. Closes the work session on SB 89, SB 208, & SB 489 and re-opens a public hearing on SB 301.
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SB 301 – PUBLIC HEARING

101	Robert King	Detective, Portland Police Bureau. Testifies on the issue of deadly force.
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125	King	Discusses several stories where the use of deadly force was employed by peace officers.
156	Daryl Garrettson	Attorney, Oregon Council of Police Associations. Testifies on the issue of SB 301 and the use of deadly force. Expresses his conceptual support on the issue of law enforcement's use of deadly force, but remains neutral on SB 301 itself.
184	Garrettson	Describes their negative stance on the issue of inquests.
208	Chair Burdick	Inquires about the Oregon Council of Police Associations accepting the compelled testimony issue.
211	King	Expresses their concern over the release of grand jury inquest testimony.
233	Kevin Campbell	Executive Director, Oregon Association of Chiefs of Police. Commends the Attorney General and the Deadly Force Task Force for their work on SB 301.
280	Campbell	Describes the accreditation policies relating to the use of deadly force.
319	Bill Blair	Counsel, Washington County. Submits testimony and testifies on the issue of SB 301 before the amendment (EXHIBIT E). Stresses that he cannot offer full support of the -1 amendment because he has not had time to analyze the drafting.
360	Blair	Advocates that the use of deadly force is always reactionary: the police officer/law enforcement officer always reacts to catalysts or confrontations that are threatening their safety.
410	Blair	Addresses a section of his handout dealing with compelled testimony (Exhibit E).
455	Chair Burdick	Inquires about compelled testimony from law enforcement.
460	Blair	Explains the situation relating to compelled testimony.
TAPE 82, B		
024	Sen. Prozanski	Asks about compelled testimony and its relation to criminal conduct.
036	Blair	States that an employer (State of Oregon) can compel it's employee to disclose this criteria, but that information cannot be used in criminal processes.
053	Mike Dugan	Deschutes County District Attorney. Testifies on the issue of use of deadly force.
086	Dugan	Stresses that this issue is believed to be a Portland/Salem topic.
110	Dugan	Points out that SB 6 in the 1999 session dealt with this topic.
148	Dugan	Describes the investigation process involved in these cases where deadly force was used.
181	Dugan	Addresses the earlier question dealing with compelled question.
212	Dugan	States the relation between the -1 amendment and compelled testimony.
235	Sen. Prozanski	Comments on the compelled testimony issue.
247	Chair Burdick	Closes the public hearing on SB 301 and adjourns the meeting at 2:55 p.m.

EXHIBIT SUMMARY

- A. **SB 301, -1 amendment, staff, 15 pp**
- B. **SB 301, Report and Recommendations on peace officer use of deadly force, Hardy Myers, 174 pp**

- C. **SB 301, written testimony, Sen. Gordly, 2 pp**
- D. **SB 301, written testimony, , 1 p**
- E. **SB 301, written testimony, Bill Blair, 5 pp**