

## SENATE COMMITTEE ON JUDICIARY

July 2, 2003  
8:00 a.m.

Hearing Room 343  
Tapes 182 - 184

**MEMBERS PRESENT:**        **Sen. John Minnis, Chair**  
                                  **Sen. Ginny Burdick, Vice-Chair**  
                                  **Sen. Ted Ferrioli**  
                                  **Sen. Charlie Ringo**  
                                  **Sen. Charles Starr**  
                                  **Sen. Vicki Walker**

**STAFF PRESENT:**        **Craig Prins, Counsel**  
                                  **Nancy Masee, Committee Assistant**

**MEASURE/ISSUES HEARD:**        **HB 3426A Public Hearing**

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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.

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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<b>TAPE 182, A</b>		
004	Chair Minnis	Calls the meeting to order at 8:16 a.m., and opens a public hearing on HB 3426A.
<b><u>HB 3426A PUBLIC HEARING</u></b>		
014	Rep. Jeff Barker	House District 28. Gives background on HB 3426A that specifies circumstances under which peace officer and corrections officer may use deadly physical force. Expresses concern that the bill is going too swiftly through the committee.
033	Chair Minnis	Asks for clarification of the 1985 case which caused introduction of the original bill.
036	Rep. Barker	Discusses <i>Tennessee v. Gardner</i> .
053	Sen. Burdick	Asks if the <i>Gardner</i> case tightened the standards.
055	Rep. Barker	Replies, yes. Explains that there now has to be a threat to life.
100	Walker	Asks about the Supreme Court case, <i>Gerry v. New Jersey</i> .
102	Rep. Barker	Explains the case that grants immunity to a police officer.
108	Chair Minnis	Comments on HB 3426A and explains the purpose of this bill is to raise the level of understanding and scrutiny to these situations.
126	Craig Prins	Committee Counsel. Explains HB 3426A which specifies circumstances under which peace officer and corrections officer may use deadly physical force. Introduces the -A5 amendments with a section-by-section overview ( <b>EXHIBIT A</b> ).
190	Ringo	Asks what the current law is in recording grand jury hearings.
192	Prins	Responds currently in Oregon, there is no law on recording grand jury hearings.
200	Prins	Continues explaining the bill and amendments.
257	Sen. Walker	Explains her experience recording for grand juries and the secrecy of testimony and confidentiality followed.

275	Sen. Ferrioli	Wonders about the history behind grand jury secrecy.
304	Prins	Explains testimony by an officer and the impeaching of witnesses.
342	Sen. Ringo	Asks about the Attorney General's review of the District Attorney's report.
347	Sen. Minnis	Explains the Attorney General's role.
383	Prins	Refers to Ch 146 of the Oregon Revised Statutes on investigation of deaths.
458	Sen. Walker	Asks if this is an "epidemic" type behavior.
470	Chair Minnis	Discusses officer-involved shootings over the past 5 years.
<b>TAPE 183, A</b>		
044	Mike Schrunk	District Attorney, Multnomah County. Submits testimony and testifies in support of HB 3426A ( <b>EXHIBIT B</b> ). Provides some history of grand juries and their veil of secrecy.
095	Schrunk	Discusses the checks and balances used by the police force.
148	Sen. Ringo	Asks if it is the District Attorney who would initiate the grand jury.
149	Schrunk	Responds, yes. Explains the criteria used to decide to use the grand jury.
195	Sen. Ringo	Suggests all police shootings need to have some public investigation.
204	Schrunk	Agrees.
238	Chair Minnis	Says the -A5 amendment originally did encompass that in all circumstances of death and serious physical injury there would be a grand jury.
274	Sen. Avel Gordly	Senate District 23. Testifies in support of HB 3426A. Submits booklet that refers to Portland's community forum that last night heard citizens speak on the recent killing of a young woman fleeing from a police officer ( <b>EXHIBIT C</b> ). Stresses that police officers must have adequate training in procedures and use of weapons. Describes Oregon's training as compared to national training.
<b>TAPE 182, B</b>		
012	Vice Chair Burdick	Explains that in Portland police officers are not trained through the Department of Public Safety Standards and Training (DPSST), that they have their own training program, and wonders about the adequacy of that training.
012	Chair Minnis	Discusses corrections training and says the Portland police are trained through DPSST as well as their own training program.
036	Mark Landauer	City of Portland. Says there are 3 basic training programs in the City of Portland at this time.

042	Sen. Margaret Carter	Senate District 22. Testifies in support of HB 3426A and the –A5 amendments. Describes historical changes in society and expresses the need to make changes in the grand jury system.
101	Chair	Asks District Attorney Schrunk about hearsay in grand jury hearings.
106	Schrunk	Describes rules of evidence and hearsay. Says only admissible evidence at trial is permitted.
232	Mitch Morrow	Department of Corrections. Submits testimony and testifies in support of HB 3426A ( <b>EXHIBIT D</b> ).
251	Vice Chair Burdick	Asks what the problem was in the Department of Corrections that is being addressed in HB 3426A.
256	Morrow	Replies HB 3426A provides the opportunity to bring deadly force issues to one place.
275	Brad Berry	Oregon District Attorney Association. Testifies as neutral on HB 3426A. Feels grand juries are confidential for good reason.
<b>TAPE 183, B</b>		
030	Berry	Continues discussing the District Attorney’s responsibility in deadly force cases.
053	Mike Dugan	Deschutes County District Attorney. Submits testimony and testifies with qualified support of HB 3426A ( <b>EXHIBIT E</b> ). Discusses how the grand jury system operates. Supports confidentiality of the grand jury.
167	Chair Minnis	Discusses safeguards in amendments.
224	Pete Shepherd	Department of Justice (DOJ). Submits testimony and testifies in support of HB 3426A ( <b>EXHIBIT F</b> ). Discusses secrecy of grand juries and describes the oath of jurors.
371	Chair Minnis	Discusses role of Attorney General.
384	Shepherd	Discuss how oversight could be addressed through the district attorneys.
409	Chair Minnis	Asks about cases when district attorneys do not carry out their responsibilities.
413	Shepherd	Explains that the Governor can direct the Attorney General to take over the affairs of a particular District Attorney.
474	John Powell	Oregon State Sheriffs Association. Testifies in support of HB 3426A.
<b>TAPE 184, A</b>		
077	Chair Minnis	Asks how counties cover civil actions in these cases.
081	Powell	Says the County Board of Commissioners approves appropriations.
087	Sen. Ferrioli	Comments on the burden of paying for these actions in very small counties.
114	Tom Gallagher	Oregon Newspaper Publishers Association. Testifies in support of the –A5 amendments to HB 3426A.
135	Brian DeLashmutt	Oregon Council of Police Associations (OCPA). Testifies in support of HB 3426A. Suggests Section 5, “may submit” rather than “shall”. Supports more training of officers.
238	Marc Adams	Oregon Association of Chiefs of Police (OACP). Testifies in support of HB 3426A. Emphasizes the importance of training police officers in deadly force incidents.
296	Chair Minnis	Refers to the counseling included in the bill for officers in deadly force incidents.
340	Marlene Howell	Sisters of the Road Café, Portland. Testifies in support of HB

401	Kelly Skye	3426A. Refers to the Portland community meeting last night regarding the killing of a young girl recently by a police officer while she was fleeing. Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in support of HB 3426A and the –A5 amendments. Discusses secrecy element of the grand jury process.
<b>TAPE 184, B</b>		
013	Skye	Continues presentation on HB 3426A suggesting some possible changes.
087	Jef Van Valkenburgh	General Counsel, Oregon Department of Corrections. Discusses policy of the Department of Corrections. Suggests some changes to the –A5 amendments.
125	Chair Minnis	Closes the public hearing on HB 3426A and adjourns the meeting at 10:45 a.m.

### **EXHIBIT SUMMARY**

- A – HB 3426A, -A5 amendments submitted by staff, 8 pp**
- B – HB 3426A, written testimony submitted by Michael D. Schrunk, 2 pp**
- C – HB 3426A, printed material submitted by Sen. Avel Gordly, 72 pp**
- D – HB 3426A, written testimony submitted by Mitch Morrow, 1 p**
- E – HB 3426A, written testimony submitted by Michael Dugan, 2pp**
- F – HB 3426A, written testimony submitted by Pete Shepherd, 22 pp**