

SENATE COMMITTEE ON
JUDICIARY

January 22, 1993 Hearing Room C
1:00 p.m. Tapes 4-5

MEMBERS PRESENT: Sen. Dick Springer, Chair
Sen. Neil Bryant
Sen. Jeannette Hamby
Sen. Bob Shoemaker
Sen. Catherine Webber

MEMBERS EXCUSED: Sen. Grattan Kerans

STAFF PRESENT: Bill Taylor, Committee Counsel
Karen Quigley, Committee Counsel
Kate Wrightson, Committee Coordinator
Kirk Bailey, Committee Clerk

ISSUES DISCUSSED: Informational meeting

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These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

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TAPE 04, SIDE A

010 SEN. HAMBY: Opens the meeting at 1:10pm. Sen Hamby opened meeting under the temporary rules. CHAIR SPRINGER in caucus.

INFORMATIONAL

WITNESSES:
BILL LINDEN, STATE COURT ADMINISTRATOR

015 LINDEN: Provides briefing on legislation and further information on indigent defense issues. Reviews Senate bills due to come before committee including SB 28, SB 224, SB 227, SB 249, SB 229 and SB 231.

064 SEN BRYANT: Was Court of Appeals decision regarding probation as a sentence which SB 231 addresses appealed?

067 LINDEN: Yes. Supreme Court did not review case.
>Continues review of Senate bills including SB 243, SB 247, SB 248.

>Reviews House bills including HB 2079, Bills relating to judicial retirement, HB 2081, HB 2082, HB 2085, and HB 2083.

133 BILL TAYLOR, COMMITTEE COUNSEL: Judicial salary bill?

136 LINDEN: No, bill to provide judges with a catch up on cost of living adjustments.

TAYLOR: Judiciary is filing bill?

Linden: Yes, bill will go directly to Ways and Means.

145 >Reviews indigent defense issues. No reason to expect a down turn in demand for services.

172 SEN. BRYANT: How does Executive feel about this?

LINDEN: Fair to say Executive has not embraced the issue.

187 TAYLOR: Indigent defense costs associated with death penalty? Growth and rate?

191 LINDEN: Growing at steady rate. Increase in expense in the last year due to U.S. Supreme Court and Oregon Supreme Court decisions regarding sentencing phase in death penalty cases. 46 cases filed in 1992. Since death penalty instituted 277 prosecutions. 19 in 1991. 36 this year. \$2.6 million total costs in 1992. Since implemented, just under \$13 million defense costs. Does not include appellate costs. Penalty has been law for 8 years.

236 SEN. HAMBY: Has true life language slowed down death penalty decisions?

LINDEN: Believes so, reduced number of prosecutions that actually go to trial.

255 CHAIR SPRINGER: Expresses apologies for delay. Conducts general committee business regarding the agenda.

WITNESSES:

FRED AVERA, OREGON DISTRICT ATTORNEY'S ASSOCIATION

275 AVERA: Submits and reviews written testimony. Reviews HB 2251, HB 2252, HB 2253, HB 2254, HB 2255, HB 2256, HB 2257, HB 2258, HB 2259, HB 2260, HB 2261 and HB 2289. (EXHIBIT A)

TAPE 5, SIDE A

055 SEN. HAMBY: Suggests clarification on HB 2255 regarding language

"converted to law enforcement use" to avoid interpretation of "converted and sold at an auction" or the like.

059 AVERA: No objections

WITNESSES:

ROSS SHEPARD, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION

075 SHEPARD: Reviews bills of concern to OCDLA.

>First bill relates to forcing attorneys to take indigent defense cases.

Passage of bill will not leave individuals undefended.

>Second bill addresses requirements for stop and search.

123 SEN. WEBBER: Do you have a profile of minority officers?

SHEPARD: No information.

>Third bill changes statute of limitation for filing a petition for post

conviction relief.

>Fourth bill is a sentencing guidelines bill. Clarify burden and method

of proof requirements.

>Fifth bill requires computer assisted transcription in circuit court proceedings.

206 SEN. BRYANT: How do you feel about indigent defense?

208 SHEPARD: Feels it should stay in judicial branch.

215 TAYLOR: How would you feel if Indigent Defense Commission were left in judiciary?

210 SHEPARD: Bill is well drawn. Refinements could be made in Commission make-up.

WITNESSES:

DAVID FACTOR, ACTING DIRECTOR, OREGON CRIMINAL JUSTICE COUNCIL

CRAIG MOSB AEK, RESEARCH MANAGER, OREGON CRIMINAL JUSTICE COUNCIL

230 FACTOR: Submits and presents written testimony (EXHIBIT B, C, D and E).

>Provides overview of Council and mission.

>Summarizes current projects and programs including a murder profile, sexual assault profile and drug sentencing analysis.

>Cites survey on sentencing guidelines.

318 CRAIG MOSB AEK, RESEARCH MANAGER: Reviews implementation of sentencing guidelines. (EXHIBIT B).

464 SEN. SHOEMAKER: Guidelines in effect for 6 years?

466 MOSB aek: Guidelines are for crimes committed after November 1, 1989.

468 SEN SHOEMAKER: Enough experience under guidelines to know if sentences actually being served?

MOSB AEK: Average offender gets a 10% reduction for earned credit. Only reduction eligible for.

481 SEN. SHOEMAKER: Only one granted?

483 FACTOR: No authority for early release. Guidelines eliminated early release.

>Comments on Council's legislation currently being drafted.

TAPE 4, SIDE B

034 FACTOR: Provides an overview of legislation the Council will be testifying on. FACTOR will be primary representative, MOSB AEK when information needed. New chair is Lyle Velour.

072 SEN. HAMBY: Jail facilities in Wasco, Wallowa and Gilliam counties single cells or what? Are we talking about only one case sentenced to 120 days?

078 MOSB AEK: Capacity? It is a small number of cases, five or less.

086 SEN. HAMBY: Average of 120 days, calls colleagues attention to disparity.

088 TAYLOR: How would sentencing guidelines be adjusted to handle possible reduction in prison space?

092 FACTOR: Several options. Council has statutory requirements to match guidelines with capacity. Council has prepared several budget packages to deal with possible reductions.

114 CHAIR SPRINGER: Experience with Court of Appeals cases, have guidelines resulted in increased appeals?

FACTOR: More cases in last year than first two years in total. Guidelines cases are significant part of Court of Appeals practice. Believes some clarifications in legislation will avoid some appellate issues.

136 CHAIR SPRINGER: Please provide bill numbers to committee.

140 FACTOR: Five pieces of legislation, will provide numbers to
committee
council as soon as possible.

146 CHAIR SPRINGER: Comments on monday agenda, possible work session on
SB
214.

155 SEN. BRYANT: Clarifies when rules will be adopted.

158 CHAIR SPRINGER: Adoption of rules will be prior to work session.

170 CHAIR SPRINGER: Adjourns meeting at 2:20pm.

Submitted by:

Reviewed by:

Kirk Bailey
Assistant

Bill Taylor
Administrator

EXHIBIT LOG:

- A - Informational testimony - Fred Avera - 18 pages
- B - Informational testimony - Craig MoSB aek - 10 pages
- C - Informational testimony - David Factor - 121 pages
- D - Informational testimony - David Factor - 27 pages
- E - Informational testimony - David Factor - 17 pages