

SENATE JUDICIARY  
COMMITTEE

March 22, 1993      Hearing Room C  
1:00 p.m.      Tapes 61-63

MEMBERS PRESENT:    Sen. Dick Springer, Chair  
                          Sen. Jeannette Hamby  
                          Sen. Karsten Rasmussen  
                          Sen. Gordon Smith  
                          Sen. Bob Shoemaker  
                          Sen. Catherine Webber

VISITING MEMBERS:  Rep. Ford  
                          Rep. Hosticka

STAFF PRESENT:        Bill Taylor, Committee Counsel  
                          Kate Wrightson, Committee Coordinator  
                          Ellen Senecal, Committee Assistant

ISSUES DISCUSSED:  Public Hearing and Possible Work Session on SB 157 and  
SB  
158

                          Public Hearing on SB 463  
                          Work Session on SB 361, SB 288, SB 220, SB 256

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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 61, SIDE A

003 ACTING CHAIR SHOEMAKER:  Opens the hearing at 1:08 p.m.

Public Hearing and Work Session

SB 157:  Makes organizational transfer of Emergency Management Division from Executive Department to Department of State Police.

WITNESSES:

          R.B. MADSEN, SUPERINTENDENT, OREGON STATE POLICE DEPARTMENT  
          JIM WOOLIS, PROGRAM COORDINATOR, OREGON STATE POLICE DEPARTMENT  
          REP. FORD, DISTRICT 8, PORTLAND  
          MYRA LEE, ADMINISTRATOR, OFFICE OF EMERGENCY MANAGEMENT

010 REG MADSEN, SUPERINTENDENT OREGON STATE POLICE. Presents  
written  
testimony and overview of the proposed consolidation. Gives reasons  
for  
support of SB 157. (EXHIBIT A,D)

031 JIM WILLIS, DEPUTY DIRECTOR OF THE BOARD ON PUBLIC SAFETY  
STANDARDS and Training. Gives complete overview of the consolidated  
process. Presents exhibits to members. (EXHIBIT B)  
- reviews written material, graphs and charts  
- chart efficiencies  
- budget charts  
- finalized Information System

093 WILLIS: Continues overview.

200 CHAIR SPRINGER: How much longer is presentation? We have more  
testimony  
and want time for questions.

212 REP. MARY ELLIS FORD, DISTRICT 8. Supports SB 157 and presents  
written  
testimony. (EXHIBIT E)  
-

237 SEN. WEBBER: Mrs. Lee. If an emergency occurs will you be  
reporting  
directly to the Governor? Or is there a chain of command?

241 MYRA LEE, ADMINISTRATOR, OFFICE OF EMERGENCY MANAGEMENT.  
The  
communication goes to the Governor and the Superintendent at the same  
time.

247 SEN. WEBBER: Is Department of Public Safety still in the wings or a  
done  
deal?

253 MADSEN: A decision not to develop overall Public Safety Department.

259 SEN WEBBER: What about the G-NINE Organization?

265 MADSEN: Its informal.

273 LEE: Submits and reviews proposed -1 amendments to SB 157. (EXHIBIT  
C)

332 LEE: Continues ...

378 CHAIR SPRINGER: Bill will go to Trade & Economic Development  
Committee  
if passed.  
- How are your respective budgets dealt with?

396 MADSEN: Explains

400 CHAIR SPRINGER: Inquires to members about -1 amendments to SB 157

417 SEN. HAMBY: Asks question about language. Are there other regions with compacts in force?

423 LEE: Yes, this is a common practice among states.

435 MOTION: SEN. SHOEMAKER: Moves to adopt the SB 157-1 amendments dated 3-22-93.

VOTE: CHAIR SPRINGER: Hearing no objection the amendments are ADOPTED. All members present

445 MOTION: SEN. SHOEMAKER: Moves SB 157 AS AMENDED be sent to the floor with a DO PASS recommendation.

VOTE: CHAIR SPRINGER: Hearing no objection the motion CARRIES. All members present.

SB 158: Abolishes the Crime Prevention Resource Center and advisory committee.

WITNESSES:

ROBERT Y. THORNTON, CRIME PREVENTION ASSN. OF OREGON  
REP. HOSTICKA, DISTRICT 40  
SYLVIA LOFTUS, CRIME PREVENTION CENTER  
REG MADSEN, SUPERINTENDENT OF STATE POLICE

480 REG MADSEN, SUPERINTENDENT OF STATE POLICE. Testifies in support of and submits proposed -1 amendments to SB 158. (EXHIBIT G)

TAPE 62, SIDE A

014 JUDGE ROBERT Y. THORNTON, CRIME PREVENTION ASSN. OF OREGON. Testifies in support of HB 2975. Wants to replace SB 158.  
- gives information on historical background of the Crime Prevention Assn.  
- funding has broken down  
- strong support of SB 158

098 CHAIR SPRINGER: Turns meeting over to Sen. Shoemaker.

112 REP HOSTICKA, DISTRICT 40. Testifies in support of SB 158.

150 SEN. SHOEMAKER: Wants to hear about good things the Crime Prevention Center has done. Is there testimony in opposition?

156 SYLVIA LOFTUS: Submits and reviews written testimony in support of SB 158. (EXHIBIT H,I,J)  
- gives background of center programs and availability to public.

196 SEN. SHOEMAKER: Refuses further witnesses.

206 Motion: SEN. HAMBY: Moves to ADOPT the SB 158-1 amendments

dated  
3-22-93.

VOTE: SEN SHOEMAKER: Hearing no objection the amendments are ADOPTED.

210 MOTION: SEN. HAMBY: Moves that SB 158 AS AMENDED be sent to the Committee on Trade and Economic Development in accordance with its prior referral with a DO PASS recommendation.

VOTE: Hearing no objections the motion CARRIES. CHAIR SPRINGER excused.

#### PUBLIC HEARING

SB 463: Requires police officers to have probable cause to believe crime has been committed before officer may ask for consent to search.

#### WITNESSES:

RICHARD HILDRETH, WASHINGTON COUNTY SHERIFF'S DEPT.  
LARRY MOYLETT, WASHINGTON COUNTY SHERIFF'S DEPT.  
JAMES ARNESON, PRESIDENT, OCDLA (OREGON CRIMINAL DEFENSE LAWYER ASSN.)  
JUSTICE ED PETERSON  
DAVID ZEGAR, SAINT ALEXANDER CHURCH, CORNELIUS, PASTOR  
MARIA RUBIO, WASHINGTON COUNTY SHERIFF'S OFFICE  
CONSTANCE CROOKER, OCDLA, ATTORNEY  
TIM THOMPSON, JOSEPHINE COUNTY D.A.  
JASON CARLYLE, LINN COUNTY D.A.  
FRED AVERA, POLK COUNTY D.A.  
DAVID NEBEL, OREGON LEGAL SERVICES  
DAVE FIDANQUE, ACLU  
ANNABELLE JARAMILLO, COMMISSION ON HISPANIC AFFAIRS

230 JIM ARNESON, PRESIDENT, OCDLA. Submits written testimony and proposed amendments in support of SB 463. Introduces Justice Peterson. (EXHIBIT K)

240 JUSTICE ED PETERSON, SUPREME COURT OF OREGON. Chair of Racial Issues Task Force. Offers testimony neither in support or opposition of SB 463.

305 ARNESON: gives overview using charts  
- "Driving while Hispanic"  
- chance of being stopped if Hispanic or Black is greater  
-Criminal Interdiction Program

343 SEN. SHOEMAKER: Question

344 ARNESON: Continues presentation and gives examples of police officers pulling over drivers for invalid reasons.  
- more than half of drivers consenting to searches were Hispanic  
- the entire state PD involved with intrusive searches

- explains amendments to SB 463
- written consent to search

TAPE 61, SIDE B

002 ARNESON: continues overview

042 SEN. HAMBY: Does Oregon give statutory allowance for police to confiscate cash when no drugs are identified?

ARNESON: Yes. Explains statutory limits. Dogs are used and alerted to money and drugs.

056 SEN. HAMBY: Then the smell of money is the established rationale for confiscating money.

ARNESON: Yes.

061 SEN. SHOEMAKER: Are there any statistics on convictions that result from all of this?

ARNESON: We have arrests. Suspects the state police have it.

066 SEN. WEBBER: Does a search of innocent person imply a conviction?

ARNESON: Answers.

071 SEN. WEBBER: Money in and of itself is evil?

ARNESON: Has to be some connection. Don't know what amount of cash would stand up in court.

076 SEN. WEBBER: Looks as if 75% of Hispanics searched were innocent. 44% of whites innocent.

083 DAVE FIDANQUE, EXECUTIVE DIRECTOR, ACLU. Submit and reviews written

- testimony in support of SB 463. (EXHIBIT M)
- table of data submitted
- vast majority of cases involved Hispanics drivers
- looking for pattern of racial disparity

125 SEN. SHOEMAKER: What was the line drawn on the amount of cash?

130 FIDANQUE: State Police have guidelines. About \$1,000 with drugs. Cash only \$10,000.

-any cash found in vicinity is contraband

151 SEN. SHOEMAKER: If cash is found with out drugs what would give probable cause?

FIDANQUE: Most of these issues have not been litigated beyond the

trial

court level.

- explains police criteria used for assuming suspicion

196 FIDANQUE: Continues

- One has the right to say "no" to a police officer.

240 SEN. SHOEMAKER: You do favor backing off from probable cause  
as

reasonable suspicion?

FIDANQUE: Yes.

242 ANNABELLE JARAMILLO, EXEC. DIRECTOR, COMMISSION ON HISPANIC  
AFFAIRS.

Submits and reviews written testimony in support of SB 463. (EXHIBIT  
L)

- requests the introduction of SB 1046

286 SEN. HAMBY: Questions exhibit material.

ANNABELLE: Answers question.

301 FIDANQUE: Adds further comment on question.

339 RICHARD HILDRETH, WASHINGTON COUNTY SHERIFF'S DEPT. Testifies  
in

opposition to SB 463.

- a hindrance to law enforcement and the community

379 SEN. SHOEMAKER: "I guess I don't read it that way."

HILDRETH: Answers.

TAPE 62, SIDE B

003 Hildreth: continues with reasons why against bill

025 LARRY MOYLETT, DETECTIVE WASHINGTON COUNTY SHERIFF'S DEPT. Testifies  
in

opposition to SB 463.

- there are courts to deal with police officers who are out of line

039 SEN. SHOEMAKER: What is your objection to requiring a  
reasonable

suspicion before one asks consent to search?

042 MOYLETT: One may not have a reasonable suspicion.

- descriptions of suspects can cause mere suspicion

056 SEN. SHOEMAKER: Sounds to me like you did have a reasonable  
suspicion.

MOYLETT: No. A mere suspicion.

057 SEN. SHOEMAKER: What's the difference?

MOYLETT: The description has to be enhanced to get to reasonable  
suspicion.

063 MARIA RUBIO, CRIME PREVENTION SPECIALIST, WASHINGTON COUNTY SHERIFF'S OFFICE. Testifies in opposition to SB 463.  
- Community Education program would make search information available to the Hispanic and Non-English  
- mandatory law officer training in the community education program

113 DAVID E. ZEGAR, ST. ALEXANDER CHURCH, CORNELIUS, PASTOR. Testifies in support of SB 463.  
- Law enforcement searches are an embarrassment to community and the individual.  
- Tells of recent personal harassment by the police  
- There is no respect from police towards Hispanics

189 SEN. HAMBY: Receives many calls from the anglo community who are alarmed with every single they stop they see, is the stop of a Hispanic.  
"They are being singled out."

198 CONSTANCE CROOKER, OCDLA, ATTORNEY. Testifies in support of SB 463.  
- In the majority of stops of Hispanics no drugs are found.  
- Forfeiture law is a concern.  
- What must law enforcement do to comply with the state constitution?  
- Police officer must tell individual that they have the right to refuse consent to a search. "Not asking them (the police) to do something extra."  
- Quotes Robert E. Jones, Federal Court Judge.

305 DAVID NEBEL, OREGON LEGAL SERVICES. Testifies in support of SB 463.

322 SEN. SHOEMAKER: Would it make sense to have section 2 require reasonable suspicion to believe either the person has committed a crime or that the property to be searched is connected to an illegal activity so that it ties into civil forfeiture?

338 TAYLOR: Answers.

348 SEN. SHOEMAKER: If there is money hidden in car is that person committing crime?  
NEBEL: It could.

361 CROOKER: Responds briefly to question.  
- Would be redundant to add language related to civil forfeiture

392 FRED AVERA, POLK COUNTY, D.A. Turns floor over to Mr. Thompson.

412 TIM THOMPSON, JOSEPHINE COUNTY, D.A. Submits and reviews testimony  
in  
opposition to SB 463. (EXHIBIT Q)  
- comments on search consent and I-5 interdictions  
- mentions SB 463 shortcomings  
- "To even ask for consent is ridiculous."

TAPE 63, SIDE A

005 THOMPSON: Continues testimony

036 SEN. RASMUSSEN: Do you think these people consent to searches when  
they  
are only carrying cash?

THOMPSON: "Frankly, I don't have a clue why people consent when  
they're  
carrying large amounts of cash."

045 SEN. HAMBY: Are you aware that most Hispanic migrants typically  
carry  
cash with them?

THOMPSON: "I'm aware of some of those instances."

057 SEN. SHOEMAKER: Is the money usually hidden when found?

THOMPSON: Josephine county doesn't have a resident "drug dog".

069 JASON CARLYLE, LINN COUNTY, D.A. Testifies in opposition to SB 463.  
- Tells of murders of two girls in a milker's house  
- All the evidence obtained with consent, there was no probable  
cause  
involved.

118 CHAIR SPRINGER: Adjourns hearing at 2:50 p.m.

Submitted by:

Reviewed by

Ellen L. Senecal  
Assistant

Bill Taylor  
Administrator

EXHIBIT LOG:

- A - Testimony on SB 157-Oregon Emergency Management-1 pg.
- B - Consolidation Information on SB 157-Oregon State Police-Blue Folder
- C - Testimony on SB 157-Emergency Management-4 pgs.
- D - Proposed Consolidation on SB 157-Oregon State Police-3 pgs.
- E - Testimony on SB 158-Rep. Ford\_ 20 pgs.
- F - Testimony on SB 158-Theodore Kulongoski\_2 pgs.
- G - Proposed Amendments to SB 158-Reg Madsen-7 pgs.



H,I,J - Testimony on SB 158-Sylvia Loftus-3 pgs.  
K - Proposed amendments to SB 463-OCDLA-24 pgs.  
L - Testimony on SB 463-Annabelle Jaramillo-3 pgs.  
M - Testimony on SB 463-ACLU-1 pg.  
N - Testimony on SB 463-Angel Lopez-2 pgs.  
O - Background info. on SB 157-Staff-2 pgs.  
S - Proposed Amendments to SB 157-Madson-30 pgs.

Submitted Written Testimony ONLY:

P - Testimony on SB 463-Dean Renfrow-7 pgs.  
Q - Testimony on SB 463-Tim Thompson-6 pgs.  
R - Testimony on SB 361-Carl Stecker-2 pgs.