



Law and Justice Interim Committee

64th Montana Legislature

SENATE MEMBERS

SCOTT SALES--Chair
DIANE SANDS--Vice Chair
DOUG KARY
SUE MALEK
MARY SHEEHY MOE
NELS SWANDAL

HOUSE MEMBERS

JENNY ECK
ELLIE BOLDMAN HILL
SARAH LASZLOFFY
STEVE LAVIN
DALE MORTENSEN
CAROLYN PEASE-LOPEZ

COMMITTEE STAFF

RACHEL WEISS, Lead Staff
JULIANNE BURKHARDT, Staff Attorney
KRISTINA LIMING, Secretary

MINUTES LOG

September 29, 2015
Room 102, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select Committees, then Interim. Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. SCOTT SALES, Chair
SEN. DIANE SANDS, Vice Chair

SEN. DOUG KARY
SEN. SUE MALEK
SEN. MARY SHEEHY MOE
SEN. NELSON SWANDAL

REP. JENNY ECK
REP. SARAH LASZLOFFY
REP. CAROLYN PEASE-LOPEZ

COMMITTEE MEMBERS ABSENT

REP. ELLIE BOLDMAN HILL
REP. STEVE LAVIN
REP. DALE MORTENSEN

STAFF PRESENT

RACHEL WEISS, Lead Staff
JULIANNE BURKHARDT, Staff Attorney
KRISTINA LIMING, Secretary

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

COMMITTEE ACTIONS

- Requested information on Board of Crime Control funding for domestic violence and sexual assault victims' programs
- Requested a one-page document summarizing data from Board of Crime Control presentation on Board of Crime Control funding for sexual assault victims' resources
- Requested additional information from the Office of the Commissioner of Higher Education on any work the office is doing to adopt and standardize reporting practices across Montana campuses and to provide training to employees and students at the campuses
- Requested more information on sexual assault prevention programs, treatment for sexual offenders, the status of the sexual offender registry, any model definitions related to sexual assault statutes
- Requested an update from the Montana Department of Justice on the forensic pathologist positions and the expansion of the state's crime lab to Billings
- Agreed to hear a report in 2016 from the POST Council and the Montana Law Enforcement Academy about training and a survey the organizations will provide related to eyewitness identification best practices

CALL TO ORDER AND ROLL CALL

00:00:00 Sen. Sales called the meeting to order at 8:05 a.m. The secretary took the roll.
([Attachment 3](#))

COMMITTEE ISSUE: EYEWITNESS IDENTIFICATION BEST PRACTICES AND MONTANA POLICIES

Glen Stinar, Administrator, Montana Law Enforcement Academy
Chief William G. Brooks III, Chief of Police, Norwood (Massachusetts) Police Department
Jerry Williams, Executive Director, Montana Police Protective Association
Michelle Feldman, State Policy Advocate, Innocence Project

00:01:27 Mr. Stiner (**EXHIBIT 1**)
00:02:53 Mr. Brooks (**EXHIBIT 2**)
00:16:35 Mr. Williams
00:21:33 Ms. Feldman (**EXHIBIT 3**)(**EXHIBIT 4**)

Committee Questions

- 00:35:48 Sen. Moe asked Mr. Williams about possible advantages of video training.
- 00:37:01 Sen. Moe asked if attorneys receive similar eye-witness identification training.
- 00:37:40 Sen. Swandal asked Mr. Brooks about specific examples from trainings he has given to police officers when identifying suspects in a lineup.
- 00:38:54 Sen. Swandal asked about resistance from local law enforcement agencies to implement best practices training.
- 00:39:43 Sen. Malek asked Mr. Stinar about the plan of implementation and the possibility of providing a copy of the plan to the committee. Ms. Feldman assisted Mr. Stinar in a response.
- 00:43:19 Rep. Eck asked Mr. Williams about moving forward with the model policy. Mr. Stinar provided a response as well.

Public Comment

00:44:36 None.

BREAK (reconvened at 9:07 a.m.)

AGENCY OVERSIGHT: DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION REPORT

01:00:58 Matthew Dale, Executive Director, Office of Victim Services, Montana Department of Justice (DOJ), provided the committee with a presentation (**EXHIBIT 5**) with an update on information and data gathered on domestic violence fatalities in Montana over the last 15 years.

Committee Questions of Mr. Dale:

- 01:23:01 Sen. Kary asked about alcohol and drug involvement with crimes committed, as well as mental instability.
- 01:25:06 Sen. Sands asked about tracking crimes committed with orders of protection currently in place at the time of the crime. She also asked about access to victim services on reservations.
- 01:29:35 Sen. Moe asked about the availability of comparative data of similar crimes committed in other states. She also asked about the social media data that was presented and the creation of safety plans.
- 01:32:56 Sen. Swandal asked about prior convictions of perpetrators and victim service utilization by the victims of the crimes.
- 01:34:19 Sen. Malek asked about the relationship between alcohol use and violent crimes. She also asked about the how widespread the use of the 24/7 program is throughout the state.

Public Comment

01:37:05 None.

Committee Comments

01:37:33 Sen. Sands asked about including the Board of Crime Control in future committee discussions on the issue.

SJ 24: STUDY OF SEXUAL ASSAULT IN MONTANA

Panel 1: Data on Sexual Assault in Montana

01:38:56 Deb Matteucci, Executive Director, Board of Crime Control (BOCC), provided and reviewed a handout containing data related to sexual assault in Montana. **(EXHIBIT 6)**

Committee Questions of Ms. Matteucci:

01:55:05 Sen. Sands asked if Ms. Matteucci would be willing to work with the staff attorney on a review of the current statutes.

01:55:59 Sen. Kary asked about different regions of the state with more crime occurrences.

01:56:57 Rep. Eck asked about comparisons to other states and reporting rate fluctuations.

01:58:46 Sen. Sands asked about data on the impact of sexual assault on native Americans. She also asked about potential differences in the data if the Native women victims were presented separately.

02:01:05 Sen. Moe asked about non-forcible crime categorization.

Panel 2: Montana's Sexual Assault Statutes

Ole Olson, Assistant Attorney General, DOJ

Julianne Burkhardt, Staff Attorney, Legislative Services Division (LSD)

02:02:47 Mr. Olson **(EXHIBIT 7)**

Committee Questions of Mr. Olson:

02:20:07 Sen. Sands asked about an update on national statute language pertaining to sexual assault.

02:22:31 Ms. Burkhardt **(EXHIBIT 8) (EXHIBIT 9)**

Committee Questions:

02:32:51 Sen. Moe asked Mr. Olson asked about the definition of "knowingly" in reference to other crimes and the importance of it in sexual assault cases.

02:35:51 Sen. Sands asked Ms. Burkhardt for background information on the affirmative consent statutes from California and New York.

BREAK (reconvened at 10:53 a.m.)

Panel 3: Investigating and Prosecuting Sexual Assault - a case study

02:46:38 Bill Fulbright, Ravalli County Attorney, provided the committee with a handout **(EXHIBIT 10)** and presented a PowerPoint presentation on sexual assault investigations and prosecution.

Committee Questions of Mr. Fulbright:

03:47:19 Sen. Swandal asked about the use of expert witness in a trial.

03:49:49 Sen. Moe asked about code of ethics for two attorneys portrayed in the investigation Mr. Fulbright used as an example in his presentation.

03:53:20 Rep. Eck asked about admissibility of evidence in regards to the women who were permitted to testify in the trial when a statute of limitations had expired.

03:56:54 Sen. Swandal asked about acquaintance related crimes.

04:00:05 Sen. Sands asked about delayed disclosure, civil remedies, statute of limitations

lengths and the potential of a revision to those limits. Sen. Swandal assisted in the response.

04:04:41 Rep. Eck asked about providing education about sexual assault.

04:06:17 Sen. Malek asked about ideas on how to implement education on sexual assault to a broad audience.

LUNCH (reconvened at 1:32 p.m.)

Panel 4: Sexual Assault Medical Forensic Examinations - examination process, best practices, and Montana challenges

Dianna Linder, Billings Clinic

Jolyn Hoff, RN, Billings Clinic

05:25:43 Ms. Linder (**EXHIBIT 11**)

05:35:33 Ms. Hoff

Committee Questions

05:49:54 Sen. Moe asked Ms. Hoff about victim reporting and the requirement for hospitals to inform law enforcement after a reported assault. She also asked about nurse burnout.

05:51:46 Sen. Swandal asked Ms. Hoff about performing exams on different types of victims, such as those who have consumed alcohol. He also asked about rape kits that cannot be processed.

05:53:56 Sen. Sands asked Ms. Hoff about DNA databases and the purpose of collecting DNA. She requested that the topic be followed up on at a later committee meeting.

Panel 5: Resources and Best Practices Related to Treatment of Victims of Sexual Assault

Tina Chamberlain, Grants Contract Coordinator, BOCC

Christina Powell, Executive Director, Bozeman Help Center

Robin Turner, Montana Coalition Against Domestic and Sexual Violence

05:56:30 Ms. Chamberlain

06:03:51 Ms. Powell (**EXHIBIT 12**) (**EXHIBIT 13**) (**EXHIBIT 14**)

06:18:30 Ms. Turner

Committee Questions

06:26:56 Sen. Sands distributed an article on domestic violence and sexual assault on the Fort Peck reservation (**EXHIBIT 15**).

06:28:33 Sen. Malek asked Ms. Powell about perpetrators and repeat offenders, and the effects on victims who don't report. She asked how Ms. Powell's agency assists victims after an assault.

06:35:22 Sen. Moe asked Ms. Chamberlain about what resources are required to adequately address rural victim services. Ms. Turner also provided input to the question.

06:37:56 Sen. Moe asked Ms. Powell about non-consensual dissemination of intimate images.

06:42:08 Rep. Pease-Lopez asked about Native American victims and the possibility that there is an increase in reporting from reservation sexual assault victims. Ms.

- Powell and Ms. Chamberlain answered the question.
- 06:47:40 Sen. Sales asked Ms. Chamberlain about increases in federal funding to victim services programs.
- 06:50:12 Rep. Laszloffy requested that specific data numbers be presented to the committee related to sexual assault victim resources. Sen. Sands agreed with that request, with special attention paid to federal funding statistics.

BREAK (reconvened at 3:20 p.m.)

Panel 6: Myths Surrounding Sexual Assault

Professor Kelly Parsley, Chair of Carroll College Health Sciences Department and Montana Department of Health and Human Services Rape Prevention Education Program coordinator
 Dan Guzynski, Assistant Attorney General, DOJ

- 07:13:43 Ms. Parsley (**EXHIBIT 16**)
- 07:35:06 Mr. Guzynski

Committee Questions

- 07:45:11 Sen. Kary asked both presenters for one recommendation on how to prevent rape.
- 07:47:36 Sen. Sands asked Mr. Guzynski about tendencies for defense attorneys to ask potential jurors if they have ever been a victim or perpetrator, and how well it works. She asked Sen. Swandal to address the question as well.
- 07:51:16 Rep. Eck asked both presenters if offenders considered themselves perpetrators.
- 07:52:39 Sen. Moe commented about sex education.
- 07:53:36 Sen. Malek asked about teaching healthy and unhealthy relationships.
- 07:56:01 Sen. Swandal asked Mr. Guzynski about rape myths in comparison to the high rate of rape convictions.
- 08:00:00 Sen. Sales commented about the information presented about rape myths.
- 08:02:26 Sen. Sands asked Mr. Guzynski about the reluctance of prosecutors to bring cases forward.
- 08:05:08 Sen. Sands asked about the technicalities of the sex sssault prosecution unit created during the 2015 legislative session. Jon Bennion, Assistant Attorney General, Department of Justice, provided clarification.
- 08:07:01 The committee and the presenters discussed rape myths.

Public Comment

- 08:13:45 Andy Hudak, Legislative Coordinator, Montana Sex Offender Treatment Association, commented about his experiences with both victims and offenders of sexual assault. He also provided statistics and recommendations to the committee to prevent assaults and assist victims.
- 08:27:37 Dulaney Collins provided the committee with a letter (**EXHIBIT 17**), and commented about the need for the treatment of victims after assault and community education. She requested funding and support for an educational video that targets children to learn personal boundaries. She also provided her suggestions to the committee in revising sexual assault laws.
- 08:43:48 Sen. Sands addressed the committee and public about the issues presented and

stated that there will be future discussions to address the problem of sexual assault.

COMMITTEE ISSUE: UPDATE ON HB 627 TASK FORCE ON STATE PUBLIC DEFENDER OPERATIONS

08:44:22 Dave Bohyer, Research Director, LSD, provided the committee with an overview of the task force members, duties and topics discussed and decided on at the first meeting.

General Public Comment

08:51:45 None.

08:52:01 Sen. Sales recessed the meeting at 4:59 p.m., to reconvene at 8:00 a.m. on Wednesday morning.

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