

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Third Session  
April 1, 2005**

The Committee on Judiciary was called to order at 9:08 a.m., on Friday, April 1, 2005. Chairman Bernie Anderson presided in Room 3138 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Mr. Bernie Anderson, Chairman  
Mr. William Horne, Vice Chairman  
Ms. Francis Allen  
Mrs. Sharron Angle  
Ms. Barbara Buckley  
Mr. John C. Carpenter  
Mr. Marcus Conklin  
Mr. Brooks Holcomb  
Mr. Garn Mabey  
Mr. Mark Manendo  
Mr. Harry Mortenson  
Mr. John Ocegüera  
Ms. Genie Ohrenschall

**COMMITTEE MEMBERS ABSENT:**

Ms. Susan Gerhardt (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Jerry Claborn, Assembly District No. 19, Clark County (part)

**STAFF MEMBERS PRESENT:**

Allison Combs, Committee Policy Analyst  
René Yeckley, Committee Counsel

Carole Snider, Committee Attaché

**OTHERS PRESENT:**

Bill Hoffman, General Counsel, Clark County School District, Nevada  
Susan Hallahan, Chief Deputy Attorney, Washoe County District  
Attorney's Office, Washoe County, Nevada  
Louise Bush, Chief, Child Support Enforcement, Welfare Division, Nevada  
Department of Human Resources  
Robert W. Teuton, Assistant District Attorney, Clark County District  
Attorney's Office, Las Vegas, Nevada  
Gary Wolff, Business Agent, Local No. 14, International Brotherhood of  
Teamsters, Reno, Nevada  
Ed Flagg, President, Nevada Corrections Association  
Ron Cuzze, President, State Peace Officers Council  
Phil Gervasi, President, Police Officers' Association, Clark County School  
District, Nevada  
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs'  
Association  
Ron Pierini, Sheriff, Douglas County Sheriff's Office; and President,  
Nevada Sheriffs' and Chiefs' Association  
Gene Hill, Sheriff/Coroner, Humboldt County Sheriff's Office, Nevada  
Gary Peck, Executive Director, American Civil Liberties Union for Nevada  
Cheri Edelman, Assistant City Engineer, City of Las Vegas, Las Vegas,  
Nevada  
Michelle Youngs, Sergeant, Washoe County Sheriff's Office, Washoe  
County, Nevada  
Curtiss C. Kull, Detective, Regional Sex Offender Unit, Reno Police  
Department, Reno, Nevada  
Sean Meeks, Police Officer, Sparks Police Department, Sparks, Nevada  
John S. Michela, Deputy Attorney General, Office of the Attorney  
General, State of Nevada  
Pat Hines, Private Citizen, Advocate for Criminal Justice Reform  
Richard L. Siegel, Ph.D., President, American Civil Liberties Union of  
Nevada

**Chairman Anderson:**

[Meeting called to order and roll taken.] Let's turn our attention to Assembly Bill (A.B.) 259 first. We have already heard part of this particular piece of legislation. This is Mr. Conklin's legislation and is similar in point to a bill that we have already heard, Assembly Bill 207. Most of the testimony on A.B. 207 was reflected at that hearing. In the interest of time, is there any more

information, other than the information that was presented in A.B. 207, which needs to be put on the record in defense of this bill? The reason I am asking is that clearly the intent is we have a posting that is going to be sent to the subcommittee that deals with this particular issue, which I am chairing.

**Assembly Bill 259: Revises provisions relating to rights of peace officers. (BDR 23-546)**

**Bill Hoffman, General Counsel, Clark County School District, Nevada:**

I did not testify for A.B. 207 although I understand Clark County School District did provide some information. I want to reinforce that information but I can't say I know what was said about A.B. 207. I can tell you regarding A.B. 259 that we would support the idea that it go to a subcommittee for further study because we believe that needs to happen. We would be happy to participate and provide information for that subcommittee.

**Chairman Anderson:**

You have raised some concerns relative to the potential impact of information we had heard on A.B. 207. Rose McKinney-James had represented the school district's position when we heard that particular piece of legislation. We will be more than happy to inform you the scheduling of the subcommittee on how the various parts of the bill are going to be melded together in a single piece and whether we can work out the final language on it. The hearing on A.B. 259 is closed.

Let's turn our attention to Assembly Bill 386.

**Assembly Bill 386: Revises provisions regarding obligation of child support and makes appropriation for audit of child support collection and enforcement by Welfare Division of Department of Human Resources. (BDR 11-1231)**

**Assemblywoman Barbara Buckley, District No. 8, Clark County:**

Assembly Bill 386 does two things (Exhibit B). It changes one of the provisions to try making child support orders easier enforce by following the child. The second thing it does is appropriate money to conduct an audit of child support collections in the state. I think you will recall from the earlier hearing we had, in my opinion, we are not doing enough to collect child support for custodial parents. I discussed a little bit the performance audit that was done at the Clark County District Attorney's Family Support Division. I feel we need to take a fresh look at child support collection—what is working and what is not working. What could we improve and what could we streamline so that we could do a better job? We have very good and dedicated people working in this arena. How can we maximize efforts? What resources do they need? What

system improvements should be adopted? What further legislation should we consider to streamline the process? That is what we hope to do from the audit, because we have little time. Rather than belaboring it, that's it in a nutshell.

[Assemblywoman Buckley, continued.] We have some amendments for the first portion of the bill that will achieve the same goal but in a simpler way. The second amendment addresses the audit. It wasn't clear that the scope of the audit was not only our state's efforts but all of the counties' efforts. We should allow either the Legislative Committee on Children, Youth and Families or the Legislative Commission, if that committee doesn't exist any longer, to be able to select an appropriate consultant and have the money to do so.

I think this bill is supported by all the child support collection entities—the state, the Nevada Women's Lobby, and other groups who support it.

**Susan Hallahan, Chief Deputy Attorney, Washoe County District Attorney's Office, Washoe County, Nevada:**

I am here today to support A.B. 386 on behalf of the Washoe County District Attorney's Office and the District Attorney's Association. I have been employed in the Family Support Division for 12 years and over the years have seen many issues arise with respect to child support, when a parent turns over physical custody to a third party. Generally, this occurs without a court order modifying custody or child support. For example, a case starts out with a mom versus a dad who was ordered to pay child support in a divorce decree for one child. When the mother comes to the DA's [District Attorney] office for enforcement services, we open a case and serve the dad with a notice of intent to enforce under *Nevada Revised Statutes* (NRS) 425 to collect the child support amounts brought forth in the decree. That service is generally done by mail and dad is given an opportunity to contest the enforcement notice on limited grounds. In the meantime, I can start garnishing dad's wages for collection of ongoing child support according to the divorce decree and start getting money for the child.

This process does not usually take a significant amount of time. However, where the case gets complicated is when the mom places her child in the physical custody of grandma. Grandma now comes to the DA's office and asks for child support now that she is the physical custodian, which she is entitled to do under NRS 125B.040 currently. Unfortunately, at this time, we have no legal authority that the amount set forth in the divorce decree will now be payable to the grandmother. Accordingly, we are forced to serve the father with a notice in finding of financial responsibility to establish an order for him to pay child support to the grandmother. This service must be done personally and if he requests a hearing, it is far more complicated because we need information

on current income and financial information, family dynamics, such as additional children, and other numerous deviation factors as set forth in NRS 125B.080.

[Susan Hallahan, continued.] This process takes much longer, and is far more labor intensive, and legally complicated than that to enforce an existing order. Then to complicate matters even further, what happens in reality is that by the time I have an order established against the dad to now pay grandma, which I might add could be a dollar amount different than that set forth in the divorce decree, the child returns now to the mother. The legal question becomes is the divorce decree revived or did the order I established for grandma modify the divorce decree, thereby, causing me to yet again file a notice in finding of financial responsibility to establish a new order for the mother.

Most courts of this state have continuously found that under the current law, as these subsequent custodians were parties to the original action, they are not privy to enforcing those orders and, therefore, new orders must continue to be established. This is time consuming as well as inconsistent with the theory under the Uniform Interstate Family Support Act known as UFS mandated to be adopted by the federal government and codified in 1988 in NRS 130 to have a one order world.

Historically, prior to UFS, parties could have multiple orders from multiple states involving the same parents and children. UFS has put an end to this practice requiring the reconciliation of multiple orders, so that prospectively only one order exists for enforcement and also requires states to register their child support orders in a state database, which is required under NRS 125B.055.

It makes sense to extend this ideology out to the situation at hand. In doing so, we would be joining a growing community of states that have recognized this problem and taken action including Utah, California, Montana, Arkansas, Missouri, and Washington. By adopting legislation to allow child support to follow the child regardless of where or with whom that child resides, we will be accomplishing our goal of getting support to a child more quickly, efficiently, and cost effectively. An enforcement agency would be able to notice the dad that we would now be enforcing his obligation in favor of grandma, then aunt, then mom again or whatever the situation may be. This would not only save precious child support resources but would meet our number one goal, which is getting child support paid as quickly as possible to the person with whom the child is lawfully residing.

**Assemblyman Horne:**

In these other jurisdictions that have done this, have there been any problems with other states recognizing this order following the child? Do they say we recognize the order from the divorce instead?

**Susan Hallahan:**

Generally speaking, when another state, for example California, sends a case to Nevada and asks us to enforce the divorce decree that was mom versus the dad but now it is for the grandmother or the Welfare Division, they send along with that application their state law that states the child support order follows the child. There has been no issue with enforcing those orders in our jurisdiction.

**Assemblyman Carpenter:**

Is there a procedure that can be followed when the child changes custody from the mother to the grandmother?

**Susan Hallahan:**

Yes, there is a legal procedure in which you can change custody by court order. Unfortunately, that is not the general occurrence. People simply place their child with their mother and they expect the legal process to fall into place behind them. That doesn't happen. Under NRS 125B.040, the physical custodian of a child may petition for child support. He or she does not have to have a court order granting them physical custody. They just simply have to be the physical custodian.

**Louise Bush, Chief, Child Support Enforcement, Welfare Division, Nevada  
Department of Human Resources:**

As testified by Assemblywoman Buckley and Ms. Hallahan, the Welfare Division participated in the meetings with the key Washoe and Clark County staff to develop the proposed language which would meet the original intent of A.B. 386, without creating the need for significant changes to our statewide computer system ([Exhibit C](#)).

If the Committee chooses to adopt the proposed changes to A.B. 386, the Welfare Division believes the child support enforcement staff will be afforded the legal authority to continue uninterrupted distribution of child support collections to the new custodian, without the current delays associated with pursuing a new court order. This would fulfill the original intent of A.B. 386 which sought to ensure ongoing support is made available to the current custodian allowing for the needs of the child to be met.

With the proposed changes to A.B. 386, the Welfare Division wishes to offer its support to that already expressed by Assemblywoman Buckley and Washoe

County and urges the Committee to pass this piece of legislation. I would also like to thank the cooperation and partnership with Washoe and Clark County, as well as the other counties throughout the state. They really worked together with the state in a manner so we can accomplish a lot of goals, and I appreciate that.

**Chairman Anderson:**

We are hopeful that if this piece of legislation goes on, the audit will have to take place not only in the two major counties but throughout the counties of the state. These suggested amendments are going to help the state make sure it does take place. This bill would have to go to Ways and Means to make sure that this is going to happen. We are hopeful what we would want statutorily, as a policy question, is sent to the Interim Finance Committee and hopefully it will continue on or to its successor committee. Then it would be effective upon passage and approval.

**Assemblyman Carpenter:**

On page 2, Section 1, subsection 3 of the bill, it always worries me when you say you are going to send them a notice by certified mail and most of the time they are not going to pick it up. What other means do you have if they don't pick that mail up and return the notice back to you? Do you send the sheriff?

**Susan Hallahan:**

We have changed some of the language with respect to the notice requirement. However, currently under the law in an action to enforce an existing child support order, we are only required to send notice by mail to the last known address. In addition, we would presumably be taking collection action such as garnishing the noncustodial parent's wages. Hopefully, he or she would have notice through that action as well. We do have an agreement with the sheriffs' offices. I believe the local county district attorneys' offices do send out notices as well to go out and actually personally serve or do substitute service on noncustodial parents to enforce child support.

**Assemblyman Carpenter:**

I just wonder whether the law is adequate so that you can pursue these people that owe child support. Do we need to strengthen that? Even though the district attorney in Elko is tough on people who owe child support, they still have a terrible time trying to locate them.

**Assemblywoman Buckley:**

That is why we are proposing legislation and I am going to bring it in a floor amendment to a bill so I can get it done on time. What it would be is to have the Legislative Committee for Children, Youth and Family do a comprehensive

look at child support over the interim and to have as a tool this performance audit so that we can look extensively at the child support collection, make suggestions on how to streamline it, and improve it by having an expert work with all of the entities and us to improve the statutes. We want to improve practices so we can do better in our state.

[Assemblywoman Buckley, continued.] What I am envisioning is we will do this over the interim. We have one little quick fix today and the rest we will do over the interim since this area hasn't been comprehensively studied for over a decade.

**Chairman Anderson:**

We might mention, however, that we have made huge strides in terms of collections. The difficulty is not only trying to find them but enforcing it. We have done a pretty good job of garnishing their wages for those we can identify. Hopefully, we won't get too many of those dollars siphoned off to do other kinds of things which is one of our primary concerns.

**Robert W. Teuton, Assistant District Attorney, Clark County District Attorney's Office, Las Vegas, Nevada:**

I am here to testify in both aspects of the bill as well as any interim study. I don't need to add any more than what has been said in terms of the appropriateness of all those items going forward. I would just like to additionally go on record that the appropriation made to the department was \$150,000. I'm not sure how far that will go in terms of doing a comprehensive study of both counties and the state child support enforcement. I would like to say we have some discretionary monies in our budget and without committing Clark County at this point, I think Clark County would be willing to provide further financial assistance to make sure that everything that the Legislature needs to make decisions can be provided to you.

**Chairman Anderson:**

As in most of our studies which are generally underfunded, Mr. Teuton, we are relying upon the largesse of the district attorneys' offices and the counties to supply some of the expertise and the state agencies to supply their information so that we can make an informed decision. It's a good management of resources. The hearing on A.B. 386 is closed.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO AMEND AND DO PASS ASSEMBLY BILL 386 WITH THE AMENDMENTS PROPOSED IN EXHIBIT B BY ASSEMBLYWOMAN BUCKLEY.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.



THE MOTION CARRIED. (Mr. Mortenson and Ms. Gerhardt were not present for the vote.)

**Assemblyman Horne:**

It is all new language in the amendment.

**Assemblywoman Buckley:**

It rewrites Section 1 so it is clearer but it is the exact same concept as was testified in terms of the order following the child.

**Chairman Anderson:**

As with all of our amendments, it'll come back in the proper language from the Legislative Counsel Bureau. If you like, I'll make sure this particular one is reviewed by the Committee before it goes to the floor.

Let's turn our attention to Assembly Bill 358.

**Assembly Bill 358: Revises provisions relating to peace officers. (BDR 23-969)**

**Assemblyman Jerry Claborn, Assembly District No. 19, Clark County (Part):**

This morning I bring you A.B. 358 before this Committee on behalf of the State Peace Officers' Council and the Nevada Correctional Association. This bill was requested by Mr. Gary Wolff, and it is an act relating to law enforcement requiring an internal investigation of a police officer to be suspended until the investigation, which concerns alleged activities, is completed.

It changes the classifications of certain peace officers from Category II to Category I for the purpose of receiving training required by the Peace Officers Standard and Training Commission (POST). It eliminates certain limitations on the powers of a police officer in certain positions.

**Gary Wolff, Business Agent, Local No. 14, International Brotherhood of Teamsters, Reno, Nevada:**

Assembly Bill 358 does basically four things (Exhibit D): first, it creates a system that disallows concurrent criminal and internal investigations in the event a police officer is charged with a crime; second, the bill establishes a Category I status for peace officers that are now Category II. Basically, it upgrades all police officers in the state; third, it charges POST to develop a training system to upgrade those officers that are Category II to Category I status; and fourth, we have a section in current law that removes the retirement restrictions of one of our peace officers. It is the only peace officer in the state that has this restriction placed on them.

Section 1, subsection 2 states, "If a peace officer is the subject of any investigation which concerns alleged criminal activities, any internal investigation relating to the same conduct of the peace officer which may result in punitive action must be suspended until the criminal investigation is completed." I think I have said this many times in the past years, lose your job as a cop, you're done. You're never going to work as a policeman again, especially in the law enforcement community where people trust you, you're done.

[Gary Wolff, continued.] What is going on in some cases, is some of these agencies are running concurrent investigations. One is criminal which gives you all the rights under the *United States Constitution* not to incriminate yourself under the Fifth Amendment. The other investigation, which is internally done by police agencies, is done under a system called *Garrity v. New Jersey* [385 U.S. 493 (1967)]. It compels the officer to tell them what they want to know. They have no choice. If they don't tell them, they are terminated. What has happened, and it doesn't happen often, are some agencies have this in policy already but it is not in law.

What has happened in past instances is they run concurrent investigations. So if a peace officer is charged with a crime, they are running two investigations at the same time. You may hear later today that this doesn't happen and they would never share information. I have been a policeman for 31 years and I just had a case for three days where the people admitted sharing information. It is not right. It is unethical and it is against the law. If we do this, there are no improprieties. If the officer is guilty of the crime, chances are he is going to be fired anyway so there is no need to do an internal investigation. If it's of a very minor nature, what is wrong with letting the criminal side take its course and then conduct the internal investigation.

In one case, we had one officer who was totally cleared by the criminal investigation but he was still fired under the internal investigation because they have different standards. So this is why I am asking your support. Not one of you sitting in here would want to be compelled to tell somebody on this side of the street the whole story and be denied your constitutional rights on this side. That's what this does. It just puts in place a peace officer's right to his Fifth Amendment rights until the criminal part is over.

Moving on to Section 10, subsection 3, line 25 it says "An inspector of the State Department of Agriculture has the powers of a peace officer. The provisions of this subsection do not authorize any inspector to retire under the Public Employees' Retirement System [(PERS)] before having attained the minimum service age of 60 years." That is in conflict with PERS' laws. But

anybody in state service can retire with 30 years at any age. So the way we read this is if you went out at 52 years, you'd have to work 38 years rather than 30 years. That is one of our amendments to remove this. PERS already has a system in place that does all this auditing anyway. If an inspector from the Department of Agriculture requested an audit, they already have a system in place so this is not needed. I don't understand why it's even in here.

[Gary Wolff, continued.] Within the state of Nevada, we have a lot of Category II peace officers or they are a Category I peace officer but work in a Category II agency. When these police officers took the oath of office, they swore to uphold the laws of Nevada and the *United States Constitution*. We have direct legislation within these pages that interfere with their sworn duties. We have created artificial boundaries and jurisdictional boundaries of these individuals. What this does, in a sense, is create a liability factor not only for the general public but to the peace officers that in these particular agencies.

Most of the Legislative Police are Category I police officers. These people have 20 to 30 years experience. A Legislative Police Officer walks across the street and he ceases to be a police officer. It's the most ridiculous thing I've heard in my life. If something is occurring across the street, under the law he is restricted to be a peace officer. An airport control officer working at McCarran Airport in a marked police cruiser, in uniform with a badge and gun, goes across a certain road is no longer a police officer. If he sees something happen across town, morally he would probably stop and do something but, in the law, it specifically says he's not a peace officer unless he is working at McCarran Airport.

What this bill does is create an upgraded status for all our officers and it removes these jurisdictions. It's important because under the Federal Act HR 218 [Law Enforcement Officers Safety Act of 2004], this officer has as much authority in the state of Alabama as he does in the state of Nevada. He can carry a concealed weapon in the state of Alabama but he doesn't cease to be a peace officer when he goes across a certain boundary. It doesn't make any sense.

We don't know what the actual costs are. We know it is a few hundred hours of additional training. What is more confusing is we have peace officers who have a Category I status already and yet they are under restrictions by their agencies. I have listened to every argument regarding this. I cannot understand why you would restrict a police officer. Either you have a police officer or you don't. If you want security officers, hire security officers. These people go to work every day and put their life on the line. There are criminals at the airport.

There are criminals on the highways. I urge your support to take the handcuffs off these law enforcement officers.

**Chairman Anderson:**

There was a problem that occurred in the southern part of the state where we had folks, who were not peace officers, purchasing former patrol cars and utilizing them for delivery of warrants and putting themselves forward in this regard. They expanded their level of authority from where it really was. Their power was related to the location they were at rather than a general jurisdiction question. In other words, not every place was clear about the county sheriff or the local police authority, so there was confusion about who was going to be responding to a police call. That was part of our problem.

**Gary Wolff:**

This bill does not take away the administrator's ability to tell these officers where they have to work. We don't expect an airport control officer to be on Interstate 15 handling traffic accidents. What we are asking you to do is take the liability off this officer, if something should happen, so the officer can take the appropriate action as a peace officer and not put the liability back on the officer or the community where he has to wonder if he is going to get into trouble.

**Ed Flagg, President, Nevada Corrections Association:**

We are in support of A.B. 358 as far as the internal affairs investigation and the criminal investigation. Right now, the Department of Corrections shares information. I spoke with an investigator and they do share information. They are not supposed to. As far as the powers of a peace officer, we have powers of a peace officer while we are on duty at the prison, but if something should happen downtown or if we get in an accident downtown, they hold us to the same standard. The Department of Corrections doesn't recognize us as peace officers when we are off duty. So I urge passage of this bill.

**Ron Cuzze, President, State Peace Officers Council:**

The subject of dual investigations is very real in the state system. It may not have such an impact on cities and counties as it does on the state. I would like to tell you about one incident. Two university police officers were being investigated by three different entities. There was an internal affairs investigation being done by the Department, the Attorney General's Office, and the University and Community College System of Nevada's general counsel. They were terminated. Eight months later I had to do their pre-termination hearing. During this whole time before the criminal trial took place, all three entities were sharing information. That was brought out in the criminal trial and that is on record. This is not the only instance.

[Ron Cuzze, continued.] In reference to peace officers, Mr. Wolff said these were conflicting laws. I'd like to bring one more thing to light. If the sworn law enforcement officer in the state of Nevada sees a crime committed in his presence and he does not take what the law says is an appropriate action, he is, in fact, guilty of a gross misdemeanor. What we are telling these people on one side is you swear to uphold the laws of the state of Nevada. It doesn't say you only uphold the laws for six hours a day at McCarran Airport.

Part of our *Nevada Revised Statutes* says if you don't do something about a crime in progress, then you are also guilty. Then we put restrictions on. It's time that we take state law enforcement and bring it into at least the twentieth century. We are so far behind. Most of our state officers are now getting Category I training regardless of what type of department they are in. If something happens in Las Vegas, we need to have everybody trained at the same level with the same power in case of a national emergency. This is direction we want to go and this bill is the first step. This is needed. I know some people think it is not.

The University Police Department in Las Vegas is limited to university property. If we are in uniform, badge, and gun and something happens, we could not take action. If we did, we were doing it as a private citizen. Then the Department decided we would enter into local agreements which cleared that up. If you unrestrict the officers by law while they are on duty, they are still restricted by their departmental regulations. That's not just the state people, it could be for county people also. Department regulations keep these people in check. Apparently there seems to be some concern about that and I don't believe there should be.

**Assemblyman Horne:**

I was under the impression the McCarran Airport officers were Metro [Las Vegas Metropolitan Police Department] officers. If they transfer to McCarran, do they no longer have the privileges and duties of other Metro officers?

**Gary Wolff:**

I think you're getting the Metro officers that are assigned to McCarran Airport mixed up with airport control officers.

**Ron Cuzze:**

The officers that we are speaking about are State Taxicab Authority Airport Control Officers. They are the ones in the blue uniform, not the khaki uniform. The problem there is that the airport control officers and the criminal investigators are both trained the same and they can do the same job. Their jurisdiction is very limited. They have things like accidents or robberies with

taxicabs but they cannot go an extra 20 feet to take care of an accident. They have to bring an investigator in from the City of Henderson to do it. That is the kind of restrictions we are speaking about.

**Assemblyman Horne:**

In these particular sections where you want to expand the role of peace officers, are all of them POST certified? On page 4, line 28, "Administrators and investigators of the Division of Compliance Enforcement of the Department of Motor Vehicles have the powers of a peace officer." Are the Nevada Highway Patrol officers administrators? If so, they should still have these powers and if not, I don't want an administrator to have the duties of a peace officer. I like the qualifiers in carrying out their duties in these narrow fields.

**Ron Cuzze:**

These are state employees. They are all compliance enforcement investigators. There are four types of them—Secretary of State, State Taxicab Authority, Transportation Services Authority and Department of Motor Vehicles enforcement. The Department of Motor Vehicles and Department of Public Safety are two separate departments. Some of them may be former Highway Patrol troopers; however, they have nothing to do with the Nevada Highway Patrol. These guys are all criminal investigators. The majority of them are all Category I certified but this is a Category II department. It is another thing we are trying to eliminate. They are well trained to be an investigator. To be an investigator, they usually have about ten years in uniform and some other type of department experience.

**Chairman Anderson:**

They are all POST certified?

**Gary Wolff:**

I understand what you are saying. We didn't create all these police departments. These have been created as long as I have been around. They are all POST certified and if you are going to have these agencies, what we are saying, is don't restrict them. Either they are going to be police officers or they are not. There are people here I didn't even know existed either over the years.

**Chairman Anderson:**

On page 5 of the bill, Section 10, subsection 2, states "An officer appointed by the Nevada Junior Livestock Show Board pursuant to NRS 563.120 has the powers of a police officer for the preservation of order and peace on the grounds and in the buildings and the approaches thereto of the livestock shows and exhibitions that the Board conducts." It makes a cross reference to NRS 563.120 which would appear the Nevada Junior Livestock person is supposed

to find somebody if something occurs but somehow I have a view that this may not be happening the way it was intended.

**Gary Wolff:**

I fully agree with you. As I said, we didn't create all these departments. Somehow they all happened. If I would have had my druthers when we were creating the Department of Public Safety, we would have looked at this much closer and some of these people may not even need to be in here. If you would allow us to go back to a workshop, we could look at some of these to see where we are going. Here is the bottom line, if you are going to have a police officer that is POST certified, restricting that officer puts a huge liability on everybody.

**Chairman Anderson:**

What happens here is that we have several different committees in the Legislature that often decide that because of the issues or the natural resources to carry out the function of that particular responsibility, they should be a police officer. Oftentimes they don't realize that by saying it does not necessarily make it happen. Usually they pick the lowest category they can possibly make because of the costs associated with the training of the higher level category officers. This is an opportunity to see them all in one place, one time, and one piece of legislation which does not regularly happen. So we appreciate that.

**Assemblyman Carpenter:**

I understand what you are trying to do but in the rural areas people look to the sheriff and the chief of police to be law enforcement. If you start letting the game wardens and the brand inspectors start acting as police officers, people would really get upset. They would feel they are out of their realm of expertise, so I have some real concerns. Maybe it would work in some areas, but where I come from, the sheriff is the highest authority.

**Gary Wolff:**

I appreciate that. When we addressed the sheriff and chiefs, a lot of this is about turf areas. I always relate the same thing. If you are a United States Marine, you think you are the highest quality combat officer and feel the Army guys are secondary to you. If you are in Iraq in a foxhole getting your head shot off, you are really going to welcome the Army guy. This is not about allowing them to get into turf areas. There has to be some reasonableness to it. If it happens, these people are covered and protected.

**Phil Gervasi, President, Police Officers' Association, Clark County School District, Henderson, Nevada:**

I gave a handout to the Committee ([Exhibit E](#)). I'm not going to repeat everything that is in there, but I just wanted to let you know some of the incidents that have happened. At the end of the day when the kids are being dismissed at Courtney Middle School, there are officers in the parking lot. A parent approaches them frantically and tells them there is a fight down the block out of their jurisdiction. The officer still responded and at that time a student pulled a gun on another student. The officer made the arrest and no one got hurt. We are trained Category I and there would be no financial impact on the school district.

**Chairman Anderson:**

By expanding his authority, how would the police officer's circumstance be changed?

**Phil Gervasi:**

If something happened, there would have been no liability. He has no right to be there as a police officer. He's a civilian but because he was in a uniform and the parent went to him, he was able to save the day. Liability-wise, he was hanging out there. The school district was hanging out there.

**Chairman Anderson:**

As a former school teacher, I recognize my responsibility for children on their way to school whether I make that part of my conscious decision making or not. I have a responsibility for every child that is on his way to school. If I see something that is happening that is preventing him from arriving at the schoolhouse door, I have a responsibility because of my professional license to make sure that takes place. I have a responsibility not only as a school district employee but as part of my responsibility as a teacher. The question of liability is relative to you were acting as a school employee. So your liability would be that as a school employee responding to a situation.

**Phil Gervasi:**

When most people go to civil trial, they look at deep pockets. Clark County School District is a deep pocket for them. If they have the right way of presenting it, they are going to get that money.

We are the seventh largest department in the state of Nevada. We are eighth in the crime index and we are the fifth with the most arrests in the state of Nevada.



**Chairman Anderson:**

Are those arrests on school property or relative to crimes committed at school and are most of them crimes of violence and property?

**Phil Gervasi:**

Yes, there is a mixture of property and violence. We did remove 73 firearms from Clark County schools last year.

**Assemblyman Horne:**

I remember an incident where the University of Nevada Las Vegas campus police were involved. A crime was committed across the street at the 7-Eleven. The campus police officers went off campus and the perpetrator was killed. There was a civil action but it went nowhere because it was recognized that, while it was outside their jurisdiction, it was emergent. I would like some clarification from Legal when they do operate outside of their jurisdiction and the situation is emergent, are they covered or is there limited liability? This is the area we should be checking into.

**Phil Gervasi:**

The picture I gave you with the information shows us working with the Las Vegas Marshals and Metro ([Exhibit E](#)). They have asked us to join their task force to help them with the crime at the Las Vegas Academy and Fremont Street. So I assume at that time we were under the liability of Metro. We do work hand-in-hand but we are Category I police officers in a Category II department.

**Chairman Anderson:**

Your suggested amendment is to limit that to counties of at least 400,000, so that would apply to Clark County only and not the rest of the state, if we were to move the bill? So we wouldn't be expanding the role of school district police officers in smaller counties, which may not have trained forces that exist in Clark County or Washoe County.

**Phil Gervasi:**

Yes.

**Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association:**

We represent all the 17 sheriffs and chiefs of police throughout the state of Nevada. We are in opposition to the bill as written. I have conducted, administered, and supervised internal and criminal investigations. It is very important that we have the ability to move forward in conducting both those investigations at the same time. Not only for the integrity of the department but also for the support of the citizens who maintain and demand we take care

of our own problems within the departments. I think it is very important for us to have the ability to do that. There are remedies in both the civil and the criminal side if problems arise in those investigations.

[Frank Adams, continued.] Also in regard to the police officers' Category I and Category II issues, I was involved with a study in the late 1980s where we did look at Category I, II, and III peace officers and Category I, II, and III agencies. It was done for a specific purpose. Category I is for a full-service police officer. Category II police officers have limited geographical and statutory authority. I think it worked well then and I don't see any reason to change it at this point. It would greatly expand the number of people that have peace officer power. There are a number of them that shouldn't have the police officer power but that's another issue.

**Ron Pierini, Sheriff, Douglas County Sheriff's Office; and, President, Nevada Sheriffs' and Chiefs' Association:**

In reference to the internal affairs, we have a job to do as executive officers. Unfortunately, with the criminal aspect of investigations, it can go on for more than a year and we have to resolve that issue. If there is a "bleeding over" of investigations, then that is an administrative problem that needs to be dealt with and there certainly laws already in place for that.

As far as expansion of everybody being a Category I, the cost analysis through the POST [Peace Officers Standards and Training Commission] to bring everyone up to a Category I level would be extremely pricey. Many of the things that we have, as far as categories in the state of Nevada, are regulated by that agency. They put their own regulations and restrictions on those officers concerning where they can go and what they can do.

**Chairman Anderson:**

I think one of the base elements that makes the bill somewhat attractive is because of the question relative to whether officers are getting fair treatment when they are charged and are undergoing internal investigation. Their concern is that files are being shared from agency to agency and they wonder if they are getting their due process rights protected.

I know we feel that police officers fit into a higher level of responsibility and we hold them to a higher standard. I don't think they disagree they should be held to a higher standard of their behavior; however, I do believe they expect to be treated with fairness. The same due process rights we give to criminals should also be given to our employees so that their civil rights are not violated. So I think there is concern about the civil rights of police officers.

It presents a great difficulty for us in providing protection for the officer and due process rights and, at the same time, public awareness of what is going on. Do you feel there is adequate protection being given here? What about the information you heard here earlier where the university police officer was caught up in two or three discussions about what his practice would be because of different state agencies.

**Ron Pierini:**

I can tell you in Douglas County we set up a Professional Standards Unit which does our internal investigations. The district attorney, human resources, and our officers are involved. If officers are sharing information, that is not right and it is illegal to do that. Having a law on the books, I'm not sure, is going to curb that. But what I can tell you is that we have a duty to the public to go in and investigate an allegation against an officer. We normally have a criminal investigation start first, but if we know it is going to be a long-term event, we will start the internal also. We find out if we don't do that, we will have an officer on the books and paying him sometimes for a year or two years. That is ridiculous.

You have to also remember a criminal versus an internal investigation has what we call the 51 percent rule. It was the same thing with the O. J. Simpson trial. He was not convicted at the criminal trial but at the civil trial. It is similar to that. In a sense, when we do our internal investigation, we have reasonable belief that the officer violated certain policies, regulations, or law. That is enough to terminate him. If officers are sharing information from a criminal to the civil end of it, we can, as internal investigators, see what the criminal does. But we can't do it the other way around if it is being done that way and it is wrong. It is illegal to do that. I think it is already spelled out on the books that way. We have to move forwards with our investigations.

**Gene Hill, Sheriff/Coroner, Humboldt County Sheriff's Office, Nevada:**

I can probably only echo most of what my colleagues have said so I don't want to waste a lot of time with that. Sheriff Pierini is absolutely right. We do have an obligation to our public to clear up any internal policy violations. It would be unlawful to share that information with an internal investigation and vice versa.

I am also POST chairman. There is the issue of upgrading from Category II to Category I. That is already in the NAC [*Nevada Administrative Code*], Chapter 289. There is a section that allows for a peace officer to upgrade from Category II to Category I. If an agency is a Category II agency and they chose to have their members certified Category I, that is their choice and it is permitted within this NAC. I think, for the most part, any of the peace officers in any of the three categories are peace officers. They all have powers of

arrest. It's just the initial job description in each category that limits their duties to be more cost effective. Therefore, I really don't know if I would agree with the support of this bill on that issue because an officer can make an arrest regardless of what category he is in, and we are duty bound to take appropriate action.

**Bill Hoffman, General Counsel, Clark County School District, Nevada:**

I want to address specifically Section 1, subsection 2 which deals with the information sharing. My first recommendation is that this particular paragraph be included in the due process discussions that the subcommittee is going to have. It is really a spin-off from A.B. 259. In my view, I have been listening to what *Garrity* means and what the limitations are on passing information. I don't think it has been properly presented to the Committee. For example, suppose we hear that a young student alleges that a police officer is selling drugs. We would conduct an initial investigation then eventually pass that information to the criminal side. There is nothing wrong with sharing that information.

The other thing I can say is if we have an administrative investigation ongoing, our interests are the employment aspects; namely, do we want that officer working in the field or in our schools while there is a criminal matter ongoing. We have to be able to make some basic administrative decisions regardless of what happens with the criminal case. For those reasons, the recommendation is for a due process meeting or you simply strike that provision and require that the agencies that aren't complying with *Garrity* comply with *Garrity*. So that is really the position I want to take.

**Chairman Anderson:**

I'm not sure A.B. 358 is going to the same subcommittee that the other bill is going to. I'm sure there are some elements of the other bill that may address some of the concerns that were raised by Mr. Wolff and Sheriff Hill. The question is one that the chair of the subcommittee will listen to very carefully and I'm sure it will come up.

**Bill Hoffman:**

Perhaps, it would be helpful for me to focus my remarks and say that the section I just described would interfere with the ability of the school district to deal administratively with the police officer. We would do that at the risk of putting students in peril because we wouldn't be able to go forward with an administrative investigation to make the decision of whether the police officer ought to remain on duty while that criminal matter is pending.

**Gary Peck, Executive Director, American Civil Liberties Union for Nevada:**

I am here in full support of the position of the Sheriffs' and Chiefs' Association and in support of the position taken by the school district. I do think it is important for this Committee to have a very clear understanding of what *Garrity* allows and does not allow in the way of information sharing. It is certainly not the case that there can be no information sharing between administrative investigators and criminal investigators. Like you, we care very deeply about the due process rights and substantive rights of police officers. The provision that Mr. Hoffman was focused on really should be struck, in our view.

**Cheri Edelman, Assistant City Engineer, City of Las Vegas, Las Vegas, Nevada:**

We are in opposition to Section 1, subsection 2 relating to the internal investigation pending the completion of a criminal investigation. First of all, the employers may not always be aware of the criminal investigation. Secondly, if a disciplinary action is appropriate and necessary, we don't feel we should have to wait to go forward with that disciplinary action. Progressive discipline is more effective when it is immediate in nature. We would argue that this is not in the best interest of the employer or the public. Thirdly, why should tax payers continue to pay the salary of a peace officer while criminal investigation continues? We would respectfully request that this section be deleted from the bill.

**Chairman Anderson:**

If you have a police officer under investigation, is it the practice that you don't pay them while you are investigating them?

**Cheri Edelman:**

I'm not familiar with that practice.

**Chairman Anderson:**

If you are suspending somebody, you don't pay them while you have them under suspension. It is my understanding that is the general practice in the other departments of the state, if there is an internal investigation. Is that not your practice in the agency?

**Cheri Edelman:**

I believe we do during the internal investigation. I just don't think we want to wait until the criminal investigation is over.

**Chairman Anderson:**

So then you would decide they are guilty before the trial?

**Cheri Edelman:**

No.

**Chairman Anderson:**

If you are penalizing somebody before trial, that's what it does. I want to make sure I understand what your concern was.

**Cheri Edelman:**

I would argue that it is the same situation as the school district brought up in which there may be someone dealing drugs in the school district. You would want to do your own internal investigation to make sure that no one is going to be harmed by those acts. You would do that while you do your own internal investigation. A lot of times the criminal investigations can take a lot longer and that is our concern.

**Chairman Anderson:**

Which department do you represent?

**Cheri Edelman:**

My position is Assistant City Engineer at the City of Las Vegas.

**Chairman Anderson:**

The hearing on [A.B. 358](#) is closed. Now we will turn our attention to Ms. Ohrenschall's bill, [Assembly Bill 274](#). I see documents from the Attorney General's Office ([Exhibit F](#) and [Exhibit G](#)). Is this part of your testimony?

**[Assembly Bill 274](#): Makes various changes concerning sex offenders and offenders convicted of crimes against children. (BDR 14-706)**

**Assemblywoman Ohrenschall:**

It will be part of what I am proposing to the Committee. In each case, there will be representatives from the offices concerned who will speak about the amendments.

**Chairman Anderson:**

I'm looking at a faxed document and several sections of the document are not legible. Is there an original document that exists so that we can make sure we have a clean copy for our record?

**Assemblywoman Ohrenschall:**

I made an inquiry and the blank places which appear illegible are, in fact, areas that have been whited out from the original material because they were meant to be excluded.

I am appearing here to explain A.B. 274. It basically amends several provisions of the *Nevada Revised Statutes* concerning sex offenders and offenders of crimes against children. Unfortunately, this has become something that the nation as a whole can identify since nine-year-old Jessica Lund's abduction and killing by a sex offender who lived across the street from her. He was not known nor registered within his district as a sex offender. What A.B. 274 provides, among other things, is it requires sex offenders and offenders convicted of a crime against a child register with each local jurisdiction they reside, and that they notify each appropriate law enforcement agency if they, the offenders, establish a new residence. It is their responsibility to do that when moving from one residence to another. The responsibility is incumbent upon them.

Assembly Bill 274 also gives further existence to a state information website that is maintained by the Department of Motor Vehicles and Public Safety which is the Megan's Law website for Nevada. It is referred to as the Sex Offender Website. It provides various amendments as to the amount of information that would be put on the website. Some of the information that is required is a complete physical description of the offender, the registrant, a current photograph, a complete address, and the general nature of the offense that was committed. The bill as you have it provides for stating the general description of the victim. Upon discussing this with law enforcement agents, I have become convinced that could amount to revictimizing the victim. So the amendment by law enforcement calls for deleting that one provision in the bill.

Assembly Bill 274 provides for penalties for violation provisions. One of the things that we are clarifying is that failure to register the first time raises the penalty for a second failure to register to a felony offense. This is the way it happens in the DUI statute, burglary statutes, and so on. Assembly Bill 274 presently imposes a duty on the Department of Corrections and local law enforcement, to inform the offender of a duty to notify the appropriate law enforcement agency. Assembly Bill 274 expands the requirements for a sex offender to a Tier 3 level of notification because it is easier.

Currently, there are 9,634 known sex offenders and offenders convicted of crimes against children in the state of Nevada. Of the 5,073 active offender files, approximately 1,950 are not in compliance with the different registry requirements imposed on offenders. Once you realize how many offenders are

there and how many are in noncompliance, you can appreciate a program that can provide the public with as much information as possible about those offenders that are registered and were being tracked.

[Assemblywoman Ohrenschall, continued.] Not only will A.B. 274 allow law enforcement to better track sex offenders, it will enable concerned parents and other citizens to better protect themselves and their children from sex offenders. By providing this level of information on the Internet, Nevada will be joining a group of other states who are moving forward such as Arizona, California, Idaho, Oregon, Utah, and Washington. These states are moving forward to make the Internet a better tool for protection of innocent children within our communities. Thank you in advance for consideration of this bill. I will be bringing up proponents of the two amendments. Both amendments are good amendments and I would urge you to consider passing them.

**Chairman Anderson:**

Currently, the Criminal History Repository has a website and contains some of this information. So will this be a duplicate of what they are doing or not?

**Assemblywoman Ohrenschall:**

No, what we are going to be doing is tightening up and doing more.

**Chairman Anderson:**

Why can't they do what we are asking to be done?

**Assemblywoman Ohrenschall:**

I suppose it is an area of trying to make the need keep up with the time. The need has become very great. We have had so many recent cases that have turned out either very badly or else in a heart-stopping way that it is desirable to make the time shorter.

**Chairman Anderson:**

I thought you had made a determination as to why you personally felt it was in the best interest to move this specific responsibility from the Criminal History Repository over to the Attorney General's Office and maintaining a website of some degree of sophistication.

**Assemblywoman Ohrenschall:**

That is one of the two amendments that we provided. That was an error in drafting. It was never intended to take it away from the Criminal History Repository. The bill does provide it to be in the Attorney General's Office. It was an error that was not caught in time for me to have it amended before it was dropped. So I brought here the proponents of the amendments of the two



things that have to be done and I'm asking the Committee to make those amendments.

**Michelle Youngs, Sergeant, Washoe County Sheriff's Office, Washoe County, Nevada:**

I would like to thank Assemblywoman Ohrenschall for her work on this bill. I also very much appreciate her work with us in these proposed amendments. We would like Sections 1 and 2 to remain as existing language within the bill itself. Moving to Section 5, there was a typing error. It should actually read "offenders considered Tier 2 and Tier 3."

**Chairman Anderson:**

You wish the duties of each appropriate local law enforcement agency to remain the same, so you are not suggesting any change on page 2 or do you want to go back to the original? It says retain as existing language so does that mean that you do not wish the amendments that are suggested in Section 1?

**Michelle Youngs:**

Correct. In Section 5, there was an error and it is actually "offenders considered Tier 2 and Tier 3 for the website information." Moving to Section 6, we would ask that the proposed changes regarding offenders viewing of the website be stricken out of the bill. We do not feel that would be enforceable. Sections 14 through 24 would remain as existing language meaning existing law now.

The last section, Section 25, eliminates reference to additional residences and providing for increased penalty for subsequent violations. There was an error in the typing as well. In Section 1, we would ask that it would be a Category D felony. Category C felony in Section 2, which would be new language added to the bill, would be for prior violations and an increased penalty. A key to this would also be something that was omitted. Probation would be denied for subsequent or second offenses. There was a line omitted.

**Chairman Anderson:**

This is suggested language for the bill drafter to look at?

**Michelle Youngs:**

Correct. One thing I did forget to mention is in Section 5, we had asked that subsection 6 on page 4, lines 29 and 30, concerning the general physical description of the victim be worded where it could be helpful. We had asked that it be omitted but it could be helpful to add something a little more general, possibly "a juvenile known to the offender" or "a male known to the offender under the age of..." The language would be general so as not to revictimize

the child or the person/victim. If it was a little more general, it would be helpful to the public to know the type of category, yet that could also be dangerous. A lot of these offenders will prey on a lot of different types of people whether they are adults or juveniles. I would leave that to the experts.

**Chairman Anderson:**

I don't want the victim to be revictimized again by giving a general physical description of the victim of the offender. If you are living in a smaller community, there are not going to be a lot of children that are unknown or, for that matter, it is a small enough community everybody is going to know this has taken place because of the trial. The relocation, however, may bring attention to something that may have not been known by people who are newer to a small community. Is that what are concern is here?

**Michelle Youngs:**

Yes.

**Curtiss C. Kull, Detective, Regional Sex Offender Unit, Reno Police Department, Reno, Nevada:**

I am assigned to the Regional Sex Offender Unit as is my partner, Officer Sean Meeks. Our job is to manage the registration laws as set forth in the *Nevada Revised Statutes* and also to conduct community notification as it pertains to registered sex offenders for all of Washoe County.

We currently have over 1,200 registered sex offenders just in Washoe County alone. Our sole and only function is handling these individuals. We would like to thank Assemblywoman Ohrenschall for her legislation and for this Body looking at this legislation. We are in favor of it in regard to the way the amendments have been done. We are very much in favor of changes to the website. We would like to encourage it just to include Tier 2 and Tier 3 sex offenders.

As one of the ground level guys in the community, I can tell you the community will be very happy to get this additional information on the website. They will be pleased to get exact addresses. That is something the public is very much pleased with and has let us know that at our community meetings and also incoming phone calls to our office. It is something they have been wanting from the Legislature so we are very much in favor of that.

We are in lockstep with you regarding subsection 6 in not revictimizing the victim. We do fine with some of these offenders, but it does put the public a little bit more at ease if they know whether or not this is somebody who preys on strangers or if it is somebody whose past offenses are people related to

them. What we have done in the bulletins that we prepare for community notification is we simply shorten up our descriptions. It is either a male or female victim and that the victim was known or unknown to the particular offender.

[Curtiss Kull, continued.] In regard to the other changes, we are particularly in favor of the additional penalty being listed. We are oftentimes frustrated by arresting these individuals and, in some cases, it is quite labor intensive to track some of these guys down that don't want to be found. Our office is very aggressive in the enforcement of the sex offender legislation that has been passed here in Carson City. We are very aggressive in going out and arresting these individuals when they fail to register.

At times we do become frustrated with some of the penalties that are passed down through an overburdened district attorney's office. We hate to see a situation, after the work we have done, where the sex offender, who has numerous prior arrests for failure to register, is again rewarded with another instance of probation. We have had numerous examples of these. So we are very encouraged by this potential change of making any subsequent arrest after one prior conviction and that they cannot obtain probation on.

We believe that this bill will do nothing but assist in the state's noncompliance rate. This bill will get the message out to the sex offenders in Washoe County that we are out there, we are doing our job, and if you don't want to take the time to fill out that piece of paper and let us know where you are residing, the law enforcement and the courts will do what is necessary.

**Chairman Anderson:**

I have set on several panels over the last several years trying to explain and defend the legislative action in this particular area. I don't believe you and I have had the opportunity to be on the same panel yet. How did this happen to become a northern issue and not a southern issue in regards to legislation?

**Michelle Youngs:**

It is a state issue.

**Chairman Anderson:**

You have found that the Criminal History Repository is not able to fulfill the requirements of your department relative to information needed to carry out your function?

**Curtiss C. Kull:**

We have a good working relationship with the state registry. The issues here are the website. We are encouraged by the possibility this additional information will be put on the website.

**Sean Meeks, Police Officer, Sparks Police Department:**

We are a member of the Regional Sex Offender Unit and also are in support of these amendments. They expand the tools that we have to do our job more effectively by requiring exact addresses on the expanded website mandated by law, not voluntary. It is a tool that we can use. I am here in support of this bill.

**Chairman Anderson:**

One of the questions that has come forward in the past is relative to the fact that we are one of the few states that tiers the sex offenders, as compared to other states, in terms of the risk assessment that is done. One of our concerns that remains is the community doesn't turn into a posse relative to this particular issue, so that it is not possible to place sex offenders at all. It is not in the best interest of the community to have them remaining jail. If they zero out their sentence then we have no way, statutorily, to keep them imprisoned, because they are not sentenced to life imprisonment, particularly a sex offender Category I and II. What would be the net effect on the community by raising this kind of question? Have you anticipated that particular part of this scenario?

**Sean Meeks:**

I can tell you that in my experience, recrimination and vigilantism against these offenders have not been the case. In other jurisdictions, it has. Those are anecdotal examples. However, there is a strong desire by the public for us to be able to tell them if a Tier 2 offender lives next door and to provide that exact information. Under the current law, there is no mechanism for that. We can give general descriptions, which are good for educational purposes, and we use that in our community meetings to inform people so they can take steps for personal safety. We haven't had a vigilante problem.

**Chairman Anderson:**

I noticed that the Reno and Sparks community has changed their process. We get telephone calls in my office relative to the program, where you have gone from doing them monthly to where you are going to be doing them by particular regions of the community. In addition, when a new offender is released, people always want to know what does that mean. When is the next sex offender program in Sparks?

**Sean Meeks:**

It will be May 24 at 6:30 p.m. at Sparks High School.

**Assemblywoman Ohrenschall:**

There is one additional amendment that was distributed to you ([Exhibit F](#), page 13). It is a very short one that comes from the Administrative Offices of the Courts. Page 1, line 4, states: "The court shall, before imposing sentence." The judges would prefer it to say, "The court shall, following imposition of sentence," because they have had problems with offenders who have entered a guilty plea and then withdrawn the plea. They feel they have a more defined timeline by doing it after the imposition of sentence. They wish to have that changed on page 1, line 4. They also wish to have it changed on page 2, Section 2, line 39.

**John S. Michela, Deputy Attorney General, Office of the Attorney General, State of Nevada:**

We have submitted proposed amendments to Assemblywoman Ohrenschall ([Exhibit G](#)). I believe this amendment addresses the chairman's concerns where the website is housed. The Attorney General's amendment would leave the website with the Department of Public Safety, Criminal Repository Sex Offender Unit. As they already have a website up and running, it is my understanding they would be able to add the additional information that this bill authorizes in a fairly quick manner.

I will go through the amendment quickly. Section 4 replaces the Attorney General's website with "Community Notification website" and puts that into the Department of Public Safety.

Section 5 amends NRS 179B.250. This is the current statute that authorizes the sex offender registry to have a website. It just cleans it up and specifically sets out that it is a website, not an amorphous program. It sets out additional information that the website may contain.

In Section 6, the Attorney General proposes to delete the section that makes it a crime for offenders to view the website. This section is proposed to be deleted under NRS 179D.160. Offenders are already entitled to view their whole registry file, which contains more information than would be on the website. So it wouldn't make sense to punish them for looking at less information than they are entitled to.

Section 7 of the bill, as written, would be deleted, as this now would be included in Section 5, the amendment to NRS 179B.250.

Section 8 just replaces Attorney General's website with "Community Notification website."

[John Michela, continued.] Section 9 is now contained in Section 5.

Section 10 just replaces the Attorney General's website with "Community Notification website." The same occurs in Section 11, 13 and 26.

In Section 27, it reduces the statutes that would be repealed to NRS 179B.080, because the other statutes in the bill as written would still be needed under the amendment the Attorney General's Office has submitted to Assemblywoman Ohrenschall.

Section 28 basically replaces the Office of the Attorney General with the Department of Public Safety.

**Chairman Anderson:**

One of my concerns is partially addressed here. I'm pleased with the language of Section 11, subsection 1 in the amendment, which states, "if there is a reasonable cause to believe that a person or group of persons has engaged in or is about to engage in any act or practices." Vigilantism is always one of my major concerns. It is because of the anecdotes we hear in other jurisdictions. I don't think the state is willing to spend a huge amount of money to hold all these folks in prison until their sentences have run. It places a greater risk in the community letting people out of prison because their sentences have zeroed out. There is huge lack of information as we all know from several stories that have appeared in the newspaper always misrepresenting what the reality of the situation.

I noticed it says the Attorney General may act upon or they have the discretion to enforce the law. Have you contemplated if we put "shall act" on the complaint of the local in addition to this taking place from the local law enforcement or is that already covered through some other statute where they would have access through the district attorney's office?

**John Michela:**

As I understand it, I think you are asking would it be better to change the "may" in Section 11 with regard to injunctive relief to "shall" seek injunctive relief.

**Chairman Anderson:**

It is a two stage question. First, I understand the implications of changing a "may" to a "shall". The caveat would be if local law enforcement agency would have the ability to reach to the district attorney's office to require a cease and desist on their complaint if they found this practice to be taking place on a regular basis. A vigilante group sets themselves up, watches the website on a regular basis, and then chooses to target individuals in the community as part of

their purpose. Would the local law enforcement agency have a tool by which they would be able to stop such a practice? If the offenders move to Reno, Sparks, or Carson City, it then becomes the sophistication of the unit. I don't want them to move to the rural area because they think they are going to be able to get away with it.

**John Michela:**

As far as I'm aware, local law enforcement tools for stopping vigilantism would be under normal criminal statutes of the NRS. I'm not aware of any statute that specifically deals with vigilantism especially as related to vigilantism against sex offenders. I'm not aware of what tools law enforcement would have to stop them.

**Chairman Anderson:**

I would like you to take a look at that for us as I would not be happy to see a community to become very vociferous about the fact that we have 10 or 20 percent of all the sex offenders in a particular area. I don't think that is a good management tool for police agencies and I don't think it is a good tracking tool for what we hope is going to happen with sex offenders who are out there. There are those sex offenders who are trying to do the right thing and truly trying to change their life. I do believe they do exist although there is some evidence that may not be true for some of them. Hopefully, there will be some corrective behavior.

**Curtiss Kull:**

The three of us that are assigned to my office meet with all Tier 2 and Tier 3 sex offenders who move into the Reno area. During the interviews that we conduct with them, we introduce ourselves and explain registration law. We also advise them right from the start that if they are ever the victim of any type of recrimination, vigilantism, or any types of problems whatsoever, to immediately contact our office. We will take care of those issues through regular Sparks Municipal Code, Reno Municipal Code, NRS, and we will prosecute. In the history going back when Megan's Law began in Nevada, I spoke with my predecessor and was told there had been no situations of vigilantism going back to at least 1998 in the Reno area.

**Chairman Anderson:**

Does anybody else wish to speak in regards to this bill?

**Pat Hines, Private Citizen, Advocate for Criminal Justice Reform:**

I will respond in writing.

**Chairman Anderson:**

Ms. Hines, we will give you the opportunity to respond in writing. I would ask that it be given to us not later than Tuesday, April 5, 2005.

**Richard L. Siegel, Ph.D., President, American Civil Liberties Union of Nevada:**

I will respond in writing.

**Chairman Anderson:**

Please submit it by Tuesday, April 5, 2005. We have 3 amendments to consider. The record will be left open until Tuesday, April 5, 2005 until 3:00 p.m. The hearing on A.B. 274 is closed. [Meeting was adjourned 11:24 a.m.]

RESPECTFULLY SUBMITTED:

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Carole Snider  
Committee Attaché

APPROVED BY:

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Assemblyman Bernie Anderson, Chairman

DATE: \_\_\_\_\_



**EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** April 1, 2005

**Time of Meeting:** 8:00 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
A.B. 386	B	Assemblywoman Buckley	Amendment to A.B. 386
A.B. 386	C	Louise Bush, Nevada Welfare Division	Proposed revisions of A.B. 386
A.B. 358	D	Teamsters	Proposed Amendment
A.B. 358	E	Police Officers' Association	Statement to Committee
A.B. 274	F	Assemblywoman Ohrenschall	Memos to Committee
A.B. 274	G	Office of Attorney General	Proposed Amendments to A.B. 274