

ASSEMBLY JUDICIARY COMMITTEE  
58th NEVADA ASSEMBLY SESSION

MINUTES

March 17, 1975

This meeting of the Assembly Judiciary Committee was called to order by Chairman Barengo on Monday, March 17, 1975 at the hour of 8:08 a.m.

MEMBERS PRESENT: Messrs. BARENGO, BANNER,  
HEANEY, LOWMAN, POLISH,  
SENA, Mrs. HAYES and  
Mrs. WAGNER.

MEMBERS EXCUSED: Mr. HICKEY.

Guests present at this meeting were James Thompson, Chief Deputy Attorney General; A. A. Campos, Director, Parole & Probation Department; Assemblyman Lloyd Mann; and Richard Siegel, American Civil Liberties Union. Guest Register is attached to these Minutes.

Assemblyman Mann testified first in regards to A.B.8, which he introduced. He received further information relative to this bill last Friday and told the Committee that copies of this information would be provided for their review. He read numerous pieces of supportive data which was in his possession. He indicated that there was some concern regarding his justification for including the other officers in this bill. He read Mr. A. A. Campos' letter dated March 13, 1975. A copy of this letter is attached hereto. He then related incidents in which officers have been killed, as well as possible incidents in which officers could be killed. Mr. Mann said that the Parole and Probation Department undoubtedly makes more arrests in this state in which the person arrested ends up in prison. The nature of these arrests is serious. This agency supports A.B.8, and makes the case which Mr. Mann feels justifies passage of the bill.

Mr. Mann said he had contact with Robert Canfield, the Chief Investigator for the Washoe County District Attorney. They support the passage of A.B.8. He then quoted statistics of this agency's arrests. Mr. Mann also read from a Wyoming study of game wardens. He then cited some of the duties of the game wardens and the investigators, which he thought were important in considering passage of this bill. He stated that most people the game warden deals with are carrying some kind of deadly weapon, i.e. shotgun, rifle or knife.

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The Committee then questioned Mr. Mann.

Next to testify was Richard Siegel, a political science professor who was here representing the American Civil Liberties Union. He stated that his main testimony had to do with A.B.97; however, he began by speaking in regard to A.B.8. In relation to A.B.8, he said that the fact that there is an interest group approach which is treated like a political issue is highly regrettable. He stated that the people who have come before this Committee do not mention any deterrent which a capital murder penalty has toward preventing killing. It does not have any tangible effect as far as eliminating murder. Dr. Siegel stated that some people feel that there is massive public support for convicting a person of capital murder if a police officer is killed. A study shows that only 41% of the people in the nation felt that all persons should be executed for the murder of a police officer.

Dr. Siegel briefly commented on S.B.9, and said that the public support in regard to kidnapping legislation is substantially lower than in relation to killing police officers. He said that this Committee should consider the likelihood of what is going to happen to the person who is kidnapped.

Next, in regard to A.B.97, Dr. Siegel said that in regard to a particular plan to murder, which is mentioned in this bill, this language is inherently ambiguous, and he is positive that no one will be put into the gas chamber under this clause. If the language in this bill is left as is, an incredible amount of litigation will result from it. And, in that event, a special fiscal note should be added to the bill. The Committee questioned Dr. Siegel.

Mr. A. A. Campos was here representing the Parole and Probation Department, which is in favor of passage of A.B.8. He said there were only two investigators in their office-- they hope to get a third. They do mainly undercover work. Discussion with the peace officers ended with the recommendation of including the three groups of law enforcement officers which are in the bill. Mr. Campos has a suggested amendment to A.B.8, a copy of which is attached to these Minutes. Mr. Campos was questioned ~~in regard~~ to this bill.

Next, Mr. Campos discussed A.B.97, and stated that he does not have a problem with the language referring to a "single plan". He doesn't think that a jury would have any problem with imposing discretion, as all acts are to be discretionary in the view of a jury. He thinks that the proposed definition

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is great, and he doesn't think this Committee should be intimidated by what the courts "might" do.

Chairman Barengo questioned Mr. Thompson about S.B.9. Mr. Thompson said that they sponsored A.B.265 during the last session, and certainly they would go on record as supporting this bill. He suggested that if this Committee wished to pass the bill, it might need to be amended.

Mrs. Wagner questioned Mr. Campos as to the number of men from the Parole & Probation Department who have been killed. He said none of these men from Nevada have been killed. Mr. Campos said that he regards this situation as a symbolic one--the killing of a law enforcement officer is a destructive thing because this officer symbolizes our society.

Chairman Barengo introduced Frank Daykin, from the Legislative Counsel Bureau, to the Committee. Mr. Daykin then explained the Furman decision (Furman v. Georgia, U. S. Supreme Court) and the subsequent district court decisions. He further explained and gave examples of a contract to kill and conspiracy. He also discussed A.B.265, which was introduced last session.

General discussion among the Committee members commenced regarding A.B.8 and A.B.97. Mr. Lowman moved DO PASS A.B.8 with amendments restricting it to include Parole and Probation Officers and adding in the provisions of S.B.9. Mr. Heaney seconded this motion. Lengthy discussion followed, and it was suggested that more time be allowed Committee members for discussion and consideration of this bill, as well as A.B.97. A vote on the motion was taken, and there were two votes in favor, namely Mr. Lowman and Mr. Heaney. All other votes were negative--Mr. Barengo, Mr. Banner, Mrs. Hayes, Mr. Polish. Mr. Sena and Mrs. Wagner. Legislation Action Form attached.

Mr. Barengo asked the Committee to decide on an evening to meet which was convenient to all, and this Thursday evening, March 20, was decided upon. Mr. Barengo said he would notify Committee members before Thursday of the time of this meeting.

Mrs. Hayes moved that this meeting be adjourned, and Mrs. Wagner seconded. Mr. Barengo adjourned this meeting at 9:50 a.m.



STATE OF NEVADA

MIKE O'CALLAGHAN 296  
GOVERNOR

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March 13, 1975

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To: Honorable Members:  
Assembly Judiciary Committee

Re: A.B.#8

This office has not kept statistics on arrests made by our officers. I cannot give even a rough estimate, at this time, except to say we (not every officer) do make arrests daily.

However, to digress from the agency momentarily, I would like to say that, in my opinion, placing the murder of a peace officer in the capital murder category does not necessarily offer protection.

The killing of a peace officer in the lawful performance of his duties is a public outrage. The officer representing and protecting the public in compliance of law, is an extension of the public - its servant and its representative.

The Department of Parole and Probation is charged with enforcing the rules of the Court, the Parole Board and Nevada Statutes. We deal with the known offender, the convicted criminal.

In addition to arrest, with or without warrants, we often walk into unknown situations, such as a residence and discovering narcotics, weapons, stolen property, etc.

In addition, we transport our own fugitives.

Because we know our offenders, we are able to take professional precautions to minimize danger. This does not make the danger any less real, as many parolee and probationers are dangerous.

Within the last 25 days, three probationers, in Nevada, have been killed

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To: Assembly Judiciary Committee

Re: A.B.8

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by peace officers. In one of these incidents, the probationer also killed a police officer who was attempting to serve warrants.

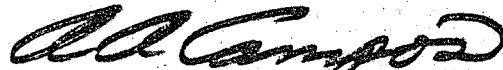
In that incident, the officer killed could have easily been ours, as we too were actively seeking the subject, had been looking for him over the weekend along with Officer Walters (the officer killed) and had an appointment with Officer Walters at 9:00 PM the evening (2/17/75) of the shooting to again look for this subject. (The shooting took place shortly after 5:00 PM).

The nature of our arrests are serious. Although no complete data is available, we undoubtedly make more arrests (per capita) that end up in imprisonment, than any agency in the State. Last year at least 80 of our arrests led to imprisonment, many of these arrests were on new felony offenses.

As trained peace officers of Nevada, the personnel of this agency does enforce all laws, and do aid other agencies whenever asked.

We have made and/or assisted in "crime in progress" situations and will continue to do so.

This agency supports A.B.8 in its entirety.



A. A. Campos, Chief  
Parole and Probation Officer

AAC/aw

Section 1. NRS 200.030 is hereby amended to read as follows:

200.030 1. Capital murder is murder which is perpetrated by:

(a) Killing a peace officer or fireman:

(1) While such officer or fireman is acting in his official capacity or by reason of an act performed in his official capacity; and

(2) With knowledge that the victim is or was a peace officer or fireman.

For purposes of this paragraph "peace officer" means sheriffs of counties and their deputies, marshals and policemen of cities and towns, the chief and agents of the investigation and narcotics division of the department of law enforcement assistance, personnel of the Nevada highway patrol when exercising the police powers specified in NRS 481.150 and 481.180, and the warden, deputy warden, correctional officers and other employees of the Nevada state prison when carrying out any duties prescribed by the warden of the Nevada state prison[.] , adult parole and probation officers when carrying out the duties prescribed in NRS 213.1096, special investigators employed by the attorney general or any district attorney when carrying out their duties as investigators in line of duty, and fish and game wardens when exercising those enforcement powers conferred by Title 45 and Chapter 488 of NRS.

(b) A person who is under sentence of life imprisonment without possibility of parole.

(c) Executing a contract to kill. For purposes of this paragraph "contract to kill" means an agreement, with or without consideration, whereby one or more of the parties to the agreement commits murder. All parties to a contract to kill are guilty as principals.

(d) Use or detonation of a bomb or explosive device.

(e) Killing more than one person as the result of a common plan, scheme or design.

2. Murder of the first degree is murder which is:

(a) Perpetrated by means of poison, or lying in wait, torture, or by any other kind of willful, deliberate and premeditated killing;

(b) Committed in the perpetration or attempted perpetration of rape, kidnaping, arson, robbery, burglary or sexual molestation of a child under the age of 14 years; or

(c) Committed to avoid or prevent the lawful arrest of any person by a peace officer or to effect the escape of any person from legal custody.

As used in this subsection, sexual molestation is any willful and lewd or lascivious act, other than acts constituting the crime of rape, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions or sexual desires of the perpetrator or of the child.

3. Murder of the second degree is all other kinds of murder.

4. The jury before whom any person indicted for murder is tried shall, if they find such person guilty thereof, designate by their verdict whether such person is guilty of capital murder or murder of the first or second degree.

5. Every person convicted of capital murder shall be punished by death.

6. Every person convicted of murder of the first degree shall be punished by imprisonment in the state prison for life with or without possibility of parole. If the penalty is fixed at life imprisonment with possibility of parole, eligibility for parole begins when a minimum of 10 years has been served.

7. Every person convicted of murder of the second degree shall be punished by imprisonment in the state prison for life or for a definite term of not less than 5 years. Under either sentence, eligibility for parole begins when a minimum of 5 years has been served.

Section 2. This act shall become effective upon passage and approval.



ASSEMBLY JUDICIARY COMMITTEE  
58th NEVADA SESSION

LEGISLATION ACTION

DATE Mar. 17, 1975

BILL NO. A.B. 8

MOTION: \_\_\_\_\_

Do Pass  Amend \_\_\_\_\_ Indefinitely Postpone \_\_\_\_\_ Reconsider \_\_\_\_\_

Moved By Mr. Lowman w/ amendments Seconded By Mr. Heaney

AMENDMENT: \_\_\_\_\_

Moved By \_\_\_\_\_ Seconded By \_\_\_\_\_

AMENDMENT: \_\_\_\_\_

Moved By \_\_\_\_\_ Seconded By \_\_\_\_\_

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Barengo	---	✓	---	---	---	---
Banner	---	✓	---	---	---	---
Hayes	---	✓	---	---	---	---
Heaney	✓	---	---	---	---	---
Hickey	---	---	---	---	---	---
Lowman	✓	---	---	---	---	---
Polish	---	✓	---	---	---	---
Sena	---	✓	---	---	---	---
Wagner	---	✓	---	---	---	---

Mr. Hickey was excused from this meeting.

TALLY: ORIGINAL MOTION: Passed \_\_\_\_\_ Defeated  Withdrawn \_\_\_\_\_

Amended & Passed \_\_\_\_\_ Amended & Defeated \_\_\_\_\_

Amended & Passed \_\_\_\_\_ Amended & Defeated \_\_\_\_\_

Attach to Minutes Mar. 17, 1975  
Date