

MINUTES

ASSEMBLY JUDICIARY COMMITTEE

April 5, 1977

8:15 a.m.

Members Present:           Chairman Barengo  
                              Vice Chairman Hayes  
                              Mr. Price  
                              Mr. Coulter  
                              Mrs. Wagner  
                              Mr. Sena  
                              Mr. Ross  
                              Mr. Polish  
                              Mr. Banner

Chairman Barengo brought this meeting to order at 8:15 a.m. and administered the oath to all those in the hearing room who indicated they wished to testify.

Assembly Bill 493:

Assemblyman Nick Horn, Assembly District 15, testified on this bill as its chief introducer. He stated that through a meeting with his constituents, came an idea that the repeat offender be kept off the streets and one way to do that is if he is convicted of a serious enough crime that the Court would be prohibited from granting probation to that person. In other words, the objective of this is simply to keep the repeat offender off of the streets.

Mr. Bud Campos, Department of Parole and Probation, testified on this bill, first stating that he had been sworn in. Mr. Campos stated that the concept of the bill has merit and he is not here to testify strongly against the bill, however, he feels there are a few problems. First, he stated that he does not believe the bill does what it is purported to do in the summary on top of the first page. According to the current wording, a person who had a prior felony conviction now standing convicted of a gross misdemeanor could not receive probation. If that would be the intent of the legislature, that is fine, but the way it now reads is that they are not talking felony on a felony, they are talking of a possible gross misdemeanor on a possible felony. Another point he stated was how the prior is established; who says the person has a prior felony conviction. This is easier said than demonstrated. He detailed this for the committee. He stated that the person who does bring this prior to the Court's attention should probably be the District Attorney's Office rather than the Department of Parole and Probation.

Mr. Larry Hicks, District Attorney of Washoe County, testified on this bill merely stating that he likes the concept of the bill.

Assembly Bill 489:

Mr. Bud Campos, Department of Parole and Probation, testified on this bill, stating that in those sections which refer to Probation or to the Department of Probation and Parole, he finds nothing objectionable to them and nothing beyond the capability of the Department. He generally supports the basic concept of the bill.

Assemblyman Bob Price, being sworn in by Chairman Barengo, testified on this bill as its introducer. He explained this bill in detail to the committee. He specified page 3, line 44, wherein there would be a fund which would be in conjunction with the so called, Good Samaritan Fund, which was established in 1969 and is administered by the Board of Examiners for the state which consists of the Governor, Secretary of State, Attorney General. This fund would not be

used just for people under the Good Samaritan concept, but, for people who apply that were, in fact, direct victims of crime. Next, he specified on page 4, wherein a victim is injured and/or killed, the person who is found guilty of that crime, having no relation to the victim itself, would have an additional penalty which would be assessed to them. He mentioned in regard to the next section on fees, that he had really had in mind something like \$25.00 rather than to make it too much higher, but the bill was drafted to read \$10 to \$50. He further detailed the bill for the committee. Attached hereto and marked as Exhibit "A" is an updated version of the Good Samaritan Laws. Questioning and discussion followed.

Darrell D. Luce, representing Christian Science churches, having been sworn in, testified on this bill and suggested one amendment. Attached hereto and marked as Exhibit "B" is a copy of his testimony.

Assembly Bill 516:

Mr. Bud Campos, Department of Probation and Parole, testified on this bill stating that he has no objection to it.

Assembly Bill 476:

Mr. Frank Carmen, Director of Clark County Juvenile Court Services, Las Vegas, Nevada, having been sworn in, testified on this bill in support of it. Attached hereto and marked as Exhibit "C" is a copy of Mr. Carmen's entire study of Chapter 62 under NRS, including proposed additions and amendments and suggested language therein. Mr. Carmen detailed at length for the committee the intent of the language in this bill and he specified changes on page 4, line 2, page 4, line 26 and page 6, lines 41 and 42.

Mr. Barengo made reference to a letter from the Washoe County Sheriff's Department strongly opposing this bill, a copy of which is attached hereto and marked as Exhibit "D". Mr. Carmen stated to the contrary, they encourage children to work and they are definitely not against children working, all they are asking is that they come to Juvenile Services to obtain a work permit in order that they might judge the type of work and environment they are going into.

Mr. Frank Sullivan, Chief Probation Officer of Washoe County, having been sworn in, testified on this bill, stating that he just had one question. He made reference to page 5, line 44 where they are speaking about employees of the Welfare Division, Department of Human Resources. It would appear to him that that would include anyone within that department, and this is becoming very broad. He would like this to be more specific. The chairman questioned Mr. Sullivan as to whether or not he had any problems with the 14-16 year old work permits. Mr. Sullivan stated that they are really not that involved in it and generally, the school district handles that. There followed much deliberation amongst committeemen with Mr. Carmen.

Mr. Bill Mc Donald, District Attorney of Humboldt County, having been sworn in, testified on this bill requesting that they spell out just what authority the Board of County Commissioners has over the Juvenile Probation Department and its budget. He made this request on behalf of his Board of Commissioners. This is probably the largest single area of continuing controversy and their present Juvenile Court Act just does not spell it out.

Mr. Darrell D. Luce, representing Christian Science churches testified on this bill, expressing his concern for the language starting at line 27 on page 2

where it speaks to why a child is found neglected. The reason for his concern is that in two other places in the statutes describing this, there is already a description which coincides with the viewpoint of those who rely on non-medical treatment. Perhaps some legal authority might feel that because a parent is giving a child non-medical treatment, they would be neglecting that child. His request would be that the laws be made uniform and insert the language perhaps after line 33 in uniformity with the language used in NRS 200.5011 § 2, which language is attached hereto and marked as Exhibit "E".

Assembly Bill 528:

Mr. Tom Beatty, Asst. District Attorney of Clark County, having been sworn in, testified on this bill. He stated that this bill would simply amend NRS 200.508. He stated that the difficulty lies in line 14 wherein it provides that child abuse is a gross misdemeanor. He then detailed for the committee what happened last year in the Legislature in regard to this section. This section needs a section "where no greater punishment is otherwise provided", shall be punished by 1-20.

Assembly Bill 492:

Mr. Tom Beatty, Asst. District Attorney of Clark County testified on this bill, stating that this bill poses many problems. He detailed for the committee the problems now in the existing law. A copy of Mr. Beatty's testimony is attached hereto and marked as Exhibit "F". Mr. Beatty made reference to Rupley vs. the State of Nevada, the Opinion of which is attached hereto and marked as Exhibit "G". He made reference to page 2, line 47, after the word, "constitution", it should read, "constitution or laws".

Assemblyman Lloyd Mann, District #2, testified on this bill as its introducer stating that he realizes some committeemen might have problems with this bill, however, he feels they can be worked out. He stated that "they" came to him with a need, which he recognized, and he merely submitted the request. Mr. Mann stated that he has no problem with "one-party consent" at all.

Mr. Bill Mc Donald, District Attorney of Humboldt County, testified on this bill stating that he looks at this bill both from the standpoint of a prosecutor, as well as, from the standpoint of a private citizen. He stated that if it is O.K. for him to record the conversation who comes into his home, office or store, etc., and it is not O.K. for him to record that same conversation that he is a party to, this really bothers him and he stated he cannot grasp the reason for distinction. He feels that we have built in a terrible connotation to the word, "wiretap". He stated that we are truly not addressing "wiretap" in this legislation.

Commander John D. Mc Carthy of the Las Vegas Metropolitan Police Department, having been sworn in, testified on this bill. Understandably, he stated, this is a sensitive area and he and most law enforcement people abhor unjustified intrusion on private conversation. The present law on the interception of wire communications is extremely cumbersome. He stated that so often they get involved in situations that they think the magnitude of the crime is greater than what it turns out to be and have good probable cause to get involved in an investigation. Mr. McCarthy stated that he also thinks that Nevada law is unreasonably restrictive with regard to the wiretapping portion as it far exceeds Title XVIII of the U.S. Code which allows one-party consent. Another point he made was that in his experience, they have never had to make application for a

wiretap. In summation, he is supportive of this bill.

Mr. Phil Hannifan, head of the Nevada Gaming Control Board, having been sworn in, testified that he supports the comments made by Mr. Tom Beatty, Mr. Bill Mc Donald and Mr. John Mc Carthy. The Control Board is supportive of this measure with the changes mentioned that essentially would make the recording of some conversations with one-party consent legal, as long as, they were performed without the intent to commit a crime. He feels that they have circumstances that arise where the recording of a certain conversation would be not only beneficial, but, would provide evidence of crimes. Questioning and discussion followed.

Assemblyman Demers, District #1, having been sworn in, testified on this bill stating that this one is designed to undo a law that was passed during the last session of the Legislature relative to the requirement for Court authorized wiretaps over telephone lines. The reason it was passed last session is because there were abuses, particularly, in Clark County. He detailed for the committee his reasoning for the introduction of the legislation two sessions ago. He stated that you must understand the difference between federal and state law. Under our state law there are certain requirements that do not exist under federal level. This law is designed to try and bring it in line with the federal law so that with the one-party consent, you would not need a Court Order. He asked the committee if it is their desire to pass this out, at the very least, they should keep some sort of recording requirements in there so that some public document is produced at the end of the year showing how many of these wiretaps take place. Attached hereto and marked as Exhibit "H" is a copy of the Report of Interception of Wire and Oral Communications/ 1975.

Mr. Stan Warren, representing Nevada Bell, having been sworn in testified on this bill as neither an opponent nor proponent on the bill. Their main concern is that whatever laws are passed remain in harmony with the federal law and he believes this does. Also, that they be able to maintain the equipment that they provide telephone service with, so that they do not inadvertently get caught in a wiretap "thing"; he believes this protection is there. Above all, he asks that the last section on page 4, section 2, be left in.

Assembly Bill 479:

Mr. John McNamara, President of Surety Management, Inc., having been sworn in, testified on this bill stating that he feels this bill is a result of discussions they had with the Insurance Commissioner earlier this year. There appears to be a problem in Nevada with insurance companies paying forfeitures or judgments on a bond that is forfeited. They asked the Insurance Commissioner to request this bill. Pursuant to a series of hearings held it was found that the agents were notified of forfeitures of bonds and also the companies, but, when a Judgment was entered, the companies were not notified. In addition, he stated that Section 680A.120 provides the requirements for the insurance company to transact surety insurance in this state. He advised the requirements. The Insurance Commissioner would have much greater control over companies and their obligations if they would amend this bill to provide for a company to do business in surety/bonds in this state with an initial capital of \$500,000.00. Chairman Barengo informed Mr. Mc Namara that that would have to be addressed to in a different bill. He then repeated his comments in support of A.B. 479 and he urged passage of it.

Assembly Bill 489:

Mr. Maynard Yasmer, State of Nevada Rehabilitation Division, having been sworn


in, testified on this bill. He stated that their division has two bureaus that serve disabled people directly, Services to the Blind and Bureau of Vocational Rehabilitation and they basically, under the federal criteria of funding, provide rehabilitation services to people who have vocational abilities. This would exclude the young people, the elderly and the housewife types who do not plan to go to work. Victims of crime are eligible for rehabilitation under their program if their vocational goals are there. He stated that no one keeps records on the victim. He said another area of inequity of concern is the program funding disparity. Regarding the current language, he wanted to emphasize page 2, line 27, it is essential that that be left in because this expands the scope of this bill beyond the basic "Good Samaritan Act". Conversely, he sees that if line 27 is left in, he doesn't see the need for lines 17 through 26 because he feels they are covered. On page 2, line 42, he requests that the wording "the police officer" be changed to read "a police report be filed". The intent on page 3 on lines 9 through 11, he hopes that intent is that the person be in the work force. He stated that section 8, lines 15 through 40, this wording makes this bill still a very conservative bill because it does exclude the domestic circumstance. He further asked that at least the intent in this bill be that the Board of Examiners should refer surviving disabled victims to the Rehabilitation Division at the time of consideration of application for the award and that the Division then have to provide an evaluation and recommendation to the Board. He mentioned that S.B. 162 is similar, except for the fiscal note and they are supportive of the fiscal note also.

Assembly Bill 528:

Mr. Larry Hicks, District Attorney of Washoe County and President of the District Attorney's Association, having been sworn in, testified in support of this bill. He also gave the committee the support of the District Attorneys Association.

There being no further business to discuss, the meeting was adjourned at 10:45 a.m.

Respectfully submitted,



Anne M. Peirce, Secretary

VICTIMS OF CRIMINAL ACTS

Department of Administration

<u>Claim No.</u>	<u>Claimant</u>	<u>Nature of Claim</u>	<u>Date of Board Action</u>	<u>Amount of Award</u>
1	Harry Garske	Harry Garske, a retired law enforcement officer, while acting as manager of the Charann Motel in Sparks on July 11, 1970, was the victim of an attempted robbery. Mr. Garske was seriously wounded when he was shot in the abdomen by the robber. Received 8/25/70	12/29/70	\$ 5,000.00
2	Emmett E. Sullivan	After leaving his place of employment in Las Vegas on December 4, 1970, Emmett E. Sullivan observed an armed robbery of an elderly man in the parking lot. When Mr. Sullivan attempted to aid the man, the robber shot Mr. Sullivan in the left thigh. Received 2/1/71	6/28/71	5,000.00
3	E. C. Christian	E. C. Christian is the owner of Hamburger Heaven, a restaurant in Las Vegas. Upon his arrival at his place of business on the morning of February 6, 1970, he discovered two hold-up men had forcibly gained entrance to the restaurant. During the ensuing struggle, Mr. Christian was shot several times and seriously wounded. Received 2/4/71	6/28/71	5,000.00
4	Nancy Lee Nash	Anthony Lee Nash, age 15 years, and his brother Michael Patrick Nash, age 14 years, were playing in front of the family residence in Reno on January 28, 1971. Another juvenile approached the boys and called them obscene names and a fight commenced. During the fight Anthony was stabbed near his heart with a switchblade. The mother of this juvenile entered the fracas and approached the father of the Nash boys, and when Michael attempted to stop the injury of his father, he was stabbed during the scuffle. Received 4/20/71	6/28/71	59.40
5	Joseph Lazzaro	Joseph Lazzaro was employed as a pharmacist in Las Vegas. While at his job on October 6, 1969, he heard a female employee of the drug store scream. He attempted to help the employee and was struck on the head from behind by the robbers. Mr. Lazzaro suffered grievous injuries. Received 6/1/71	12/9/71	5,000.00
6	William Paul Adams	William Paul Adams was performing the duties of his employment as a pit boss on April 4, 1971. A customer of the casino became unruly and created a scene. The sheriff was called and while Mr. Adams was assisting the deputy, he was attacked by the customer and injured. Received 11/17/71	5/31/72 and 7/27/72 held in abeyance	
7	John Glau	On October 23, 1972, in Reno, Nevada, at the Greyhound Bus Terminal John Glau was waiting for his luggage when police officers began firing their revolvers in his immediate vicinity. Mr. Glau was struck by a police bullet in the abdomen and grazed on the forehead by another bullet. The incident happened because police officers had stopped and questioned a suspect of a robbery and shooting at a supermarket. Mr. Glau died as a result of his injuries. Received 11/13/72	Denied 5/25/73	
Sub-Total				\$ 20,059.40

EXHIBIT A  
1394

VICTIMS OF CRIMINAL ACTS - Continued

<u>Claim No.</u>	<u>Claimant</u>	<u>Nature of Claim</u>	<u>Date of Board Action</u>	<u>Amount of Award</u>
Sub-Total				\$ 20,059.40
8	Richard Fisher	On October 17, 1971, at approximately 10:15 p.m., Mr. Fisher was walking to his job at the Fremont Hotel in Las Vegas when he was assaulted by three unidentified persons who beat him viciously with a club or pipe. Mr. Fisher attempted to stop the assault but was beaten until he fell to the ground. He sustained severe injuries including a broken and dislocated hip. Received 12/13/72	Denied 5/25/73	
9	Vernon Allen	Mr. Allen was killed on October 23, 1972, in an armed robbery in Reno, Nevada. His widow, Mrs. Hazel L. Allen and her 14 year old daughter have filed a claim with the Board of Examiners requesting a hearing surrounding the death of her husband. Received 2/23/73	Denied 5/25/73	
10	Frank W. Phelps	On July 10, 1972, Mr. Phelps and his family were crossing Virginia Street in Reno when they were almost hit by a car in which the assailant, Claude Gliniecki, was a passenger. Mr. Phelps told his family to watch out. The assailant shouted an obscenity and threatened to shoot Mr. Phelps' head off. The assailant then followed them and attacked Mr. Phelps with a knife and fled on foot followed by Loren Phelps, the son. Mr. Phelps was critically wounded and has been unable to work since the incident. Received 3/26/73	Denied 10/4/73	
11	Roger W. Thompson	On May 21, 1973, Mr. Thompson, in an attempt to stop a purse snatcher, was run over by a van. Received 7/12/73	Inactive 3/12/74	
12	Harold Davis	On December 23, 1972, while driving to Needles, Mr. Davis picked up a hitchhiker, Michael Keefer. Not too long after passing Searchlight, Mr. Keefer grabbed the steering wheel, causing the truck to go out of control, off the highway and turn over causing severe physical injuries and destroying his pickup and trailer. Received 8/2/73	Denied 12/20/73	
13	Alysia Babs Schwartz	On May 15, 1972, Mr. Schwartz went to the Bagdad Inn in Las Vegas to have a meeting with Mr. Fish. When he arrived, a gun was pulled and he was gagged, tied and robbed. Then he was given knock out drops and some time later in the evening driven to an isolated location and shot to death. Received 7/31/73	Denied 12/20/73	
14	Winston Milton Schaubach	Mr. Schaubach filed for compensation as a result of injuries suffered in an incident in Reno on September 4, 1971. Received 8/31/73	Withdrawn 11/21/73	
15	Charles Francis McHatton	On September 4, 1973, Mr. McHatton was shot during an attempted robbery of a service station in Las Vegas, the attempt being foiled by Mr. McHatton. Received 11/6/73	Paid 10/9/74	1,101.49
16	William Roberts	On July 24, 1973, in the Royal Inn Casino in Las Vegas, Mr. Roberts was shot in the stomach by Mr. Walter Vickers while Mr. Roberts was attempting to prevent Mr. Vickers from shooting Miss Terry James after an argument. Received 11/29/73	Paid 4/12/74	997.35

Sub-Total

1395

VICTIMS OF CRIMINAL ACTS - Continued

<u>Claim No.</u>	<u>Claimant</u>	<u>Nature of Claim</u>	<u>Date of Board Action</u>	<u>Amount of Award</u>
Sub-Total				\$ 22,158.24
17	Jonathon Carone See also #18	Sandra Wood, guardian of Jonathon Carone, is filing for compensation for the murder of the youth's mother in Las Vegas hotel. Received 12/10/73	Denied 3/12/74	
18	Jonathon Carone See also #17	Sandra Wood, guardian of Jonathon Carone, is filing for compensation for the murder of the youth's father in Las Vegas hotel. Received 12/10/73	Denied 3/12/74	
19	Norma Stevens	On July 15, 1973, Mrs. Stevens received extensive burns as a result of a fire deliberately set on the premises where she was working. Received 12/11/73	Withdrawn 3/7/74	
20	Joseph Treadwell	As acting manager of Kemp Trailer Court, Mr. Treadwell observed a burglar attempting to gain entry to the park office on the evening of August 30, 1973. The burglar, when surprised by Mr. Treadwell, fled through the park over a fence and was pursued by Mr. Treadwell. Treadwell failed to negotiate the fence and was severely injured. Received 1/17/74	Denied 5/21/74	
21	Donald L. Kimmins	While on duty at a car lot, Mr. Kimmins was held up by an an armed robber. The robber took his wallet and shot him in the arm, seriously wounding Mr. Kimmins. Mr. Kimmins pursued the robbers and the police captured them within two blocks of the scene. Received 3/29/74	Withdrawn 5/14/74	
22	Lawrence Sage	Claimant indicates he was shot and robbed on June 20, 1974. He was out in a field feeding his mules when a man approached him and demanded his wallet. He resisted and the man shot one of his mules in the shoulder and Mr. Sage in the arm and took his wallet. Received 3/29/74.	Denied 2/26/74	
23	Evelyn L. Christie	While visiting Reno area, claimant and claimant's mother and aunt were attacked by a man who pushed Ms. Christie to the ground and snatched her aunt's purse. Received 8/5/74.	Withdrawn 8/9/74	
24	Carol Ann Gundlach	On June 29, 1974, as victim pulled up in front of her apartment on returning home from work, she was attacked and beaten around the head and face by an unidentified man. Received 8/8/74.	Denied 11/27/74	
25	Gail Kobielsky and Michael L. Kobielsky	On February 11, 1974, while working at Frederick's Gift Shop in Las Vegas, Dorothy N. Kobielsky was brutally beaten, shot and killed during the commission of a robbery. Received 8/8/74.	Denied 11/27/74	
26	Gregory Cannon Larson	On October 1, 1974 at approximately 6:30 A.M., Mr. Larson heard his neighbor cry for help and when he checked saw the neighbor being robbed by two masked gunman. Mr. Larson pursued the robbers for several blocks until one of them turned around and shot him in the stomach. Received October 7, 1974.	Paid 2/26/75	4,387.73
Sub-Total				\$ 26,545.97

1396



VICTIMS OF CRIMINAL ACTS - Continued

<u>Claim No.</u>	<u>Claimant</u>	<u>Nature of Claim</u>	<u>Date of Board Action</u>	<u>Amount of Award</u>
Sub-Total				\$ 26,545.97
27	Warren E. Farrell	On November 28, 1973, Mr. Farrell was in Larry's Villa having a drink when he observed a man standing over another man and stabbing him in the throat. Claimant intervened and was stabbed in the arm and throat. Received November 19, 1974	Paid 2/26/75	5,000.00
28	William G. Degnon	Claimant is requesting assistance as the result of a "mugging" which took place in downtown Las Vegas in November, 1973. Received November 21, 1974	Denied 2/26/75	
29	Barbara Quinn	Claimant is requesting compensation for injuries received in an accident in which her daughter was trying to outrace another vehicle. Received January 17, 1975.	Denied 5/27/75	
30	Alan Danzig, Estate of	The estate of Alan Danzig is seeking compensation for his murder by a craps dealer, who was employed at the same place, January 2, 1975 in a parking lot across from the MGM hotel. Received February 6, 1975.	Denied 5/27/75	
31	Margaret C. Reh	On September 14, 1973, Mrs. Reh was working at the Cozy Rest Motel where she was robbed and attacked. As the result of the attack she suffered severe injury to her head and body which caused the loss of hearing and progressive disability which she contends is now total. Received March 4, 1975.	Denied 7/28/75	
32	William R. Holt, Jr.	On February 21, 1975, while closing up the bar of the Golden Hotel, the claimant was the victim of a shooting as a result of a hold-up. Received March 13, 1975.	Paid 5/27/75	764.82
33	Alfred D. Reid	On February 23, 1975, while trying to apprehend a shoplifter from the Mayfair Market in Reno where the claimant worked, he fell and fractured his wrist and pulled ligaments in his right shoulder. Received March 20, 1975.	Denied 5/27/75	
34	Robert R. Benway	On September 17, 1974, while trying to prevent an armed robbery at his place of employment, Mr. Benway was shot in the left shoulder and subsequently lost his left arm. Received April 8, 1975.	Paid 7/28/75	1,709.14
35	Ada Glasser	On April 10, 1975, while in the area of the apartment garbage disposal, claimant was attacked and her purse stolen by a young man. The attack resulted in a fractured pelvic bones. Received April 18, 1975.	Denied 5/27/75	
36	Lucille Goss	On May 26, 1975, Glen Goss, a truck driver, was shot to death while coming to the aid of a Nevada Highway Patrolman who was attempting to arrest a suspect. Received June 2, 1975.	Paid 6/6/75	5,000.00 ✓
Sub-Total				\$ 39,019.93

1397

VICTIMS OF CRIMINAL ACTS - Continued

<u>Claim No.</u>	<u>Claimant</u>	<u>Nature of Claim</u>	<u>Date of Board Action</u>	<u>Amount of Award</u>
Sub-Total				\$ 39,019.93
37	Joseph Waddell	On April 7, 1975, claimant, a taxicab driver, was shot in the back by two men who attempted to hold up his cab. Received June 10, 1975	Denied 2/5/76	
38	Edward L. Foulkrod	On March 21, 1975, claimant, a taxicab driver, was shot in the head during a robbery. Received June 17, 1975	Denied 7/28/75	
39	Kathryn Annas	Claimant is filing for compensation as the result of the murder of her daughter in a Las Vegas hotel on March 31, 1974. Received July 21, 1975	Pending	
40	Garry M. Bruttomesso	Claimant was attending a "Beatles" movie at Clark County Library when a friend was attacked by a boisterous individual. Claimant came to the aid of his friend and was stabbed approximately 15 times. He is now permanently paralyzed below the waist. Received July 22, 1975	Paid 11/4/75	5,000.00
41	Bess R. Hall	Claimant's husband was shot and killed on November 7, 1973, while attempting to aid a neighbor to arrest a burglar in the neighbor's house. Received August 28, 1975.	Paid 11/19/75	5,000.00
42	Mary M. Doherty	Claimant was a victim of an attempted purse snatching on August 21, 1975. Received October 10, 1975.	Denied 11/19/75	
43	William J. Gallagher	Claimant was robbed and beaten on September 17, 1975, by two hitchhikers whom the claimant had taken into his home for the night. Received October 17, 1975.	Denied 11/19/75	
44	Mrs. E. J. Pennykid	Injuries suffered by claimant on February 28, 1976, as a result of an attempted purse-snatching. Received April 19, 1976	Pending	
45	Pearl Lyall	Claimant is seeking compensation for injuries received April 1, 1976, as a result of a purse snatching and mugging in Las Vegas. Received July 12, 1976.	Pending	
46	Carl Lewis Tucker	Claimant is seeking compensation for injuries received when he was assaulted by a guest of a motel at which he worked. Received January 10, 1977	Denied 3/15/77	
47	Mary Powell	Claimant is seeking compensation for injuries sustained when shot in the course of a robbery at her place of employment. Received February 16, 1977	Denied 3/15/77	
Sub-Total				\$ 49,019.93
Budget Division				March 30, 1977

# Christian Science Committee on Publication for Nevada

1717 East Charleston Boulevard  
Las Vegas, Nevada 89104

Phone: (702) 384-4155  
Night 385-2655

March 11, 1977

My name is Darrell D. Luce, and I am the representative for the (7) Christian Science churches in the state of Nevada.

I wish to call your attention to the fact that if ~~S.B.~~ <sup>AB 489</sup> is passed and becomes law, a person, who relies upon non-medical remedial treatment in accordance with a religious healing method, might not be compensated; because the provision in Chapter 616, the N.I.C. chapter, allows an injured person to rely on treatment through prayer, but does not say for sure that they will be paid for this treatment.

I feel that this would be an unjust situation, if the victim of a crime happened to be a Christian Scientist or a person who relied on prayer for healing. To correct this inequity, I am going to suggest that you insert in ~~S.B. 152~~ <sup>AB 489</sup> on page 3, at line <sup>//</sup>, the following language:

"to include nonmedical remedial care and treatment rendered in accordance with a religious method of healing".

EXHIBIT B

- NRS 62 An act authorizing Boards of County Commissioners to collect cost of ancillary services, i.e. psychiatrics, medicals, transportation, provided by counties from parents and guardians of children who receive such services while under the provision of NRS 62; other than pursuant to Court Order, authorizing collections by legal action; and providing other matters properly relating thereto.
- NRS 62.020 To provide that once a child has been certified for proper criminal proceedings under the provisions of NRS 62.080, the Juvenile Court would not have original jurisdiction.
- NRS 62.020 Allow Justice/Municipal Courts to handle No Driver's License.
- NRS 62.040 To provide original jurisdiction on the adult  
62.050 side of the District Court in all cases alleging  
62.170 a murder offense or an attempted murder offense, with a provision that any child so charged may petition the Juvenile Court for temporary placement in the juvenile detention facility pending final disposition of the Adult Criminal Court.
- NRS 62.060 Assure due process and allow the Juvenile Judge the opportunity to hear all cases requesting certification of an adult offender between the ages of 18 and 21 years to the status of a juvenile for the purpose of hearing that charge in the Juvenile Court.
- NRS 62.060 To remove from the NRS the provision which allows the District Court Judge to certify an adult offender between the ages of 18 and 21 years to the status of a juvenile for the purposes of hearing that charge in the Juvenile Court.
- NRS 62.080 To make certification to adult status a permanent matter. A certified youth would thereafter be within the jurisdiction of the District Court adult side for all future purposes and would not therefore be able to commit status offenses.
- NRS 62.105 To provide a broader representation on the Probation Committee to the Juvenile Court in large communities and provide impetus to board members to remain active.
- NRS 62.170 To provide that an agent of the welfare division of the Department of Human Resources may take children into custody who are found violating any law or ordinance, or whose surroundings are such as to endanger his welfare.

NRS 62.200

An act relating to minors who have attained their 16th birthday and under the jurisdictional control of the Juvenile Court, the probation officer or parole officer may petition the court to allow the minor to live in a residence without the presence of an adult and be exempt from mandatory school attendance for the purpose of full-time employment. This is to be carried out under specific and stringent conditions as outlined by the Court.

NRS 62.275

To clarify the sealing procedure where Section A does not apply under NRS 62.275.

NRS 609.220  
609.250  
609.210

To modify existing statutes to be more realistic with current employment practices and job trends. To clarify those areas where a child may be employed or not employed.

PROPOSED ADDITION TO  
NRS 62

INTENT

An act authorizing Boards of County Commissioners to collect cost of ancillary services, i.e. psychiatric, medicals, transportation, provided by counties from parents and guardian of children who receive such services while under the provision of Nevada Revised Statutes Chapter 62; other than pursuant to Court order, authorizing collections by legal action; and providing other matters properly relating thereto.

JUSTIFICATION OR PURPOSE

The Juvenile Courts of the State of Nevada provide many services which are not the core of services provided by Chapter 62. The services are always for the benefit of the child or family, often not planned expenses, often expenses that the parent would normally have to pay if the child had not been brought to the attention of the Court. This legislation would provide that the County may relay this expense to the parents or guardian. [It is suggested that a sliding scale would be established by the various Juvenile Courts to charge the parents according to their ability to pay.

At the present time at least one County is passing this expense to the parents or guardians when appropriate. However, it is only voluntary unless specifically ordered by the Court. In other cases when services are provided without a Court Order, collections are often delayed or not completed.

NRS TITLE

There is no statute at present that provides for collections generally or for these specific services.

SUGGESTED LANGUAGE

When a child is under the jurisdiction of the Court as provided in the Chapter and receives ancillary services, i.e. psychiatric, psychological, medical, transportation, administered or financed by the County, the Board of County Commissioners is entitled to collect from the parent, parents, or guardian of such child all sums of money expended by the County for said services.

If the parent, parents, or guardian fails or refuses to reimburse the County, the Board of County Commissioners may recover from such parent, parents or guardian by appropriate legal action, all sums of money due together with interest thereon at a rate of 7% per annum.

PROPOSED AMENDMENT OF

NRS 62.020

INTENT:

To provide that once a child has been certified for proper criminal proceedings under the provisions of N.R.S. 62.080, the Juvenile Court would not have original jurisdiction.

JUSTIFICATION:

To provide consistency with changes in Chapter 62.080.

NRS TITLE:

NRS 62.020, Section 1, Paragraph A.

SUGGESTED LANGUAGE:

(a) Adult means a person 18 years of age or older or a person between the ages of 16 and 18 who has been duly certified for proper criminal proceedings under the provision of NRS 62.080.



AMENDMENT TO NRS 62.020

INTENT

Allow Justice/Municipal Courts to handle No Driver's License.

JUSTIFICATION

Regarding juvenile traffic citations where two violations occur - one for speeding and one for no driver's license - presently, the tickets must be split resulting in the minor and parents making two court appearances at different courts.

NRS TITLE

NRS 62.020, Section 1, Paragraph E, Number 3.

SUGGESTED LANGUAGE

Remove 62.020, Section 1, Paragraph E, Number 3.

PROPOSED AMENDMENT OF  
NRS 62.040  
NRS 62.050  
NRS 62.170

INTENT:

To provide original jurisdiction on the adult side of the District Court in all cases alleging a murder offense or an attempted murder offense, with a provision that any child so charged may petition the Juvenile Court for temporary placement in the juvenile detention facility pending final disposition of the Adult Criminal Court.

JUSTIFICATION:

The law presently states a capital offense, as opposed to a murder offense. A recent Nevada Supreme Court decision limiting the definition of a capital offense..... Juvenile Court does not have the proper provisions, staff or resources to handle this serious offense. However, in some circumstances it may be appropriate to place a child so charged, temporarily, in the juvenile detention facility pending the final disposition.

NRS TITLE:

62.040, Section 1, Sub-section C, Paragraph 1.  
62.050.  
62.170, Add section 6.

SUGGESTED LANGUAGE:

62.040: Commits an act designated a crime under the law of the State of Nevada except as provided in NRS 62.050, or who violates a county or municipal ordinance or any rule or regulation having the force and effect of law; or

62.050: 1. If, during the pendency of a criminal or quasi-criminal charge, except in a murder, or an attempted murder against any person in any Court, . . . . .

62.170: Any child charged under 62.050 may petition the Juvenile Court for temporary placement in a juvenile detention facility pending the final disposition of the adult criminal court. . . . .

AMENDMENT OF NRS 62.060

INTENT:

Assure due process and allow the Juvenile Judge the opportunity to hear all cases requesting certification of an adult offender between the ages of 18 and 21 years to the status of a juvenile for the purpose of hearing that charge in the Juvenile Court.

JUSTIFICATION:

Because of lack of clarity in the present statutes, there has been some confusion regarding the necessity of a preliminary hearing. The proposed change clears up that confusion and provides that the juvenile judge will hear all cases requesting to be handled as a juvenile. It is felt that the juvenile judge is, as a result of his position, the most qualified to determine the appropriateness of said transfer on the basis of the following:

1. The seriousness of the alleged offense to the community and whether the protection of the community requires waiver.
2. Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner.
3. Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons especially if personal injury resulted.
4. The prosecutive merit of the complaint, i.e. whether there is evidence upon which the District Attorney may be expected to return an indictment.
5. The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living.

6. The record and history of the juvenile, including previous contacts with the Youth Aid Division, other law enforcement agencies, juvenile courts and other jurisdictions, prior records of probation to this Court, or prior commitments to juvenile institutions.
7. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available to the Juvenile Court.

NRS TITLE:

62.060, Section 1 and Section 2

SUGGESTED LANGUAGE:

62.060 Procedure when person between 18 and 21 years is accused of felony or gross misdemeanor.

1. Whenever any person over the age of 18 years and under the age of 21 years is accused of a felony or a gross misdemeanor and the indictment or information has been filed in the district court of the county wherein the crime was committed, charging that person with the commission of a felony or a gross misdemeanor, and a preliminary hearing held or unconditionally waived, the judge may, at his discretion and with consent of the accused, or upon his request, arrest the proceeding at the time of the arraignment or at any time previous to the impanelment of the jury, except where the crime charged is a capital offense or an attempt to commit a capital offense and transfer the case to the Juvenile Division of the District Court. The Juvenile judge may proceed to investigate the charge against the defendant and may order the probation officer to investigate all facts and circumstances necessary to assist the judge in determining the proper disposition to be made of the person. The juvenile judge shall thereupon determine whether the person shall be dealt with under the provisions of this chapter.

2. If the juvenile judge is satisfied upon such an investigation that the person should be dealt with under this chapter, he may make such order as herein provided for the disposition of a child under the age of 18 years.

3. If no request is made by the defendant for proceeding under this chapter, or if the defendant desires a trial by jury, or if the judge declines to consent to the application of the defendant for proceeding under this chapter, the case shall proceed in the ordinary manner.

PROPOSED REMOVAL OF

NRS 62.060

INTENT:

To remove from the Nevada Revised Statutes the provision which allows the District Court Judge to certify an adult offender between the ages of 18 and 21 years to the status of a juvenile for the purposes of hearing that charge in the Juvenile Court.

JUSTIFICATION:

It is requested that NRS 62.060 be removed from the Nevada Revised Statutes, thereby removing the option of an adult offender being remanded to the Juvenile Court. The reasons for this are as follows:

Since the change of the age of majority to 18 years, the Juvenile Court lacks the authority it previously held over those persons. It is also our opinion that due to the change in the age majority, handling a person who is over the age of 18 in the Juvenile Court is in conflict with that decision.

Secondly, the justification previously for many certifications to the Juvenile Court was that the Nevada prison system lacked an adequate facility for young offenders. With the opening of the youth offenders' prison in Jean, Nevada, this justification will no longer be valid.

Thirdly, often the request is made by counsel that the certification down should be granted so that the offender may receive probation and counseling; however, probation and counseling is readily available through the adult probation department.

Fourthly, the most often stated reason for certification to the Juvenile Court is that the defendant will not have a felony conviction and thereby be unable to proceed with vocational goals that would otherwise be possible without a felony conviction. However, it is the consensus of the Juvenile Court that a person between the ages of 18 and 21 years must be responsible for the acts he has committed.

NRS TITLE:

62.060

SUGGESTED LANGUAGE:

We are requesting that NRS 62.060 be removed from the Nevada Revised Statutes.



PROPOSED AMENDMENT OF

NRS 62.080

INTENT:

To make certification to adult status a permanent matter. A certified youth would thereafter be within the jurisdiction of the District Courts Adult side for all future purposes and would not therefore be able to commit status offenses.

JUSTIFICATION:

The determination that a child between the ages of 16 and 18 should be handled as an adult are based on the following:

1. The seriousness of the alleged offense to the community and whether the protection of the community requires waiver.
2. Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner.
3. Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons especially if personal injury resulted.
4. The prosecutive merit of the complaint, i.e. whether there is evidence upon which the District Attorney may be expected to return an indictment.
5. The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living.
6. The record and history of the juvenile, including previous contacts with the Youth Aid Division, other law enforcement agencies, juvenile courts and other jurisdictions, prior records of probation to this Court, or prior commitments to juvenile institutions.
7. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available to the Juvenile Court.

NRS 62.080

When all of these things are considered, and a decision is made that the child should be handled by the adult side of the District Court, original jurisdiction should then rest with the adult court. Under special circumstances there should be provisions for the certified child to petition the court to be treated as a juvenile. It should be clear that this change applies only to NRS 62.080 and no other statute, and refers only to criminal jurisdiction.

NRS TITLE:

NRS 62.080.

SUGGESTED LANGUAGE:

If a child 16 years of age or older is charged with an offense which would be a felony if committed by an adult, the Court, after full investigation, may in its discretion retain jurisdiction or certify the child for proper criminal proceedings to any Court which would have trial jurisdiction of such offense if committed by an adult. In matters of criminal justification, once so certified, original jurisdiction of that person will rest with the adult court and then may petition the court to be processed as a juvenile.

PROPOSED AMENDMENT OF  
NRS 62.105

INTENT

To provide a broader representation on the Probation Committee to the Juvenile Court in large communities and provide impetus to board members to remain active.

JUSTIFICATION

The present statute designates 5 members to be appointed as members of the Probation Committee. It appears that in a community of 200,000 or more population, that a broader representation from the community can be beneficial. Agencies serving these larger communities are large and complex. More members on the Probation Committee would provide an opportunity for individual members to become keenly aware of at least one of the areas and all areas would then be appropriately covered. In large communities it is important for the Probation Committee to remain active and provide appropriate service to the Juvenile Judge and the agency as a whole. In order to adequately provide this service members of the Committee must attend meetings of the Probation Committee.

NRS TITLE

NRS 62.105, Section 1

SUGGESTED LANGUAGE

The judge or judges of the Court in each district .....  
appoint not less than five and not more than seven representative  
citizens of good moral character to be known as the Probation  
Committee,.....  
Any member of the Probation Committee may be removed for cause at  
any time by the judge or judges; further that, any member who is  
absent from 3 consecutive meetings of the committee without the approval  
of the chairman of the probation committee shall relinquish his  
position on the committee and the judge or judges shall fill the vacancy  
created hereby under the provisions of this section.

PROPOSED AMENDMENT TO  
NRS 62.170

INTENT:

To provide that an agent of the welfare division of the Department of Human Resources may take children into custody who are found violating any law or ordinance, or whose surroundings are such as to endanger his welfare.

JUSTIFICATION

Challenges in the Juvenile Court necessitate the clarity of language and intent in this matter.

NRS TITLE

NRS 62.170, Section 1

SUGGESTED LANGUAGE

1. Any peace officer, (or) probation officer, or the welfare division of the Department of Human Resources may take into custody any child who is found violating any law or ordinance or whose surroundings are such as to endanger his welfare. When a child is taken into custody the officer shall immediately notify the parent, guardian or custodian of the child, if known, and the probation officer. Unless it is impracticable or inadvisable or has been otherwise ordered by the court, or is otherwise provided in this section, the child shall be released to the custody of his parent or other responsible adult upon the written agreement signed by such person to bring the child to the court at a stated time or at such time as the court may direct. The written agreement shall be submitted to the court as soon as possible. If such person fails to produce the child as agreed or upon notice from the court, a writ may be issued for the attachment of the person or of the child requiring that the person or child, or both of them, be brought into the court at a time stated in the writ.

PROPOSED ADDITION TO  
NRS 62.200

INTENT

An act relating to minors who have attained their 16th birthday and under the jurisdictional control of the juvenile court, the probation officer or parole officer may petition the court to allow the minor to live in a residence without the presence of an adult and be exempt from mandatory school attendance for the purpose of full-time employment. This is to be carried out under specific and stringent conditions as outlined by the court.

JUSTIFICATION

Some minors on probation or parole have displayed remarkable self-sufficiency in their adjustment despite intolerable conditions at home that could lead to further court intervention. Also, some of those same minors have come from work oriented backgrounds, with little or no exposure to a traditional school, and it would be in their best interest to pursue a trade.

NRS TITLE

Chapter 62, Section 1, New Paragraph F.

SUGGESTED LANGUAGE

F. Place the child in a residence without the presence of an adult; and/or, be exempt from mandatory school attendance for the purpose of full-time employment, provided the child has attained his 16th birthday and is under the supervision of the Juvenile Court.

AMENDMENT OF NRS 62.275

INTENT

To clarify the sealing procedure where Section A does not apply under NRS 62.275.

JUSTIFICATION

To allow a subject minor to have his/her juvenile record sealed if he/she has never been a Ward of the Court. Presently Section B is vague and requires clarity.

NRS TITLE

NRS 62.275, Section B.

SUGGESTED LANGUAGE

(B) Three years or more having elapsed since the child was last referred to the Juvenile Court; and has never been declared a Ward of the Juvenile Court.

AMENDMENTS OF NRS 609.220  
NRS 609.250  
NRS 609.210

INTENT

To modify existing statutes to be more realistic with current employment practices and job trends. To clarify those areas where a child may be employed or not employed.

JUSTIFICATION

To clarify employment requirements for minors seeking gainful employment.

NRS TITLE

609.220  
609.250  
609.210, Section D

SUGGESTED LANGUAGE

609.220 - Employment of child under 16 years unlawful without written permission of district judge or his designee. Every person who shall employ, and every parent, guardian or other person having the care, custody or control of such child, who shall permit to be employed by another, any child under the age of 16 years at any labor whatever, in or in connection with any store, shop, factory, mine or any inside employment not connected with farmwork or housework, without the written permission for such employment signed by a judge of the district court of the county of the child's residence, or signed by a juvenile master, referee or probation officer authorized to sign such a permit by a judge of the district court of the county of the child's residence, shall be guilty of a misdemeanor.

609.250 - Unlawful employment of minor under 16 years when school in session without the proper exception from the School District. It shall be unlawful for any person, firm, or corporation to employ any child under 16 years of age in any business or service whatever during the hours in which the public schools of the school district in which the child resides are in session without the proper exception from the school district.

609.210 - (f) In any area of a casino where there is gaming or where alcoholic beverages are the major enterprise.





WASHOE COUNTY SHERIFF'S DEPARTMENT

P. O. Box 2915  
RENO, NEVADA 89505  
Phone: (Area 702) 785-6220

VINCENT G. SWINNEY  
UNDERSHERIFF

ROBERT J. GALLI  
SHERIFF

THOMAS F. BENHAM  
CHIEF, INVESTIGATIVE SERVICE BUREAU

RUSSELL T. SCHOOLEY  
CHIEF, OPERATIONAL SERVICE BUREAU

JAY S. HUGHES  
CHIEF, ADMINISTRATIVE SERVICE BUREAU

March 29, 1977

Assemblyman Robert R. Barengo  
Chairman, Committee on Judiciary  
Legislative Building  
Capitol Complex - North Carson Street  
Carson City, Nevada 89701

Dear Bob:

I recently reviewed A.B.# 476, and was disturbed to see that it has been proposed to raise the working age of children to sixteen years of age. The section to be revised is Section 12, of NRS 609.220.

I would estimate that several hundred children between the ages of fourteen and sixteen are now employed within the unincorporated area of Washoe County.

I strongly suggest that careful consideration be given this proposal, as it may not be in the best interests of the children who want or have to work, and are under the age of sixteen years.

Yours truly,

ROBERT J. GALLI, SHERIFF

By Lorne Butner  
Lorne Butner, Captain  
Detective Division Commander

LB:Imc

1421

EXHIBIT D

(3) The person charged knew or should have known that the victim was an officer, for a felony.

(d) If the battery is committed with the use of a deadly weapon, by imprisonment in the state prison for not less than 2 years nor more than 10 years.

(Added to NRS by 1971, 1385; A 1973, 1444; 1975, 1063)

**200.490 Provoking assault: Penalty.** Every person who shall, by word, sign or gesture, willfully provoke, or attempt to provoke, another person to commit an assault shall be punished by a fine of not more than \$500.

[Part 1911 C&P § 150; RL § 6415; NCL § 10097]—(NRS A 1967, 473)

### CHILD ABUSE AND NEGLECT

**200.501 Policy of state declared.** It is the policy of this state to provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and all appropriate state agencies providing human services in relation to preventing, identifying and treating child abuse and neglect, through the complete reporting of child abuse and neglect and investigation of such reports by a social agency and the provision of services where needed, to protect the best interests of the child, to offer protective services in order to prevent any further harm to the child, to preserve family life whenever possible and to provide the child a temporary or permanent safe environment when necessary.

(Added to NRS by 1965, 546; A 1975, 791)

**200.5011 Definitions.** As used in NRS 200.501 to 200.508, inclusive:

1. "Child abuse and neglect" means the nonaccidental physical or mental injury, sexual abuse, negligent treatment or maltreatment of a child under the age of 18 years by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby.

2. A child is not abused or neglected, nor is his health or welfare harmed or threatened for the sole reason that his parent or guardian, in good faith, selects and depends upon nonmedical remedial treatment for such child, if such treatment is recognized and permitted under the laws of this state in lieu of medical treatment.

3. "Sexual abuse" includes but is not limited to acts upon a child constituting the crimes of:

- (a) Forcible rape under NRS 200.363;
- (b) Incest under NRS 201.180;
- (c) The infamous crime against nature under NRS 201.190;
- (d) Lewdness with a child under NRS 201.230;
- (e) Annoyance or molestation of a minor under NRS 207.260; and
- (f) Statutory rape under NRS 200.365.

(Added to NRS by 1975, 789, 1141)

BACKGROUND:

THE NEVADA LAW OF ELECTRONIC SURVEILLANCE AND ITS PROBLEMS

Our present law regarding electronic surveillance is grotesquely complex and often leads to absurd results. To understand some of the aspects of present law, consider the following examples:

- (1.) **PROBLEM:** A little old lady, terribly distraught over receiving frequent obscene telephone calls, and worried that no one will believe her, takes out her portable tape recorder with the standard suction cup microphone device attached and records an incoming obscene phone call. She then presents herself in the office of a deputy district attorney to advise him that she is receiving these calls and wants to know what the District Attorney can do.

**RESULT:** Since one party consent to telephone recording is unlawful, the testimony is inadmissible, and the little old lady under Nevada law may be prosecuted for a felony carrying from one to six years in the Nevada State Prison.

- (2.) **PROBLEM:** After a bitter divorce culminating in a continuing injunction restraining her ex-husband from calling or harrasing her, ex-wife continues to receive threatening, obnoxious, and harrasing telephone calls. She records the same and they are later offered in evidence on a contempt hearing for violation of the court orders issued.

**RESULT:** The evidence is inadmissible, and the ex-wife may be prosecuted for a felony carrying up to six years in prison.

- (3.) **PROBLEM:** A woman receives extortion threats over her telephone. The caller demands money, under threat of substantial bodily harm, or some other injury. The woman calls the police. An officer arrives at about the time the next call is expected. He listens on an extension.

**RESULT:** The testimony of the officer is apparently inadmissible and the officer may have committed a felony. This result seems to follow from the following analysis: the definition of wire communication in 200.610(2) has no exceptions whatever to what is a wire communication. Accordingly, an interception on an extension phone would seem to be automatically violative of 200.620. Reference to Chapter 179 is no further help. 179.620 defines intercept to mean the aural acquisition of the contents of a wire or oral communication through the use of any electronic, mechanical or other device, or of any sending or receiving equipment. 179.425 defines electronic, mechanical or other device as including all devices other than telephone or telegraph instruments furnished to the subscriber or user by a communications common carrier in ordinary course of its business and being used by the subscriber or user in the ordinary course of its business. Several cases have now specifically held that an extension phone used to overhear a private telephone conversation is not used in the ordinary course of business within the meaning of this section. See, for example, U.S. v. Harpel, 493 F.2d 346 (10th Cir. 1974), Horn v. State, 298 So.2d, 194 (DCA Fla., 1974), cert. den. 308 So.2d 117. These cases dealt with situations in which no party to the call had given consent but the interpretation of "ordinary course of business" seems applicable to our statute as well since that portion of the wording is virtually identical.

- (4.) **PROBLEM:** Successful candidate for office receives telephone call from a person who sounds like a "kook" -- or threatens, offers bribe, etc. Candidate, covering the phone mouthpiece with one hand, asks spouse to listen on the extension so another witness will be available. Spouse does so.

EXHIBIT F

RESULT: Same basic probable result as in example 3 above. Both candidate and spouse apparently may be prosecuted. Possibly neither may testify as to the contents of the conversation under Nevada Statutes interpreted in Rupley v. State, 93 Nev. A.O. #25 (2/16/77).

- (5.) PROBLEM: News media personnel trying to follow up on a story, call a governmental official and ask for a comment. The comment is tape recorded.

RESULT: Possible felony prosecution since one-party consent (here, the media person asking the question has consented) is unlawful. In addition prosecution may lie under NRS 200.640 (unauthorized connection with facilities) if the telephone company has not consented to the use of taping equipment in conjunction with theirs.

- (6.) PROBLEM: Personal crisis "hotline" operators must insure that their counselors handling emergency calls respond in ways appropriate to the grave needs of the caller. To do so, and to give authentic training to new counsellors, tapes or extension phones are used.

RESULT: Prosecute everybody for everything: see Problems 1-5 above.

- (7.) PROBLEM: An informant advises a police officer that he has been asked by a third party to kill an undercover narcotics officer. He is willing to be wired for sound and to cooperate in every way with the police department. However, part of the continuing negotiations with this feigned accomplice are to be conducted over the phone. The first time the officer is aware of this is a scant three hours prior to the next anticipated phone call.

RESULT: The officer will have to try to make his case without intercepting the conversation. Given the realities of the present laws and requirements of federal and state courts, there is no way in which a presumptively valid interception warrant and court order can be obtained within the time permitted, nor can it be done within the seventy-two hours following the "emergency" interception. Cases which have been rejected in the federal courts have included orders and affidavits and various documents totaling hundreds of pages, yet still found insufficient.

C O N C L U S I O N: I ask simply, does this statute as presently written work substantial justice? All of the above examples are derived from real situations occurring -- some repeatedly -- within the last two years. I submit that, rather like the original Statute of Frauds, our present statute may promote more injury than it prevents. Where one party to the conversation consents to the interception there is no privacy interest which is violated by interception. (Either party may testify - truthfully or not - to the "contents" of the conversation). Indeed, all the present law does is shield those who commit crimes or work other social harms.

I believe there is a solution: Nevada should adopt a rule similar to that appearing in the ABA Standards of Criminal Justice dealing with electronic surveillance. Those standards include Electronic Surveillance Standard 4.1: "The surreptitious overhearing or recording of a wire or oral communication with the consent of, or by, one of the parties to the communication should be permitted, unless such communication is overheard or recorded for the purpose of committing a crime or other unlawful harm."

A bill which may give added protection to communications made orally and still solve most of the problems above is AB 492. Please consider it closely.

*Thomas D. Beatty*  
THOMAS D. BEATTY, Asst. District  
Attorney, Clark County  
March, 1977

AB 492 →  
D  
A

RICHARD E. RUPLEY, )  
 )  
 Appellant and )  
 Cross-Respondent, )  
 )  
 vs. )  
 )  
 THE STATE OF NEVADA, )  
 )  
 Respondent and )  
 Cross-Appellant. )

No. 8876

FILED  
 FEB 16 1977  
*C. A. Hamilton*  
 CLERK OF SUPREME COURT

Appeal and cross-appeal from order granting, in part, and denying, in part, motion to suppress, Second Judicial District Court, Washoe County; Peter I. Breen, Judge.

Appeal dismissed, cross-appeal dismissed.

David Hamilton, Reno,  
 for Appellant and Cross-Respondent.

Robert List, Attorney General,  
 Carson City; and Larry R. Hicks, District Attorney,  
 Washoe County,  
 for Respondent and Cross-Appellant.

O P I N I O N\*

PER CURIAM:

Richard E. Rupley was ordered to stand trial for possession and sale of a controlled substance (cocaine), felonies under NRS 453.336 and 453.321. The charges were based on several incriminating telephone conversations which had been tape-recorded. A timely filed motion to suppress the recorded conversations was granted in part and denied in part. Rupley here attempts to appeal from the portion of the order which denied, in part, his motion. Rupley is not authorized to appeal at this time. NRS

\* This opinion was filed, as an unpublished order, January 11, 1977. Because of the paucity of published authority on the issues we have been requested to publish the order, as an opinion.

EXHIBIT G

177.015(2); NRS 179.510. However, the state's cross-appeal, from that part of the order which granted Rupley's motion to suppress, although lacking merit, is permissible at this time. NRS 179.510.

The district judge determined the telephone conversations in question were intercepted without the authorization required by the "wiretap statutes," NRS 179.410 et seq., and they were, therefore, inadmissible.<sup>1</sup>

NRS 179.430, which is patterned on the federal act, defines "intercept" as "the aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical or other device or of any sending or receiving equipment."<sup>2</sup> Here, a police officer acquired the contents of the wire communications between Rupley and an informant by attaching a suction-cup device to the receiver of the informant's telephone.<sup>3</sup> Our statute clearly makes such a device "proscribed receiving equipment," and NRS 179.500 requires that court authorization be obtained prior to its use. See United States v. Turk, 526 F.2d 654 (5th Cir. 1976), which so holds, even under the limited language of the federal act.

The state also advances the novel argument that testimony regarding the intercepted telephone conversations is admissible because the witnesses were testifying from their personal

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<sup>1</sup> These statutes, patterned on the federal "wiretap statutes," 18 U.S.C. § 2510 et seq., were adopted by Nevada in 1973, and require, inter alia, an application to, and order from, a supreme court justice or district court judge, authorizing the interception of oral or wire communications, prior to the interception.

<sup>2</sup> The italicized portion of the statute, which is not included in the federal act, was added by the Nevada Legislature.

<sup>3</sup> Nevada's "wiretap statutes," unlike the federal statutes, do not permit interception in situations where one person, acting under color of law, is a party to the communication or has given prior consent to the interception. See 18 U.S.C. § 2511(2)(c).

recall of the conversations with the defendant, and not from the illegally obtained tapes. NRS 179.505 provides for a motion to "suppress the contents of any [illegally] intercepted wire or oral communications." (Emphasis added). NRS 179.420 defines contents as "any information concerning the identity of the parties to such communication or the existence, substance, purport or meaning of that communication." (Emphasis added).

Perceiving no error in the district judge's ruling, we  
ORDER the appeal and the cross-appeal dismissed.

REPORT OF INTERCEPTION OF WIRE AND ORAL COMMUNICATIONS  
1975

APR 30 1976

WM. SWACKHAMER - SECRETARY OF STATE

*Wm. Swackhamer*  
No. \_\_\_\_\_

This report is pursuant to direction of the Nevada State Legislature which requires in NRS 216.130 that the Commission on Crime, Delinquency and Corrections shall, on or before April 30 of each year, compile a report which provides a summary and analysis of all the reports submitted to the Commission pursuant to NRS 179.515. Such report shall be open to inspection by the general public. This particular responsibility for reporting on intercepted wire and oral communications was transferred by the 1975 Legislature from the Public Service Commission to the Commission on Crime, Delinquency and Corrections.

After the passage of this legislation, the Commission Staff researched the appropriate federal law, particularly 18 U.S.C. § 2518. The Commission then developed Form NVSPA 72 for use by Members of the Supreme Court and the District Court in complying with NRS 179.515, Sub-Section 2. During the development of this Form, consideration was given to structuring it in a way that was similar in appearance to the one used by the Administrative Office of the United States Courts for reporting of the Federal Court. A draft of the Form was also reviewed by Assemblyman Daniel J. Demers, who was one of the major proponents of the Bill. Assemblyman Demers stressed the legislative intent that the information requested was to include those interceptions made with the consent of one party to the conversation, as well as those where neither party gave consent. A copy of this Form is enclosed as Attachment #1.



Compliance forms were forwarded to all Justices of the Nevada Supreme Court, all District Court Judges, the Attorney General and to all District Attorneys, on January 15, 1976. Copies of the correspondence are enclosed as Attachments 2 and 3.

On April 29, 1976, the results of the responses to our letter of January 15, 1976, were tabulated with the following results:

ATTORNEY GENERAL'S RESPONSE

The Attorney General's Office, for calendar year 1975, indicated no applications for interception were made.

PROSECUTORS RESPONSES

Ten of Nevada's seventeen District Attorneys responded, all with negative responses, with the exception of Clark County, which showed for calendar year 1975, four requests for intercepted communications. Of the four, three were approved, one was denied. In all cases, the requested interception was for telephone interception and in all cases, involved the offense of murder. The denied request dealt with the offense of robbery, kidnapping and threatened murder. In all cases, the requests were for less than one day's duration and involved a business location as opposed to a private residence. Of the three orders granted, two were at the place of interception, a Law Enforcement Office and the third, was in a room of a Motel. In all cases, the consent of one party to the conversation had been given. 1429

Those seven Prosecutors who did not respond were sent a follow-up letter by certified mail on April 29, 1976, reminding them of their need to report even if there had been no activity. Copies of the correspondence are enclosed as Attachments 4 and 5.

SUPREME COURT JUDGES' RESPONSES

No activity was reported by the Members of the Supreme Court concerning any orders, granted or denied.

DISTRICT COURT JUDGES' RESPONSES

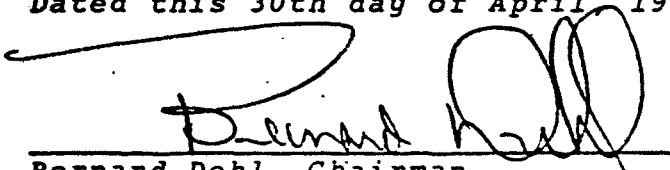
Of Nevada's twenty-five District Court Judges, two reported activity concerning applications for intercepted wire and oral communications. The reporting of the Courts corresponds to the activity previously explained for the Clark County District Attorney's Office and constitutes the activity of two District Court Judges, each being involved in two applications. One Judge granted both applications and the other Judge granted one and denied one. All other statistical information concerning the applications is consistent with that previously described for the Clark County District Attorney's Office.

In the case of the District Court and the Supreme Court, there is no requirement for reporting if there is no activity.

ANALYSIS

In reviewing the applications requested for calendar year 1975, it is apparent that there has been very little activity on the part of Nevada's Prosecutors in the area of interception of wire or oral communications. In those cases where applications were made, they were for major felonies involving the crime of murder. Because of the amount of activity reported for calendar year 1975, very little analysis is required other than the statistical data provided. It is noted that the Clark County District Attorney's Office feels that inconsistencies do exist between the intent of the Legislature and the requirements of 18 U.S.C. § 2519 and NRS 179.515. A copy of a letter from Assistant District Attorney Thomas D. Beatty is included as Attachment 6. This office shall continue to pursue the issues raised by Mr. Beatty with the view that if inconsistencies do exist, then hopefully, they can be resolved by the 1977 Legislature.

Dated this 30th day of April 1976

  
\_\_\_\_\_  
Bernard Dehl, Chairman  
Nevada Commission on Crime, Delinquency  
and Corrections

REPORT OF APPLICATION &/OR ORDER  
 AUTHORIZING INTERCEPTION OF  
 COMMUNICATION

JUDGE'S  
 NAME

COURT

ADDRESS

PERSON MAKING THIS REPORT

TYPE I  
 SOURCE  
 OF  
 APPLICATION

FORMS

TYPE II  
 DURATION OF  
 INTERCEPT

PLACE

TYPE III

NOTE

A. THE OFFICIAL MAKING APPLICATION		B. OFFICIAL AUTHORIZING APPLICATION		
PERSON AGENCY	NAME	SHOW "SAME" IF SAME AS "A"		
	TITLE			
	NAME			
	ADDRESS			
APPLICATION		ORDER OR EXTENSION		
OFFENSES SPECIFIED		DENIED	GRANTED	GRANTED WITH CHANGES
Type of Intercept <input type="checkbox"/> Phone Wiretap <input type="checkbox"/> Microphone/Eavesdrop <input type="checkbox"/> Other (specify)				
	Date Of Application			Date Of Order
Period Originally Requested				
LENGTH OF EXTENSIONS REQUESTED	1st			
	2nd			
	3rd			
<input type="checkbox"/> Single Family Dwelling		<input type="checkbox"/> Multiple Dwelling		<input type="checkbox"/> Other (specify)
<input type="checkbox"/> Apartment		<input type="checkbox"/> Business Location (specify)		

WAS CONSENT OF ONE PARTY TO THE CONVERSATION GIVEN?  YES  NO

NOTE: THIS REPORT MUST BE FILED WITHIN 30 DAYS AFTER THE TERMINATION OF AN  
 BY ORDER OF SUPREME COURT OR DISTRICT COURT

Date of Report:

Signature:

1432

Justice or Judge



## Commission on Crime, Delinquency, and Corrections

CAPITOL COMPLEX  
CARSON CITY, NEVADA 89710  
\*TELEPHONE (702) 885-4404

JANUARY 15, 1976

Re: NRS 179.460 through 179.515

Dear

The 1975 session of the Legislature revised the above mentioned statute concerning the interception of wire and oral communications by adding reporting requirements to the Commission on Crime, Delinquency and Corrections.

I draw your attention to 179.515, Section 4, subsections 1 and 3 which states that:

"1. In January of each year, the attorney general and the district attorney of each county shall report to the Administrative Office of the United States Courts the information required to be reported pursuant to 18 U.S.C. § 2519. A copy of such report shall be filed with the commission on crimes, delinquency and corrections. In the case of a joint application by the attorney general and a district attorney both shall make the report."

"3. The willful failure of any officer to report any information known to him which is required to be reported pursuant to subsections 1 or 2 constitutes malfeasance in office and, in such cases, the secretary of state shall, when the wrong becomes known to him, instigate legal proceedings for the removal of that officer."

JANUARY 15, 1976

Page Two

Although I am confident that you are familiar with these recent changes in the Nevada Revised Statutes, in light of the legislative intent, I feel it incumbent upon this office to provide you with official notification.

Please be assured of our full cooperation in the implementation of this Act.

Sincerely,



JAMES A. BARRETT  
DIRECTOR

JAB:JWP:mks



REPORT OF APPLICATION &/OR ORDER  
 AUTHORIZING INTERCEPTION OF  
 COMMUNICATION

JUDGE'S  
 NAME

COURT

ADDRESS

PERSON MAKING THIS REPORT

Source of Application

Offenses

Period of Intercept

Location

Consent

A. THE OFFICIAL MAKING APPLICATION		B. OFFICIAL AUTHORIZING APPLICATION		
PERSON	NAME	SHOW "SAME" IF SAME AS "A"		
	TITLE			
	AGENCY			
ADDRESS				
APPLICATION		ORDER OR EXTENSION		
OFFENSES SPECIFIED		DENIED	GRANTED	GRANTED WITH CHANGES
Type of Intercept: <input checked="" type="checkbox"/> Phone Wiretap <input checked="" type="checkbox"/> Microphone/Eavesdrop <input checked="" type="checkbox"/> Other (specify)				
	Date Of Application			Date Of Order
Period Originally Requested				
LENGTH OF EXTENSIONS REQUESTED				
1st				
2nd				
3rd				
<input checked="" type="checkbox"/> Single Family Dwelling		<input type="checkbox"/> Multiple Dwelling	<input type="checkbox"/> Other (specify)	
<input checked="" type="checkbox"/> Apartment		<input type="checkbox"/> Business Location (specify)		
WAS CONSENT OF ONE PARTY TO THE CONVERSATION GIVEN?		<input type="checkbox"/> YES	<input type="checkbox"/> NO	

NOTE: THIS REPORT MUST BE FILED WITHIN 30 DAYS AFTER THE TERMINATION OF AN  
 BY ORDER OF SUPREME COURT OR DISTRICT COURT

Date of Report:

Signature:

Justice or Judge

STATE OF NEVADA

MIKE O'CALLAGHAN  
GOVERNOR



ERNARD DEHL  
CHAIRMAN

JAMES A. BARRETT  
DIRECTOR

Commission on Crime, Delinquency,  
and Corrections

CAPITOL COMPLEX  
CARSON CITY, NEVADA 89710  
TELEPHONE (702) 885-4404

April 29, 1976

RE: COMPLAINEE REPORT NRS 179.460 - 179.515

Dear Sir:

Enclosed please find copy of our letter of January 15, 1976, pointing out requirements of the above cited Statute. As of this date, we have not received a response from your office as requested. I have also enclosed a copy of form #2 of the Administrative Office of the United States Courts, which is the report referred to in my letter of January 15, 1976.

On April 30, 1976, I will submit a report to the Secretary of State as per NRS 216.130. This report will indicate those Prosecuting Attorneys who have not reported as per our request of January 15, 1976. It is our interpretation that the Federal Law requires that the information requested on form #2, enclosed, is to be submitted even if there has been no activity during the past year.

If you have any questions on this matter, please feel free to contact my office for clarification.

Sincerely,

A handwritten signature in cursive script, appearing to read "James A. Barrett".

JAMES A. BARRETT, DIRECTOR

JAB/JWP/bjs

Enclosures



**REPORT OF POLICE & COURT ACTION  
RESULTING FROM INTERCEPTED  
COMMUNICATIONS**  
FORM 2

COURT AUTHOR- IZING THE INTERCEPTS	NAME OF JUDGE
	COURT
	ADDRESS

**PERSON MAKING THIS REPORT  
AND WHO AUTHORIZED THE INTERCEPTION APPLICATION**

NAME & AGENCY OF PERSON MAKING APPL- ICATION FOR INTERCEPTION (IF DIFFERENT FROM →)	NAME
	TITLE
	AGENCY
	ADDRESS

APPLICATION		ORDER OR EXTENSION							
OFFENSES SPECIFIED		<table border="1"> <tr> <td>DENIED</td> <td>GRANTED</td> <td>GRANTED WITH THESE CHANGES</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td></td> </tr> </table>	DENIED	GRANTED	GRANTED WITH THESE CHANGES	<input type="checkbox"/>	<input type="checkbox"/>		
DENIED	GRANTED	GRANTED WITH THESE CHANGES							
<input type="checkbox"/>	<input type="checkbox"/>								
Type of Intercept <input type="checkbox"/> Phone Wiretap <input type="checkbox"/> Other (Specify)	DATE OF APPLICATION		DATE OF ORDER						
<input type="checkbox"/> Microphone/Eavesdrop									
PERIOD ORIGINALLY REQUESTED		<input type="checkbox"/>	<input type="checkbox"/>						
LENGTH OF EXTENSIONS REQUESTED	1st	<input type="checkbox"/>	<input type="checkbox"/>						
	2nd	<input type="checkbox"/>	<input type="checkbox"/>						
	3d	<input type="checkbox"/>	<input type="checkbox"/>						
<input type="checkbox"/> RESIDENCE <input type="checkbox"/> MULTIPLE DWELLING <input type="checkbox"/> OTHER (Specify)									
<input type="checkbox"/> APARTMENT <input type="checkbox"/> BUSINESS LOCATION (Specify)									

DESCRIP- TION OF INTER- CEPTS	TYPE OF INTERCEPTION	NUMBER OF DAYS IN ACTUAL USE	AVERAGE FREQUENCY OF INTERCEPT	NUMBER OF		
				PERSONS WHOSE COMMUNICATIONS WERE INTERCEPTED	COMMUNICATIONS INTERCEPTED	INCRIMINATING COMMUNICATIONS INTERCEPTED

COST	NATURE AND QUANTITY OF MANPOWER USED	MANPOWER COST	TOTAL COST
		\$	
	NATURE OF OTHER RESOURCES	RESOURCE COST	
		\$	

RESULTS	APPROXIMATE NUMBER OF ACTIONS RESULTING FROM INTERCEPTIONS					
	ARRESTS AND OFFENSES CHARGED	TRIALS	MOTIONS TO SUPPRESS			CONVICTIONS AND OFFENSES
			MADE	GRANTED	DENIED	

AN ASSESSMENT OF THE IMPORTANCE OF THE INTERCEPTIONS IN OBTAINING SUCH CONVICTIONS

DATE OF REPORT

SIGNATURE