

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

FEBRUARY 17, 1977

The meeting was called to order at 9:00 a.m. Senator Close was in the Chair.

PRESENT: Senator Close
Senator Bryan
Senator Dodge
Senator Foote
Senator Sheerin
Senator Gojack
Senator Ashworth

ABSENT:

SB 44 Classifies the crime of robbery by degrees.

Tom Beatty, Assistant District Attorney, Clark County stated that he had somewhat mixed feelings about this measure. The proposed bill would make armed robbery with a deadly weapon a non-probatable crime with a floor of 5 years and a maximum of 15. Under the present law, an individual can receive up to 30 years; 1-15 for robbery combined with a consecutive sentence of 1-15 for use of a deadly weapon. Theoretically non-probation is good however, it will increase the number of trials and consequently the cost to the state and counties. If a defendant faces a non-probatable charge, he is much more likely to demand a trial. Generally speaking, the incidence of probation for robbery with a weapon is very small and even then, it is often conditioned upon custody in the county jail.

Mr. Beatty further stated that there had been some testimony in the Assembly Ways and Means Committee that indicated that Nevada sentences either the first or sixth greatest number of persons per capita and that he did not want to change that.

Larry Hicks, District Attorney, Washoe County and President of the Nevada State District Attorney's Association agreed with Mr. Beatty's testimony. He informed the Committee that they are presently getting convictions with a double penalty where a weapon is used. He stated that they like the 1-15 sentence. They have run into cases where they could not prove the presence of a weapon; the robber comes in with a mask on and make everyone face the wall. The weapon was probably there but no one ever sees it and therefore it cannot be proved.

In reponse to a question from Senator Ashworth as to the necessity of this bill, Mr. Hicks stated that in terms of correcting a problem, it was not.

No action was taken at this time.

SB 167 Subjects grand jurors to civil liability for publication of prohibited report.

Senator Close informed the Committee that action had been taken on this measure (see minutes of meeting for February 9, 1977) but that Mr. Hicks had requested and opportunity to testify on it.

Larry Hicks, District Attorney, Washoe County and President of the Nevada District Attorney's Association thanked the Committee for rescheduling this matter for hearing. He stated that it was his understanding that prior testimony had indicated that this measure was politically motivated and that reference had been made to abuses in Washoe County involving what is commonly referred to as the Confort Grand Jury Report. He informed the Committee that he had inherited this probe at the time of his election and that at no time during the elections was it ever an issue.

Senator Sheerin stated that they were not concerned with what had happened in the past; they were looking to the future. He asked Mr. Hicks whether or not he agreed with the basic issue: should a grand jury be able to publish a report that is full of innuendos of wrong-doing that would constitute indictable offenses but not indict.

Mr. Hicks replied that he did however he had a problem with the removal of the District Attorney in counties with a population of over 100,000. He felt that they would want their most skilled prosecutors handling these cases and that if the District Attorney is disallowed, you are taking away the most competent people to handle it. He also felt that the cost of hiring independent counsel would be considerable. As an example, these investigations require a minimum of 50 hours of an attorneys time and if you were going outside to obtain private counsel, it would be in the range of \$3,500 just for attorneys fees.

Tom Beatty, Assistant District Attorney, Clark County stated that he agreed with the intent of the Committee but that he too was opposed to the removal of the District Attorney's office.

Mr. Leslie Gray, attorney in Reno stated that there was no doubt that this legislation resulted from the Conforte Grand Jury report. He informed the Committee that there was pending litigation to expunge the report and it was his feeling that they should withhold any amendment to the existing statutes until it is complete. He expressed concern that any change at the present might affect the direction of the decision.

Carol Gibson informed the Committee that she had been a member of the Washoe Grand Jury and that during the 2½ years they were in session, each person who testified before them had had privy to their counsel, although they were not actually in the room with them. She further agreed with Mr. Hicks as to the high

SB 167 cost of obtaining outside counsel. She also felt that a District Attorney has the expertise and private and personal information that should be given to a grand jury that an independent counsel may not have.

No action was taken at this time.

SB 199 Provides procedure on failure to appear in court on traffic citation.

John DeGraff, Judicial Planner, Nevada State Supreme Court testified on this measure. He stated that after consultation with the Nevada Judges Association, they had discovered some problems with this bill and had drafted an alternative which was quite similar. The new bill would put a hold on a persons vehicle registration as well as their driver's license. He informed the Committee that the \$120,000 appropriation from the state general fund was based on a 24,000 cases per year estimate of failures to appear and Mr. Hill's estimate of \$5 to process each one. Who would receive the \$5 fine would be dependent upon how each county handles the fine situation. If the county or city declares a violation of state law to be a violation of city or county ordinance as well, then the fine would go to that city or county treasury otherwise it would go to the State Permanent School Fund.

Senator Close stated that if the money went to the city or county then they should be required to reimburse the state for the \$120,000 appropriated for establishing the program. Mr. DeGraff replied that the counties may oppose the program if they felt they would have to put the \$5 up front.

Howard Hill, Director, Department of Motor Vehicles, testified in favor of this measure. In regard to the inclusion of the vehicle registration, he felt this would create more problems than it would solve at this point. In the smaller counties the County Assessor handles vehicle registration rather than DMV which would mean setting up computer terminals at these offices. There would also be a problem in red-flagging a license plate because often times a person is not driving his own car when he is ticketed. He also felt this may not be viable in that an individual whose license plates had been red-flagged could always have them re-registered in another's name; the husband, wife, children, etc.

Concerning the driver's license, he explained how they would go about it. The courts would inform them of all failures to appear and this information would be placed on the computer which would then send a letter to the individual informing them that their license would not be renewed nor could they get a duplicate until they cleared their record with the court. In addition to this, should they be stopped for any type of traffic violation the computer would show that they had an outstanding

SB 199 warrant and the law enforcement officer in the field could take whatever action was necessary. Mr. Hill felt that the letter alone would cause at least 50% of the people to go to court and take care of their ticket.

Bart Jacka, Assistant Sheriff, Metropolitan Police Department stated that he did not believe this would make people come in any more than some of the other processes already in effect. He informed the Committee that Clark County has just instituted a program called Scope in which warrants are entered into a computer on a state-wide basis.

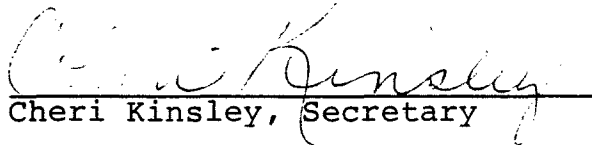
Bert Leavitt, President, Clark County Traffic Survival School testified in favor of this measure. He stated that at one time the judges held a period where they would waive the outstanding warrants if the individuals would just come in and take care of the ticket but this did not work. He feels that this bill would put some teeth into the law. He felt the biggest factor though was that there was immediate control; an immediate earmark on the habitual offender which could have a tremendous effect on insurance premiums because they could tie it down to those who are the offenders and not the public in general.

The Committee asked that Mr. Hill and Mr. DeGraff work together on the bills and develop a realistic budget.

No action was taken at this time.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Cheri Kinsley, Secretary

APPROVED:

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN