

Members Present:

Chairman Hayes
Vice Chairman Stewart
Mr. Banner
Mr. Brady
Mr. Coulter
Mr. Fielding
Mr. Horn
Mr. Malone
Mr. Polish
Mr. Prengaman
Mr. Sena

Members Absent:

None

Guests Present:

Frank Delaplane	Managing Editor, Reno Evening Gazette
Calvin Dunlap	Washoe County District Attorney
John Hart	Constable, Reno Township
Joe Jackson	Nevada State Press Association
Renee Lawrence	Office Manager, Reno Constable Office
Bill Macdonald	Humboldt County District Attorney
William Mathews	Washoe County Sheriff's Office
Jim Pollard	Developmental Disabilities Planning Council
Andy Simpson	Deputy Constable, Sparks
Don Sullivan	Deputy, Reno Township

Chairman Hayes called the meeting to order at 8:07 a.m.

ASSEMBLY BILL 178

Limits issuance of search warrants for premises of newspaper or broadcasting facility.

Assemblyman Steve Coulter stated that AB 178 was drafted to uphold the integrity of NRS 49.275, which is designed to protect a newsman from revealing his sources. In May, 1978 the U.S. Supreme Court ruled in the Stanford Daily case where law enforcement officials could be issued a search warrant to search a newsroom for evidence even if no one in the newsroom is suspected of

AB 178

committing a crime. Until that time police usually subpoenaed such information from third parties. Mr. Coulter stated that frequently search warrants are used in third party situations if you expect someone to try and destroy the evidence. In this particular case the Stanford Daily was a student newspaper in California that had covered a demonstration in 1971 in which a policeman was injured. The law enforcement officials decided they wanted to take a look at some of the photographs that had been taken and instead of getting a subpoena or just asking the newspaper for copies of the photographs they got a search warrant and suddenly showed up at the newspaper and went through the files. Eventually some years later the Supreme Court upheld the right of the police in that particular case.

Mr. Coulter said that in conjunction with the University of Nevada-Reno Journalism Department, he had been conducting a study of all police chiefs in the state, the various county sheriffs, district attorneys, public defenders, state supreme court justices, district court judges and all the reporters he could contact. Each group had very different responsibilities but in this survey in certain areas dealing with this statute they agreed on a number of things. On the question of a newsman being able to withhold the confidentiality of its sources all the time or at least some of the time, 100% of the reporters felt that this was necessary; 47% of the law enforcement thought it was necessary; 61% of all judges also viewed it as being extremely important that newsmen, at least some of the time, be able to withhold confidentiality of their sources. Half the reporters responded that the Stanford Daily Decision essentially circumvented the state's existing shield law. Nearly 30% of law enforcement took that same view. Eighty one percent of the reporters surveyed stated that the high court decision would cause them problems in being able to maintain the confidentiality of their sources. Half of law enforcement respondents took the very same view. Eighty three percent of the reporters felt the legislature should do something to try and counteract the Stanford Daily Decision. Mr. Coulter was not sure AB 178 was the exact tool to use to do this but should at least be a good starting point. When asked about the approach taken in AB 178, 60% of the reporters said they liked that approach but 32% opposed it. Some suggested that we should go even further in that police should be prohibited altogether from searching newsrooms. Twenty nine percent of law enforcement officials and 1/3 of all judges surveyed liked the approach taken in this particular bill. Mr. Coulter said that he would normally expect the courts to be on one side of such issues and the news media to be on the other.

AB 178

Mr. Sena felt that we would be going beyond our boundaries as far as telling the courts what they can and cannot do, he said he had reservations with this piece of legislation. Mr. Coulter said that with this legislation you would continue doing what was traditionally done in the past before the Supreme Court handed down the particular decision and that is for police, when they are looking for information, would subpoena it which could then be challenged in court. Mr. Coulter said the news media has a good record of being cooperative with the courts when it does not force them to reveal sources that they consider to be confidential. Mr. Stewart asked if there were any qualifications as to what type newspaper this applied too; Mr. Coulter said the Newsman Shield in this state did not go into definitions.

Mr. Frank Delaplane, Managing Editor of the Reno Evening Gazette and Nevada State Journal gave his statement on behalf of the newspapers and also as President of Sigma Delta Chi, a society of professional journalists. Mr. Delaplane said that AB 178 has their endorsement and that people in the profession of journalism probably consider this bill to be one of the most important in this legislative session as far as the news media is concerned. They are seeking to block the unannounced searches of newsrooms because of the chilling effect these searches have on the ability of the media in providing a free flow of information to the public. Mr. Delaplane stated that the Stanford decision that came down by the U.S. Supreme Court Justice Stewart was "it seems to be self-evident that police searches of newspaper offices burden the freedom of the press". Policemen occupying a newsroom and searching it thoroughly for what may have been an extended period of time will interrupt its normal operations and thus impair or even temporarily prevent the process of news gathering, writing, editing and publishing. Justice Stewart also cited in his decision that one search of a Los Angeles radio station lasted over eight hours.

Mr. Delaplane said that on December 13, 1978 the Carter administration announced legislation it plans to propose to Congress to offset threats to the press posed by the Stanford decision. The administration said it believed the decision allowing police searches and rummaging in newsrooms only with a warrant instead of a subpoena "poses a serious threat to the ability of the press to gather information and protect confidential sources". In effect, Mr. Delaplane felt this is what AB 178 is saying, let the police or law enforcement agency involved get the subpoena to get the information first. Mr. Delaplane stated that legislation is planned on the federal level to block these unannounced third party searches and to make it mandatory that a subpoena seeking this information be issued first. This would then give the press and others the right to test the validity of the searches. Mr. Delaplane felt that Line 3 should be amended by changing "may" to "must". Mr. Delaplane asked the Committee to report AB 178 favorably to the floor.

AB 178

Mr. Joe Jackson, Nevada State Press Association, stated the Press Association supports fully the concept of AB 178.

Mr. William D. Mathews, Washoe County Sheriff's Office, stated AB 178 appears to be directed at protecting the source of the news media. Mr. Mathews felt that if this should go into law it would place a tremendous restraint on law enforcement. This would give the personnel of the news media sanction to temporarily conceal in the office of a news media, evidence of a crime that has been committed. Mr. Mathews felt that there were sufficient safeguards in statutes today dealing with the proper method of obtaining a search warrant. He stated that just because law enforcement people have a search warrant in their hands does not give them freedom to go in and go on a "fishing expedition". Mr. Mathews felt if this particular bill is to become law it would build an iron fence around any office of the news media within the State of Nevada.

Mr. Calvin Dunlap, Washoe County District Attorney, responding to Mr. Coulter's survey, said there were 14 instances of search warrants having been issued in the U.S. and he felt this was an insignificant number. Mr. Dunlap said he knew of no search warrants issued in the State of Nevada during the past 7 or 8 years and knew of no instance where a subpoena had been issued out of Washoe County in the last 8 years. Mr. Dunlap pointed out one instance recently in Reno where photographers of a Reno newspaper were present at the scene of a crime and took photographs and were requested, for the purpose of law enforcement, to produce those photographs because the police did not have a photographer at the scene and it was important for them to know that they would have these items and to be able to use them. The police received a letter from the newspaper rejecting their request on the basis that this would have some effect on the media. Mr. Dunlap stated he could not personally see the rationale except an illogical extension of this phobia the media has about cooperating with the law enforcement agencies. Mr. Dunlap stated he would be one of the last people to go into a newsroom or broadcast facility to seek evidence. Mr. Dunlap said that a search warrant is harder to obtain than a subpoena, a search warrant requires that there be an affidavit under oath, sworn by a person indicating with specificity that there is probable cause that a crime has been committed and that the evidence which is sought is located on the premises where the search is sought to be conducted. This has to be sworn before a magistrate, he reviews it before making a decision. Mr. Dunlap said that in the Zurcher Decision it suggested very strongly that the magistrates would be extremely hesitant to issue a search warrant in cases involving broadcast or newspaper premises. They emphasized there was to be no distinction made between third parties who were not accused of the crime and people who were accused of the crime who were in possession of information or evidence.

AB 178

Mr. Dunlap stated in conclusion that he has always been one to support the media's right to privacy, secrecy and so on. Mr. Dunlap said there had been no abuse or need in this jurisdiction for a new law and for these reasons the bill should not be passed on for action on the floor.

Mr. Bill Macdonald, District Attorney Humboldt County, felt one of his chief concerns as a prosecutor and law enforcement official would be the possible use of the proposed law in directions not intended by Mr. Coulter and members of the press. Mr. Macdonald felt there was no need in our state for this law and suggested that the 14 cases in the U.S. was hardly evidence of a need anywhere in the country.

Mr. Delaplane said that in answer to one question concerning a member of the media who would go out and commit a crime and then run back to the newspaper and hide whatever evidence the police might be looking for; Mr. Delaplane thought there could be some type amendment or wording that would say in effect unless the person suspected of the crime is an employee of that news organization you could come in and not be barred from entering.

ASSEMBLY BILL 277

Changes certain fees of constables.

John Hart, Constable Reno Township, stated he felt fees were too small, should be the same as the sheriff's department. Mr. Hart said his department was obligated to serve papers on week-ends and holidays and after 5 p.m. and they were not compensated for this. Mr. Hart stated there were only two deputies, himself and one other. They handled approximately 800 evictions last year alone. Mr. Hart said his salary was approximately \$16,000 per year and his deputy's was \$10,000. Mr. Hart felt the one important item that needed to be changed on this bill was the mileage rate, he felt it should be raised for 50¢ per mile to 70¢ per mile as gas has gone up and in the near future it may be as high as \$1.00 per gallon.

Mr. Don Sullivan, Deputy Reno Township, stated that there were a few items in AB 277 that were no longer used, Mr. Sullivan stated that items 6, 7, 11, 13 and 21 were these items. Mr. Sullivan said that 34 evictions were issued to their office yesterday and it usually takes 3 to 4 days to serve an eviction.

Mr. Lou Tabat, Constable of North Las Vegas, stated he disagreed with some of the fees the sheriffs received, he felt he was not in competition with the sheriff. Mr. Tabat said there were three areas of raises he was in favor of in AB 277.

1. Line 4 (serving summons) - raised from \$3 to \$5.
2. Line 18 (levying and execution) - raised from \$4 to \$5.
3. Increase mileage from 50¢ to 70¢ a mile.

Mr. Tabat gave each Committee member a breakdown of items he must pay for and why these increases are needed, see Exhibit A. Mr. Tabat said that tax payers were not accountable for the constable fees. He stated that his deputy's salary last year was around \$9,000 and his other deputy made about \$4,500. The raises in fees would mean raises in his deputies' salary. Mr. Tabat said that fees are charged to the party who wants the papers delivered.

Ms. Renee Lawrence, Office Manager of the Reno Constable Office, gave the following figures on cases that have come out of the justice court:

Small Claims

Dec. '76 - '77	2,587 cases
'77 - '78	969 cases
Decrease of 1,618 cases	

Evictions

Dec. '76 - '77	4,027
'77 - '78	5,876
Increase of 1,849	

In 1978 they received 3,359 cases which included evictions, less the evictions of 761, there were 2,098 cases. Ms. Lawrence said that her salary was paid for by the county.

Mr. Andy Simpson, Deputy Constable Sparks, felt mileage rate should be increased from 50¢ to 70¢ because the price of fuel is going up. Mr. Simpson said that because of the amount of traveling they do serving papers this increase was needed. Mr. Simpson said deputies work for themselves, they receive no salary they get paid for the papers they serve.

ASSEMBLY BILL 463

Adds certain inmates of institutions to eligible persons for whom public guardian may be appointed.

Mr. Jim Pollard, Developmental Disabilities Planning Council, spoke in support of AB 463. Mr. Pollard said that while mentally retarded persons in facilities of the Division of Mental Hygiene Mental Retardation are entitled to full civil and patients' rights the protection of these rights is difficult for those clients who have reached the age of 18. At that age voluntary informed consent is required for all services provided by the Division. If a mentally retarded person is over the age of 18 and does not have a court appointed guardian then he must provide his own consent for services. HEW guidelines require that informed consent involves the clients understanding of the following points:

Whether the treatment is considered experimental, the nature of any intended discomfort, the likely result of no treatment, the likely benefits of the treatment and the alternative available.

Mr. Pollard said mentally retarded persons who cannot understand these points cannot give informed consent. It is estimated that there are currently 141 mentally retarded persons who are over the age of 17 who are receiving services from the Division and who do not have an appointed guardian. Most of these individuals have relatives who have been identified as possible guardians but no potential guardian is available for approximately 20% or 28 of these individuals, thus the need for some kind of bill which will allow a public guardian to be appointed. Mr. Pollard felt AB 463 would be some sort of step toward that but the Council feels some sort of need for a public guardian. The Council did not agree that this bill would meet that necessity because currently there is only one public guardian in the state and that is in Elko County. Mr. Pollard said he hoped the Committee would consider some stronger bill that would allow the formation of a state public guardian office to handle those cases where no one is available to serve as guardian. Mr. Pollard stated that a public guardian acts in the same way any other guardian does. When someone is adjudicated incompetent he takes over the responsibilities of guardian, acting as guardian for that person. In the case of an institutionalized person he would approve treatment plans, approve commitment of the person, handle financial matters and as the guardianship law now stands would take over all of the responsibility the individual has and protect all that individual's rights. Mr. Pollard stated that he hoped a companion bill which would allow a limited guardianship will pass, in that case the public guardian could be assigned more limited powers.

AB 463

Mr. Pollard stated the estimated fiscal note, if it were a state public guardian office would be \$42,153 per year, see Exhibit B.

Mr. Horn stated that the way the bill was drafted this would also include prisoners. Mr. Pollard said this was not the intent, this was for anyone adjudicated incompetent so that in this case only a person in an institution and who is incompetent could have a public guardian appointed. Mr. Pollard suggested that if NRS did not handle this particular subject it should exclude anyone who is competent to handle their own affairs.

ASSEMBLY BILL 181

Includes theft of automobile regardless of its value in grand larceny.

Chairman Hayes stated there was a conflict notice with this bill. The Senate amendment of "motor vehicle" would include motorcycles. Mr. Stewart made the motion to Accept Senate Amemdment to AB 181; Mr. Malone seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 183

Permits witness to acknowledge receipt of district attorney's subpoena and provides penalty for disobedience.

Chairman Hayes said there was a conflict notice pertaining to this bill; a change from "acknowledge receipt" to "accept delivery" was made, also Section 2 was added:

"Failure by any person without adequate excuse to obey a subpoena of a court or district attorney served upon him or in the case of a subpoena issued by the district attorney delivered to him and accepted shall be deemed in contempt of the court in which the subpoena was issued or in the case of subpoena issued by a district attorney of the court in which the investigation is pending or indictment, information or complaint is to be tried."

Mr. Stewart made the motion to Concur with Senate Amendment 183; Mr. Horn seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 192

Requires publication of list of persons paroled or pardoned.

Mr. Prengaman explained the amendments would now read:

Thirty days prior to consideration by the board for parole they would have to send out to law enforcement agencies each person's name who is going to be considered for parole and the following information:

- a. The crime for which he was convicted.
- b. The county in which he was sentenced.
- c. The date of the sentence.
- d. The length of the sentence.
- e. Amount of time actually served in the state prison as of January 1.
- f. Amount of credit actually served in a county jail.
- g. Amount of credit allowed for good behavior as of January 1.

Mr. Prengaman said that now all law enforcement agencies in Nevada will have at their disposal this information and if they decide to contest that parole they may do so. The same discretion will remain with the Secretary of the Board, the secretary will send this information to the newspapers and they can publish it if they so desire.

Mr. Stewart made the motion to Adopt the Amendments to AB 192; Mr. Malone seconded the motion. The Committee unanimously approved the motion.

Mr. Stewart made the motion Do Pass AB 192 as Amended; Mr. Malone seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Brady, Coulter, Fielding, Horn, Malone, Polish, Prengaman, Sena - 10

Nay - Banner - 1

AB 178

It was requested that a copy of the Carter Administration proposed legislation be given to the Committee. Mr. Coulter was asked to check further into this and report back to the Committee.

AB 277

Mr. Stewart made the motion to increase summons fees from \$3 to \$5, and increase levying and execution fees from \$4 to \$5. Because there was no second to the motion Mr. Horn moved to Indefinitely Postpone AB 277.

Chairman Hayes adjourned the meeting at 10:50 a.m.

Respectfully submitted,

Sharon L. Day

Sharon L. Day
Secretary

WHY THE INCREASE OF FEES AND MILEAGE FEES IS NEEDED.

1. The Constable must pay for his own NIC Insurance.
2. The Constable must pay for his own car insurance.
3. The Constable must pay for his own false arrest insurance.
4. The Constable must pay for his own bond for the county.
5. The Constable must provide his own car.
6. The Constable must pay for his own fuel.
7. The Constable must pay for his car maintenance.
8. The Constable has no sick leave or annual leave with pay.
9. With the increase of fuel to 78¢ per gallon and perhaps another increase to \$1.00 per gallon in the near future.
10. Constable must purchase his own uniform and his own equipment.

EXHIBIT A

SUMMARY--Authorizes director of department of human resources to contract for certain guardianship services. (BDR 38-434)
Fiscal Note: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to state welfare administration; authorizing the director of the department of human resources to contract for certain guardianship services; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 422 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The director may contract with any appropriate private nonprofit corporation or state agency for it, upon appointment by the court, to serve as guardian of any person who:

1. Lives in a county which does not have a public guardian; or
2. Is not eligible to have a public guardian appointed as his individual guardian.

Sec. 2. NRS 159.061 is hereby amended to read as follows:

159.061 The parents of a minor, or either parent, if qualified and suitable, shall be preferred over all others for appointment as guardian for the minor. Subject to this preference, the court shall appoint as guardian for an incompetent or minor the qualified entity or person who is most suitable and is willing to serve. In determining who is most suitable, the court shall give consideration, among other factors, to:

1. Any request for the appointment as guardian for an incompetent contained in a written instrument executed by the incompetent while competent.
2. Any request for the appointment as guardian for a minor child contained in a will or other written instrument executed by a parent of the minor child.

EXHIBIT B

1.

3. Any request for the appointment as guardian for a minor 14 years of age or older made by the minor.

4. The relationship by blood or marriage of the proposed guardian to the proposed ward.

FISCAL NOTE

BDR 38-434
 A.B. _____
 S.B. _____

• STATE AGENCY ESTIMATES Date Prepared December 15, 1978

Agency Submitting Office of Health Planning and Resources--Developmental Disabilities

<u>Revenue and/or Expense Items</u>	<u>Fiscal Year 1978-79</u>	<u>Fiscal Year 1979-80</u>	<u>Fiscal Year 1980-81</u>	<u>Continuing</u>
Personnel	<u>-0-</u>	<u>32,447.00</u>	<u>32,447.00</u>	_____
Travel	<u>-0-</u>	<u>2,500.00</u>	<u>2,500.00</u>	_____
Equipment	<u>-0-</u>	<u>1,770.00</u>	<u>1,770.00</u>	_____
Supplies and Communication	<u>-0-</u>	<u>2,930.00</u>	<u>2,930.00</u>	_____
Rent and Utilities	<u>-0-</u>	<u>2,506.00</u>	<u>2,506.00</u>	_____
Total	<u>-0-</u>	<u>42,153.00</u>	<u>42,153.00</u>	_____

Explanation (Use Continuation Sheets If Required)

Personnel:

Salaries:

Administrator and caseworker (North)	\$13,229.00
1/2 time caseworker (South)	6,323.00
Principal Clerk Typist	<u>8,700.00</u>

Fringes @ 14.35% of total salaries \$ 4,195.00 \$28,252.00

Local Government Impact YES NO Signature _____
 (Attach Explanation) \$4,195.00 \$32,447.00

Title: Administrator

• DEPARTMENT OF ADMINISTRATION COMMENTS Date _____

Signature _____
 Title _____

• LOCAL GOVERNMENT FISCAL IMPACT Date _____
 (Legislative Counsel Bureau Use Only)

Signature _____
 Title _____

Travel:

In-State	\$2,500.00
	<u>\$2,500.00</u>

Equipment Lease:

2 Standard Desks	\$ 350.00
1 Secretarial Desk	225.00
2 Standard Chairs	150.00
1 Secretarial Chair	65.00
2 4-Drawer Filing Cabinets	140.00
2 Electric Typewriters @ \$35.00/month	840.00
	<u>\$1,770.00</u>

Supplies and Communication:

Telephone	
2 x base rate at \$16.70/month	\$ 400.00
Installation	250.00
Out-of-town at \$75.00/month	900.00
Postage @ \$40.00/month	480.00
Office Supplies @ \$75.00/month	900.00
	<u>\$2,930.00</u>

Rent and Utilities:

\$5.012/sq. ft./yr. x 500 sq. ft.	\$2,506.00
	<u>\$2,506.00</u>

Travel:

In-State	\$2,500.00
	<u>\$2,500.00</u>

Equipment Lease:

2 Standard Desks	\$ 350.00
1 Secretarial Desk	225.00
2 Standard Chairs	150.00
1 Secretarial Chair	65.00
2 4-Drawer Filing Cabinets	140.00
2 Electric Typewriters @ \$35.00/month	840.00
	<u>\$1,770.00</u>

Supplies and Communication:

Telephone	
2 x base rate at \$16.70/month	\$ 400.00
Installation	250.00
Out-of-town at \$75.00/month	900.00
Postage @ \$40.00/month	480.00
Office Supplies @ \$75.00/month	900.00
	<u>\$2,930.00</u>

Rent and Utilities:

\$5.012/sq. ft./yr. x 500 sq. ft.	\$2,506.00
	<u>\$2,506.00</u>

EXHIBIT B