

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:

Tom Beatty	
Joel Cooper	Clark County District Attorney's Office
Cal Dunlap	Washoe County District Attorney
William N. Dunseath	Washoe County Public Defender's Office
Pat Flanagan	Washoe County Public Defender's Office
Larry Ketzenberger	Las Vegas Metro Police Department
Sam Mamet	Clark County
Gary Marr	State Public Defender's Office
Florence McClure	Community Action Against Rape
Michael B. McDonald	Washoe County Public Defender's Office
Jerome Polaha	Trial Lawyers Association

Chairman Hayes called the meeting to order at 8:08 a.m.

ASSEMBLY BILL 685

Provides for defendants' access to certain investigative reports in criminal proceedings.

Mr. Dunseath said that the purpose of this bill is to make police reports available to the defense in criminal cases. Also, it would make available statements of witnesses who will not talk to the defense attorneys concerning facts of the case.

Mr. Dunseath said that police reports are kept by the District Attorney. The District Attorney uses and analyzes these reports to prepare a case. He said that the Public Defender is not called into the case until ten days to two weeks after an

incident. At this point in time, he starts from scratch in finding out about the case. A defendant will almost never give a clear statement of the facts concerning the case. He said he would submit that police are not agents of the prosecution and that they are and should be neutral investigators.

Mr. Dunseath said that in all other counties in the State other than Washoe County, these reports were made available to defense counsel. He said that having the witness statements would eliminate receiving a surprise statement in the courtroom and asking for a continuance as a result. He said he was not in the position of wanting to weaken the position of the District Attorneys.

Mr. McDonald said this bill would provide a very limited expansion of the defense discovery. It would add balance to the search for the truth in criminal proceedings. The useless duplicate investigation by defense attorneys would be eliminated. He said that passage of the bill would expedite guilty pleas. He said clients are quite realistic if their attorneys can say that the prosecution will have a good case if the matter goes to trial.

Mr. McDonald said that defense attorneys often make motions to suppress evidence to be able to find out information about the case. He said that notices of alibi and insanity have to be supplied to the prosecutor by the defense, and he thought there should be a two-way flow of information.

Mr. McDonald said this bill would not automatically give the defense access to the prosecution's files. He said also that the right to an informed defense should not depend on the county in which the charges are filed.

Mr. Cooper said that in Clark County, defense counsel is able to see files relating to a case except for the work done by the prosecutor's office in preparation for the case. He agreed that this system does expedite guilty pleas. Motions to suppress evidence are also reduced. He said that the distribution of police reports has encouraged officers to be much more professional in filling out their reports.

Mr. Cooper said that attorneys probably were committing malpractice by going to a proceeding and allowing it to take place without having discovery.

Mr. Cooper then stated that he opposed this bill because of the codification of sanctions that could be imposed against the District Attorney's Office. He suggested two hypothetical situations where mistrials could be declared because defense counsel had not been made aware of ongoing investigations in the police department. He recommended that defendants and their counsel be given access to the prosecutor's files except for internal memorandums, work products, or obvious non-discoverable items prepared by the prosecutor.

Mr. Dunlap said that he was amazed to hear testimony saying that this bill would promote guilty pleas. He said that as far as he was concerned, this bill was the worst anti-law enforcement legislation that had been introduced this session.

Mr. Dunlap said that a prosecutor has his hands tied behind his back when it comes to prosecuting criminal cases. He said that in civil cases, there is total discovery on both sides, but in criminal cases it was totally one-sided. He said that the defense is entitled to any information that is exculpatory. He said this leaves only those things which tend to show that the defendant did commit the crime. He said he did not think a defendant has the right to have the prosecutor help him go into court and lie.

Mr. Dunlap suggested that a defendant could write out everything he would say in his own defense, and then let the prosecutor show him the complete file on the case. He said that if the defendant would choose to take the witness stand after seeing the prosecutor's file, there would be a stipulation that the prior statement was true and would be admitted against the defendant.

Mr. Dunlap said that if this bill was passed, Washoe County would have to spend thousands of dollars to comply. He said this would encourage perjuries in courts, and a defendant would be able to plea bargain more than he does now. He said that there should be at least consideration of saving the copying costs of this material. He said the sanctions of the bill would be important.

Mr. Polaha said that he was in support of this bill for discovery. He said that in a criminal case both sides have a continuing duty to make discoveries. He said that he worked about 45% of his time in Federal courts, and there were not the problems of discovery in those courts. He said the bill would simplify the process of making discovery and make the costs of such discovery cheaper. The bill would make procedures uniform throughout the State. He said that Washoe County is the only county that does not provide this information except for the rare cases where something may have been widely publicized. He said that to effectuate the basic principle of fairness, this bill was needed. He said the bill would not add any sanctions.

Mr. Marr said that he worked in small counties throughout the State. He said that a completely open file policy was important in his work because of the time span involved between commission of a crime and his getting involved as defense counsel. He said that it is much more practical to have discovery from the outset of an investigation.

ASSEMBLY BILL 688

Revises definition of sexual assault.

Mr. McDonald said that this bill was an attempt to clarify the definition of sexual assault. He said the bill was based on the California Penal Code. He had proposed amendments to the bill which he distributed to the Committee (Exhibit A).

Mr. McDonald said that the bill as written was worse than the present statute. He said that the proposed amendment would take care of the problems he would have with the bill.

Chairman Hayes asked what would be the definition in Subsection 5 of the words, "intoxicating narcotics."

Mrs. McClure spoke in favor of the bill, and she distributed clippings from Las Vegas newspapers concerning a sexual offender in Las Vegas (Exhibit B). Also, she noted that on Page 2, Line 7, the wording, "and intercourse", should be changed to "anal intercourse."

Mr. Dunlap said that he did not see any problems with the existing statute and did not see any reason for the bill or its amendments.

Mr. McDonald said that the problem with the present statute is that it does not say "against the victim's will."

ASSEMBLY BILL 686

Makes unlawful entry an element of crime of burglary.

Mr. McDonald said this bill called attention to a problem having to do with shoplifting. He said that a shoplifting crime is petty larceny generally. If a person steals more than \$100 the bill would not apply. He said that presently if a person enters a store with the intent to steal, he is liable for burglary. Since he felt this crime was a petty larceny, the bill would provide the unlawful entry provision so the intent of not prosecuting for burglary would be clearly shown. He said, however, if the intent was to prosecute shoplifters with burglary, he would leave it at that. He presented proposed amendments to this bill (Exhibit C).

Mr. Cooper said that this bill would eliminate the ability of prosecutors to file charges against professional shoplifters. He said that presently prosecutors file burglary charges because a person will enter a store with paraphernalia that would show the intent to steal. He said the business community had complained that punishments were too low, so prosecutors, judges and defense attorneys have been applying the higher penalties.

Mr. Cooper said he would leave the statute as it is or provide for increasing penalties with subsequent convictions.

Mr. Dunlap said that the statute should not be changed. He said that the present discretion that is allowed to prosecutors and judges should not be changed.

ASSEMBLY BILL 687

Increases penalties for subsequent commissions of certain acts of vagrancy.

Mr. Ketzenberger said he was asking that penalties be increased for subsequent convictions for prostitution and pandering if it occurs within a three-year period. He said that many prostitutes consider the cost of going to jail and the fine imposed as a cost of doing business. He said that if somebody is convicted and continues their acts, they should be aware that the next time there would be a more severe penalty.

Mr. Cooper said he would endorse Mr. Ketzenberger's comments.

ASSEMBLY BILL 584

Provides for service of process on executors and administrators by registered or certified mail.

Mr. Mamet said this bill was requested by the Clark County Clerk to allow service of papers upon executors and administrators of estates by mail rather than mailing it. He said this would then conform with many other statutes that simply require the court to send various papers by registered or certified mail. He said that Section 2 of the bill provided the main change in the statute.

Chairman Hayes asked if it was intended to delete the \$2.00 charge for this service process. Mr. Mamet said he would have no objection to leaving this cost in the law. He said he was not aware of the way other similar statutes read.

ASSEMBLY BILL 685

Mr. Horn moved to indefinitely postpone; Mr. Coulter 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 - None.  
Absent - Banner - 1.

Date: April 18, 1979

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ASSEMBLY BILL 686

Mr. Malone moved to indefinitely postpone; Mr. Sena 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 - None.

Absent - Banner - 1.

ASSEMBLY BILL 687

Mr. Malone moved Do Pass; Mr. Sena 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 - None.

Absent - Banner - 1.

ASSEMBLY BILL 688

Mr. Coulter moved for no further consideration; Mr. Fielding seconded the motion.

Mr. Horn moved to amend Mr. Coulter's motion to Amend; and Do Pass A.B. 688 as Amended, and the amendment would be to delete Section 1, Subsection 5; Mr. Sena seconded the motion.

Mr. Coulter said that it seemed to him that the concern expressed of acts taking place "against the victim's will" was adequately taken care of.

Mr. Horn suggested deleting the word, "intoxicating", in Section 1, Subsection 5, making the correction from "and" to "anal" on Page 2, and adding the amendment proposed by Mr. McDonald.

Chairman Hayes said that this bill would benefit victims, and it would become easier for prosecutors to do their jobs.

At this point, Mr. Coulter and Mr. Horn withdrew their motions.

ASSEMBLY BILL 669

Allows service of summons on trial jurors by ordinary mail.

Mr. Sena moved to Do Pass A.B. 669; 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 - None.

Absent - Banner - 1.

(Committee Minutes)

SENATE BILL 9

Revises criminal penalties.

Chairman Hayes said this bill was important and should be passed. She said that opposition had come as a result of the sections dealing with marijuana and consenting adults.

Mr. Coulter said that in regard to the two areas where opposition had come, prosecutors were circumventing the law in this regard to bring a measure of justice into the judicial system. Because of this, he said it did not seem right to be adding another potential penalty.

Mr. Horn moved Do Pass on S.B. 9; Mr. Malone seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Brady, Horn, Malone, Polish,  
Prengaman, Sena - 8.  
Nay - Coulter, Fielding - 2.  
Absent - Banner - 1.

The meeting was adjourned at 10:50 a.m.

Respectfully submitted,

*Carl R. Ruthstrom Jr.*

Carl R. Ruthstrom, Jr.  
Secretary

AMENDMENTS TO AB 688

Offered by Washoe County Public Defender

Amend section 1, page 1, line 3 by deleting "intentionally".

Amend section 1, page 1, by deleting lines 5 and 6 and inserting in lieu thereof the following:

"1. Directly and against the victim's will, or by forcing the victim to make a sexual penetration of himself, or another or of a beast against the victim's will;".



4 — Las Vegas Review-Journal — Monday, February 17, 1975

# Police arrest 19-year-old for rape of Vegas woman

A 19-year-old Las Vegas man has been arrested for the rape of a young Las Vegas woman early Sunday, Las Vegas Metropolitan Police reported.

Booked into Clark County Jail was Juan Ramos of 3687 E. Lake Mead Blvd. who was charged with forcible rape and burglary.

According to detectives, Ramos was arrested while returning to his residence about two hours after the rape which occurred in a region of East Lake Mead Boulevard not far from Ramos' residence.

The woman, 19-years-old, told police she

was in bed when she heard someone enter her residence and thought it was her husband. Even while he undressed in the dark the woman thought it was her husband, she told police and didn't realize it wasn't until the man got into bed.

She attempted to fight him off but he choked her until she finally submitted, said police. The woman gave police a description of the car as it left her residence and officers stopped Ramos in his car.

## Suspect In Rape Due Trial

A 19-year-old North Las Vegas man was ordered to stand trial Thursday in District Court on charges that he raped a woman after breaking into her home.

Juan Ramos of 3687 E. Lake Mead Blvd. was bound over for trial after a preliminary hearing conducted by Justice of the Peace Robert Legakes.

The victim testified she was asleep on Feb. 16 when Ramos broke into her home, undressed and then climbed into bed with her. She said at first she thought it was her husband but said she realized it was not when Ramos told her who he was. She testified he choked her and then assaulted her. He was arrested a few hours later.

## Vegan to face rape trial

A Las Vegas man was ordered to stand trial in District Court Thursday on a charge of rape.

Justice of the Peace Robert Legakes made the order after presiding at a preliminary hearing for Juan Ramos, 19, of 3687 E. Lake Mead Blvd. who is being held in Clark County Jail in lieu of bail.

Dep. Dist. Atty. Terris Brand

called the alleged 19-year-old victim to testify before Legakes.

The woman said she was sleeping in her mobile home at 3 a.m. Feb. 16 when Ramos walked in and got into bed with her. She said she thought it was her husband at first.

But then she found it wasn't.

And she said Ramos identified himself to her.

1-8-3-7-75

Friday, February 13, 1976—Las Vegas Review-Journal—11

# Man arrested in rape of girl, 13

NORTH LAS VEGAS — A 20-year-old man was arrested Friday morning in the attempted rape of a 13-year-old girl.

Booked into North Las Vegas City Jail at 1:40 a.m. was Juan

Ramos of 805 E. Carey Ave.

Officers said the victim's 15-year-old brother called police and reported an attempted rape and burglary.

According to police reports, the victim reported that at 11:55 p.m. Thursday an unknown man entered her bedroom and climbed into bed with her. She said he told her to be quiet and she would not be hurt. The girl agreed and then began screaming.

The brother heard the screams and observed a man he identified as Ramos leave the house,

dressed only in a white t-shirt.

Officers said he entered and exited through the front entrance of the house.

The girl was unhurt.

Police arrested Ramos at his residence. Officers said further investigation revealed that Ramos had lived with the victim's family about four years ago.

Officers said Ramos is currently on probation for a robbery charge and was cleared in a Las Vegas rape which occurred almost exactly one year ago.

AMENDMENTS TO AB 686

Offered by Washoe County Public Defender

Amend section 1, page 1, line 2, by deleting "unlawfully".

Amend section 1, page 1, by inserting after line 16, the following:

"4. Entry of a merchant's premises as defined in subsection 1 of N.R.S. 598.030 while open to the public for business purposes by a person with the intent to commit petit larceny of merchandise offered for sale therein shall not constitute burglary. This subsection does not limit civil or criminal liability for any acts committed after entry of the premises."

Amend the title of the bill by striking the title in its entirety and inserting in lieu thereof the following:

"An Act relating to burglary; providing when entry of a merchant's premises does not constitute burglary; and providing other matters properly related thereto."