

The meeting was called to order at 8:35 a.m. Senator Close was in the Chair.

PRESENT: Senator Close
Senator Hernstadt
Senator Don Ashworth
Senator Dodge
Senator Ford
Senator Raggio
Senator Sloan

ABSENT: None

SB 154 Limits permissible delay between arrest, arraignment and filing of criminal complaint.

Senator Joe Neal testified that this bill reduces the amount of time a person has to wait in jail before the complaint is filed, and also before he comes up before the magistrate. This came about because when the police officers pick up a person and put them in jail, the person usually waits up to 48 hours before the complaint is filed. For example, recently in Tonopah a man was picked up on Thursday, held until Monday and released without a complaint ever being filed. He feels that it is wrong for a person not to be brought before a magistrate within 24 hours. He should either be released or have a complaint filed against him.

Senator Hernstadt asked if these people didn't have the recourse of filing a false arrest suit.

Senator Neal stated that that was true, however in Clark County their chances were practically nil.

Senator Hernstadt asked what would happen if you picked up a murderer on Friday night and the police and the District Attorney's office couldn't get their work done over a weekend? That person would theoretically get away with murder.

Senator Neal stated he didn't think so. You are not supposed to arrest someone unless you have good cause. Usually in a case like murder you would have good cause. In his district people are just picked up because they look like somebody and are held without good cause. In some cases they would assess bail on a person, but in his district most of them cannot afford it. He knows of cases where people have been incarcerated for up to 8 days without being charged or brought before the magistrate. In these cases they have to sign a waiver that they will not sue.

Senator Raggio stated that he didn't think that even in federal criminal practice there was a provision for a time limit. That law just states within a reasonable time.

Senator Raggio also stated he could see a lot of problems with this bill. You wouldn't want to turn someone loose that shouldn't be just because it was a weekend and you couldn't get the paper work done, and we have this law that says you can only hold him for 24 hours. There may be cause but you would have to let him go if the complaint wasn't filed. "If I was a defendant, I would certainly want all the paper work and investigation done before a formal complaint was filed against me, even if I had to sit in jail."

Senator Neal stated he did not feel that a person's rights should be impaired because a magistrate was out of town or someone couldn't get their paper work done.

Senator Raggio stated that wouldn't forfeit the rights of the individual. It is balancing the rights of the individual against the collective rights of society as a whole. Society has some rights too, and letting a murderer loose does not protect them. He does not feel there is too much abuse in the holding time and feels there should be some hard facts submitted before the Committee should pass a law like this.

Senator Neal stated that if you put a time limit then you know that you have to act within that time period to bring an action.

Senator Ford stated she could see a problem with even the 72 hour time limit. This might indicate to some people that they could keep the defendant up to the 72 hour time limit without doing anything.

Sam Wardland, Nevada Trial Lawyers Association stated he has been a public defender for several years in the cow counties for the State of Nevada. During that time he handled over 350 felony and gross misdemeanor cases. He found people were not getting to court in the initial state and getting arraigned. Many people spent a week before they saw the Justice of the Peace for the first time. No arraignment date is set until after the complaint has been filed. The bog down apparently occurs between the arresting officer, the District Attorney's office, getting it filed with the J.P.'s office, and getting an arraignment date set. He feels that the reasonableness statute that has been adopted over the years does not work. His understanding is that there is a 72 hour provision in the federal system, and places the burden on the prosecution to show why that person is still there and has not been brought before a magistrate. 99.9% of the people with this problem don't have an attorney and won't have one until they get arraigned in front of the J.P. and get court appointed counsel.

David Small, District Attorney, Carson City, stated he is not in favor of this bill. In Carson City the average time that a person is held without being brought before the magistrate is 24 to 48 hours. The 4 days would only occur on a Friday night arrest where you couldn't come before the magistrate until Tuesday morning. In the typical case the defendant makes bail that night. There is a bail schedule in each of the counties, that he is aware of, and there certainly is in Carson City. The District Court has set certain guidelines and normally on the sixth or seventh day there has to be an explanation as to why that person is still incarcerated without charges. Under the federal law that was mentioned, they do not release people after 72 hours, but ask the prosecution to explain. Furthermore, in the federal system they are not cops patrolling the streets and making arrests. Normally it is a developed case before it ever begins.

Senator Raggio asked how he would react if the state had to explain after 72 hours in filing the formal complaint.

Mr. Small stated that as far as Carson City goes there had not been a problem so he would be agreeable. In filing the complaint, there are too many things that have to be done. He would accept the time limit if then at that point you would have to explain, and not have an automatic release.

Mike Malloy, Assistant District Attorney, Washoe County stated that he is opposed to this bill. He agreed with Mr. Small's testimony, but brought out the fact the charges could be greater than the facts would later show. For example, you may have a person who steals a police car, who was under arrest for driving under the influence. Now, the police had arrested that man for grand larceny, a felony which carries a substantial bail. That case may justify formal charges of the unlawful taking of a motor vehicle because the intent to criminally deprive may not be present in that case. This then would be a gross misdemeanor which carries substantially less bail. But if the D.A. were required to file formal charges in that case in order to protect himself before all the investigation came in, he would file the grand larceny charge and that man would stay in jail until his preliminary examination. He stated that in Washoe County they try very hard to get the formal complaint filed within 4 days after arrest, at a maximum.

William D. Mathews, Captain, Detectives, Washoe County Sheriff's Department stated he is against the bill and read from the letter he wrote to Senator Close in opposition to SB 154. (see Attachment A)

Larry Ketzenberger, Las Vegas Metro P.D. stated he would like to concur with the previous testimony in opposition to this bill. He stated that since the first of the year Clark County has been holding pre-trial hearings within 48 hours after arrest. The arresting officer is hand writing an affidavit of probable cause, which then goes to the magistrate along with the prisoner and the determination is then made. This of course is excluding weekends.

Jim Parker, Chief of Police, City of Reno stated that he, too, is in opposition to this bill. He does feel that his office could live with a 72 hour time limit but not the 24 or 48 hour time limit. That is definitely too restrictive. He stated that it is a matter of policy in Reno not to hold anyone over 5 days, even on the outside hold.

No action was taken at this time.

SB 155 Authorizes state legislators to inspect county and city jails.

Senator Joe Neal stated that this was a very simple bill. It would permit any member of the legislature to inspect city and county jails at a reasonable hour. The law now states the Sheriff can deny you permission to go into their jail. Only the County Commissioners have authority to inspect county jails. As a Legislator can go into the State Prison, he feels this should be passed to be consistent, and so you can go in and see what the conditions are.

Jerry Maples, Douglas County Sheriff stated he opposes this bill. He feels it could create a witch hunt for political purposes. He would be happy to let anyone of the Legislators in to see his facilities, if they could do something for him. His jail was built in 1906 and is classified as the worst jail in the State of Nevada. It would be different if the Legislature could do something about the conditions of the facility, but they cannot mandate that Douglas County build a new one.

Russell Schooley, Washoe County, Chief Deputy Sheriff stated he is in opposition to this bill. He placed his letter to Senator Raggio into the record for his reasons. (see Attachment B)

Jim Parker, Chief of Police, City of Reno stated he is also opposed to this bill. He sees no reason why the State Legislature should interfere with the local operation of city or county jails.
No action was taken at this time.

SB 143 Requires interpreters for certain handicapped persons in judicial and administrative proceedings.


As the Committee had to go into Session on the floor,

Senator Close stated they would take this bill up at a later time.

Toni Hensley with the Department of Rehabilitation stated that she had some of the deaf people with her to testify. They had taken time off work to come in and appear and asked if they could give their written statements to the Committee for review. (see Attachments C through K) She stated that she and Ursula Swansick who is with the University of Nevada, Reno, Speech Department will be happy to come back and give further testimony at a later time.

The Committee adjourned at 11:05 a.m.

Respectfully submitted,



Virginia C. Letts, Secretary

APPROVED:

Senator Melvin D. Close, Chairman



WASHOE COUNTY SHERIFF'S DEPARTMENT

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ROBERT J. GALLI
SHERIFF

VINCENT G. SWINNEY
UNDERSHERIFF

THOMAS F. BENHAM
CHIEF, INVESTIGATIVE SERVICE BUREAU

RUSSELL T. SCHOOLEY
CHIEF, OPERATIONAL SERVICE BUREAU

LORNE E. BUTNER
CHIEF, ADMINISTRATIVE SERVICE BUREAU

February 5, 1979

Mr. Mel Close, Chairman
Senate Judiciary Committee
Nevada State Legislature
Legislative Building
Carson City, Nevada 89710

Dear Chairman Close:

May we take this opportunity to voice direct opposition to the proposed changes outlined in S.B. 154, pertaining to Nevada Revised Statute 171.178.

Our opinion is that proposed paragraphs 3 and 4 would be another avenue to possibly circumvent the judicial system which is already overburdened with restraints and requirements.

Also, a serious fiscal impact could be imposed upon the taxpayers, as these changes would in all probability necessitate additional personnel for the District Attorney's Offices, Justice Courts and all offices dealing directly with this matter. The proposed changes would mandate that complaints be prepared within forty-eight (48) hours after appearance before a Magistrate and no provision was specified for non-judicial days. This would require personnel from the above agencies being on duty basically seven days a week, and with present staffing this would be impossible.

At the present time, our Department is provided by the Justice Courts a schedule of bails set by the Magistrates. This allows each person booked to have bail set at the time of booking.

On occasions, crucial information is needed, such as analysis, witness statements from persons not available, and other data crucial to a criminal complaint which cannot be received within the mandated forty-eight hour period.

Mr. Mel Close, Chairman
Senate Judiciary Committee
February 5, 1979
Page -2-

We feel that these proposed changes to this statute would impose undue burdens upon all agencies directly dealing with arrested persons, and further, create additional staff requirements which naturally increases budget requirements.

The above is respectfully submitted.

ROBERT J. GALLI, SHERIFF

By: 
William D. Mathews, Captain
Detective Division Commander

WDM:fmcc



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February 5, 1979

William J. Raggio, Senator
Nevada State Legislature
Legislative Building
Carson City, Nevada 89710

Dear Bill,

This is to advise you of our opposition to Senate Bill 155 which would amend Chapter 211 of the NRS to permit any member of the Nevada State Legislature to inspect any city or county jail facility at any reasonable hour without giving any prior notice of inspection. As you know, Grand Jurys are required under NRS 172.175 and NRS 172.185 to conduct periodic inspections of jail facilities within their respective counties and are also authorized to take sworn testimony concerning any and all operations of the jails and institutions they inspect; County Health Authorities, NRS 444.335 are authorized to inspect and grade jails within their jurisdictions; NRS 211.020 makes certain responsibilities to the County Commissioners for inspection of County Jails and, in addition to the above, the State Fire Marshall and local fire marshalls conduct periodic fire inspections of local jail facilities.

In order for a legislator to make an "inspection" there must be some set standards and a general operation procedure for the inspection. To my knowledge, there are no set statewide standards setting forth the criteria for the operation of city or county jails.

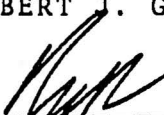
If certain legislators are going to act as ombudsman for inmate complaints while they are being held in local jails, it is going to have a very detrimental effect on the local authorities charged with operating and maintaining jail facilities who are, in most cases, doing a good job under difficult circumstances.

It should also be noted that the courts, both state and federal have interjected themselves into the operation of local jail facilities.

Without further clarification, we believe SB 155 should be defeated and ask your support in this matter.

Kindest personal regards,

ROBERT J. GALLI, SHERIFF

By 
Russell T. Schooley, Chief
Operational Service Bureau

Rts/c

Richard VillaLovos (deaf)
Carpenter

ATTACHMENT "C"

Translated and typed as signed
Ursula Swansick (csc interpreter)

Recent time ago I was arrested. I asked for them to provide an interpreter, but they did not provide an interpreter. There was a lot of misunderstanding in communication between the police and I. They arrested me for disturbing the peace because of a misunderstanding of body sign language.

It would of saved me a lot of time and a lot of money if they would have provided me an interpreter in the first place.

Translated and typed as signed
Ursula Swansick (csc interpreter)

Before the old bill became a law, I had communication with another deaf man who had been arrested. He was charged for illegal things.

At this time the police officer had got a radio call telling him to look out for a young man who caused some kind of problem and who had run into the alley. Well, they grabbed the wrong suspect, this deaf man here.

He didn't know what was going on because he was in the dark alley. He was really frightend. He had some residual hearing left and he could hear loud voices from the police. I guess the police spoke rough to him. He saw the policeman get a piece of paper to speak from, and I could figure out what he meant by that, the policeman was reading the rights to that suspect.

I asked that deaf man if he could ever understand what the police was saying. He said no he could not understand, Because he couldn't read lips in the dark alley. His case was dismissed later, though, due to the fact that this had occurred.

I think the law enforcement agencies across the state need some kind of program to educate them about the deaf in order to provide better service to the deaf citizens. Otherwise they would make a big mess for both the police and the deaf citizens.

Richard VillaLobos (deaf)
Carpenter

Translated and typed as signed
Ursula Swansick (csc interpreter)

I would like to propose that the courts use two interpreters during a trial, as I found it much more clear to me to have two interpreters.

The court system speaks so fast and is hard to watch the one interpreter interpret so many different conversations in the court room. It is hard for the interpreter to follow them all. A lot of deaf people feel lost in the court room system; I think the deaf citizen should have two interpreters in the court room. One interpreter will interpret for the speakers representing the plaintiff and the other for the defense.

It was very clear, I knew who was talking (when having two interpreters). Because I knew one interpreter signed for the plaintiff, and the other interpreter was for the D.A.

Another reason for two interpreters is that when the interpreters listens to the communication in the court room and the deaf person asks to voice, a lot of the interpreters miss the deaf client trying to speak, because it is very difficult for the interpreter to focus on two separate communications at the same time. I feel that the deaf person should have his own interpreter at his side, in case he wants to speak out and he can call on his interpreter immediately to interrupt the flow of conversation.

Translated and typed as signed
Ursula Swansick (csc interpreter)

The interpreters bill was passed in July four years ago relating to interpreting services. In October, I was in a car accident. The policeman showed up and realized I was deaf. The policeman radioed and called an interpreter. The interpreter met me at the police station. Everything was fine, she interpreted and there was no problem.

Then I got a notice of a court date. I showed up and the interpreter showed up. Everything was fine, everything was o.k.

Unfortunately, the court did not pay the interpreter. She did not get paid for her services. I was the first person to get this interpreting service under this bill.

Betty Sylvia (deaf)
Employee of UMR Chimp Project and Student
at UNR

ATTACHMENT "G"

Translated and typed as signed
Ursula Swansick (csc interpreter)

Last, I think, October I had a car accident with the owners car (the employers). I dropped the owner off at the airport and was on my way home. Before going home, a car in front of me stopped at the last minute without warning and I hit behind him. The car was hit and run, because he took off. The other car behind me hit me from behind. I got upset and I got out of the car and I felt like communication. The people were mad and said, "You hit this!" I said no he was hit and run, he hit me first. They understood, so we called the police.

The police came, he was talking to me first. I told him I can't hear and I can't talk, I can't understand. He got mad and wanted to give me a ticket. Then he asked for the registration, I said this is not my car, I don't know where it is. He kept wanting the registration. I felt bad, the policeman was so mad at me, he was nice to the other people, they were the ones who were guilty. He seemed nice to them but he was mad at me.

He looked at my license. He asked "When did you move here?" I use a Virginia license. I did not know there was a 45 day limit here. That I had to get a new license. I did not know. The policeman threatend to fine me but he did not. Then I told him this is the owner's car, I felt bad because there was really a lot of confusion in communication.

Then the policeman told me to go home. I said O.K. I went home. I told my boss. He told me it was not my fault.

Mae Chandler (deaf)
Employee of Lynch Inc.

ATTACHMENT "H"

Translated and typed as signed
Ursula Swansick (csc interpreter)

II.

A deaf man was brought to Washoe Hospital Emergency by another deaf man. They would not admit him because they did not understand what was wrong. The man was from the indian reservation. They needed an interpreter. The hospital should have looked up his records because the man was in there before, and they could see he had this problem before. If the hospital does not have an interpreter there they should look up the records to see how they can help the deafperson.

Translated and typed as signed
Ursula Swansick (csc interpreter)

III.

A deaf man in Reno had a car accident. He was going the right way and the other man did not stop at the stop sign and they had a collision. The deaf man went into shock. The man was brought to the hospital. The police made him write on the statement how it happend, but the man was still in a state of shock. He didn't really know what was going on. He had a hard time writing down the report. There was no interpreter.

The next morning his niece came down to the hospital. She tried to explain. She signs fair. He still didn't understand. He felt that the hospital should have interpreters names there so in case something happens to a deaf person, the hospital would have all the interpreters names there. They could call and the interpreter could come there, and could help the deaf person in the hospital. They really should require that.

Translated and typed as signed
Ursula Swansick (csc interpreter)

IV.

A deaf man was using a girl's car to take her to the doctor. It was icy and he got in a car accident. A week later the man went to a lawyer to talk about the accident. The lawyer said he would help him to write when it happened. The man requested to have an interpreter for himself and the girl in court.

The lawyer asked the District Attorney's office if he should have an interpreter, they said "No its not necessary." So when they went to court they were surprised that there was no interpreter. They didn't know what anyone was talking about because there was no interpreter. There will be another trial. I hope they do something about that.

Mae Chandler (deaf)
Employee of Lynch Inc.

ATTACHMENT "K"

Translated and typed as signed
Ursula Swansick (csc Interpreter)

I.

A deaf lady was having a problem with her mobile home to prove that both her and her husbands name were on the papers. The sheriff came over to make an arrest. The sheriff said they could use the lady's daughter to interpret.

I don't think that is right. The deaf people's children should not have to interpret for their parents. I think they should call an interpreter in.