

The meeting was called to order at 7:30 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 295 Requires certain justices of the peace to serve full time.

Senator Sloan moved to concur in Assembly amendment #1059.

Seconded by Senator Dodge.

Motion carried unanimously. Senator Ford was absent from the vote.

SB 27 Abolishes causes of action for seduction and criminal conversation.

Senator Raggio moved to not concur in Assembly amendment.

Seconded by Senator Sloan.

Motion carried unanimously.

SB 343 Provides for hearing on notice of lis pendens and for expunging recorded notice upon posting of bond in certain circumstances.

Senator Dodge moved to concur in Assembly amendment #1062.

Seconded by Senator Hernstadt.

Motion carried unanimously.

AB 524 Limits dissemination of certain criminal records and provides for their examination and challenge.

Michael de la Torre, Director, Department of Law Enforcement Assistance, distributed to the committee an outline put out by Search Group, an organization that deals in privacy, security, etc. (see attached Exhibit A) The outline contains a general background history of this type of activity.

Norm Harry, State Public Defender, testified in support of this measure. He stated that this is based on an LEAA requirement that states adopt a uniform procedure for dissemination of criminal history records and for the security of those records. The State of Nevada can develop any plan it wants as long as it, in a general peripheral manner, meets the federal requirements of dissemination, administration and physical security and provides for an audit of the system after its inception.

Mr. Harry informed the committee that the failure of the state to establish such a system would result in loss of funds from the LEAA. Title 28 also provides for a fine up to \$10,000 if there is no good faith shown on the part of the state to comply. He felt that by the fact that this bill has been introduced, and that it had been one year in the drafting, was evidence of good faith.

Mr. Harry further stated that his concern was not with loss of funds or the possibility of a fine. The major concern is that other agencies around the country will be hesitant or reticent to deal with Nevada because they are going to want to know what kind of statutes we have so that they will know where the information is going in terms of dissemination, etc. The poses a serious problem in the area of gaming control.

Mr. de la Torre stated that all this pertains to is non-conviction data. Anyone can have access to conviction data as that is public information.

The committee began a section-by-section review of the measure with Messrs. de la Torre, Harry and Larry Ketzenberger of the Las Vegas Metropolitan Police Department.

SECTION 1: Mr. de la Torre stated that on line 3, after "inclusive of this act" they would like to insert "and shall be known as the Nevada Criminal History Records Act." They wanted to stay away from the privacy and security type title.

SECTION 2: Definitions.

SECTIONS 3 through 7: Definitional sections. These are in compliance with the federal regulations but also make allowance for information regarding our gaming industry.

Senator Close asked the meaning of "except for any agency which keeps records for the purpose of maintaining records."

Mr. Ketzenberger responded that an example of that would be the Reno Police Department submitting information to the central repository. That would not be considered dissemination of information.

He further stated that at the present time, the only repository in the State is the one being run by the Las Vegas Metropolitan Police Department, called SCOPE.

Senator Dodge felt that this measure was premature. He questioned the ability to establish procedures for the dissemination of information from a central repository if there is no central repository.

Senator Ford suggested adding a preamble to the effect that this would be applicable when such an agency has been established.

Mr. Harry stated that he would supply the language.

SECTION 8: This is the definition of a record of criminal history. It also gives an exclusion of what a criminal history does not include.

Senator Raggio pointed out that this refers only to natural persons. He stated that corporations can be found guilty of criminal acts and should be included.

Mr. Ketzenberger replied that the federal law does not require that and that no records are kept in the computer with regard to corporations.

SECTION 9: This follows the federal regulation on accuracy and updating of records.

Senator Raggio expressed concern over this disposition of the cases. He stated that that has always been the failing of any informational system. It always shows the arrest and charges but never the disposition of the case.

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Mr. Ketzenberger stated that they shared his concern. They had given thought to, and would eventually like to, provide that the courts would also be included in the central repository.

SECTION 10: Senator Sloan asked how they could justify giving this information to reporters but not to the public in general.

Mr. Harry responded that they believed that reporters had a legitimate need for the information. The system is not set up to handle anyone coming in off the street to check on their neighbors police record.

Senator Sloan asked if an employer could make the written permission to examine a prospective employee's record, a condition precedent to employment.

Mr. Ketzenberger stated that the federal government had that same concern and addressed it in the regulations as being intimidation. His concern was that if someone was going to hire a person, he should be entitled to know what kind of background that person has.

In subsection 4, which talks about reciprocity with other states, Senator Sloan pointed out that we will be governed by their statutes on dissemination. It would be conceivable that there would be two types of information; that which is discoverable and that which is not.

Mr. Harry stated that that was a very important provision. As he indicated earlier, it is difficult for Nevada to get information from other states because they do not know what is going to happen to it once they release it to us. This provision states that, once Nevada gets the information, it won't do anything with it that they don't want us to.

Senator Sloan asked if they were going to have to segregate information when it comes in and mark on it where it came from and what can be done with it. Is this going to require compliance with 49 different state statutes?

Mr. Ketzenberger stated that their only concern would be when this information was to be made available to an investigative body. They would then insure that they are in compliance with the particular state's statutes or get a release which would allow them to make the information public.

Mr. de la Torre requested an amendment on lines 23 and 27. They would like to delete "may" and insert "shall".

SECTION 11: Mr. Harry stated that this controls secondary dissemination.

Senator Sloan expressed concern over dissemination of information by members of the press. He suggested adding language to effect of "gathered or obtained in his professional capacity for communication to the public."

SECTION 12: Mr. Harry stated that this section pertains to any agency that maintains records.

SECTION 13: Senator Close asked if this would conflict with the present expungement statute.

Mr. Ketzenberger responded that this applies only to cases where there was no conviction.

SECTION 14: Mr. Harry stated that this was a section of great concern to the Clark County District Attorney's office. They felt that victims of crimes that did not result in a criminal conviction, because of a weak case or deferred prosecution, should have access to the investigative files for purposes of pursuing their own civil rights.

Juvenile records will also be included in this.

SECTION 15: Mr. Harry stated that this is the challenge, access and review section.

Mr. de la Torre requested an amendment deleting "identification and communications division of the department of law enforcement assistance" and replace it with whatever the central repository is going to be. Also, on line 13, they would like to delete "by contract" so that they can do their own audits.

SECTION 19: Senator Dodge asked what was the purpose of the self-destruct clause.

Mr. de la Torre stated that had been requested by the press in Southern Nevada. They felt that if the LEAA was dissolved, this should be also.

Senator Dodge disagreed. He felt if there were any validity to the reasons for this act in the first place, it should continue on, regardless of the dissolution of LEAA.

Section 19 will be deleted.

Mr. Harry suggested the following language as a preamble to this measure:

"While at the present time, the State of Nevada has no central repository for criminal history records, it is the intent of the legislature to work toward that goal. Therefore, at the present time, the system known as SCOPE, maintained by the Las Vegas Metropolitan Police Department shall be considered by the central repository for the Nevada criminal history records."

The committee approved that language.

No action was taken at this time.

AB 777 Extends power of attorney general in criminal prosecutions.

Robert Bork, Deputy Attorney General, and Ed Taylor, Deputy Attorney General, testified in support of this measure.

For Mr. Bork's comments, see attached Exhibit B.

Senator Dodge moved to report AB 777 out of committee with an "amend and do pass" recommendation.

Seconded by Senator Sloan.

Motion carried unanimously. Senators Close, Ford and Raggio were absent from the vote.

AB 808 Makes various changes in law relating to bail.

Senator Hernstadt stated that this bill was almost identical to SB 4 (Prohibits bail bondsmen from making campaign contributions for or against election of candidates for certain public offices.) The only substantial difference being that the Assembly has made a distinction between counties of populations of less than 100,000.

(For testimony and discussion on SB 4, see the minutes for the Senate committee on Commerce and Labor)

Senator Sloan stated that he was opposed to the distinction. He felt that the first time a bail bondsman get into trouble, he would challenge the constitutionality of making such a distinction. He suggested amending the measure to make it a uniform 90 days throughout.

Senator Sloan moved to report AB 808 out of committee with an "amend and do pass" recommendation.

Seconded by Senator Ford.

Motion carried unanimously. Senator Raggio was absent from the vote.

AB 815 Prohibits private use of motor vehicles owned by local governments.

Senator Ashworth moved to indefinitely postpone AB 815.

Seconded by Senator Sloan.

Motion carried unanimously. Senators Close, Ford and Raggio were absent from the vote.

AB 511 Provides procedure for appointment of guardians of adults and establishes special guardianships for persons of limited capacity.

Wharvis Weil, representing the joint legislative commission of NRTA and AERP, testified in support of this measure. He stated that in their review of this, they had received testimony that anyone who becomes a ward under the present guardianship law loses all rights. There is no right of appeal. The person has less rights than a person in the state prison.

He urged the committee's approval of this measure.

No action was taken at this time.

The committee was called into general session. They will resume their meeting immediately upon adjournment.

The meeting was called to order at 12:15 p.m. Senator Close was in the Chair.

All members were present.

SB 294 Provides for establishing parentage and enforcing support of children.

Senator Sloan moved to do not concur in Assembly amendment #1102.

Seconded by Senator Dodge.

(Committee Minutes)

Motion carried unanimously. Senator Raggio was absent from the vote.

AB 763 Limits liability for certain injuries at ski resorts.

For testimony and further discussion of this measure, see the minutes of the meetings for May 9 and 15, 1979.

The committee reviewed Senator Raggio's proposed amendments. See attached Exhibit C.

Senator Sloan moved to report AB 763 out of committee with an "amend and do pass" recommendation.

Seconded by Senator Hernstadt.

Motion carried unanimously. Senator Raggio was absent from the vote.

AB 757 Revises fees of court reporters.

For testimony on this measure, see the minutes of the meeting for May 21, 1979.

Senator Hernstadt moved to indefinitely postpone AB 757.

Seconded by Senator Ford.

Motion carried unanimously. Senator Raggio was absent from the vote.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Cheri Kinsley, Secretary

APPROVED:

Senator Melvin D. Close, Jr., Chairman



COMMISSION ON GOVERNMENT SECURITY AND CONSPIRACIES  
CAPITOL COMPLEX  
CARRINGTON, NEVADA

M E M O R A N D U M

DATE: MAY 22, 1979  
TO: SENATE JUDICIARY COMMITTEE  
SENATOR DODGE  
FROM: MICHAEL A. de la TORRE, DIRECTOR  
SUBJECT: AB 524

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Enclosed for your information is, "Background and Scope of the LEAA Security and Privacy Regulation." 1

1. "Advisory Bulletin", No. 6, Search Group, Inc., February, 1979, Appendix A, pp. A-1 - A-6.

## BACKGROUND

- 1968 SAFE STREETS ACT ESTABLISHED LEAA
- LEAA FUNDS USED TO EXPAND AND AUTOMATE INFORMATION SYSTEMS
- EXPANDED SYSTEMS CREATED SECURITY AND CONFIDENTIALITY PROBLEMS
- SEARCH ACTIVITY DEVELOPED SYSTEM SAFEGUARDS
- EARLY 1970'S--STUDIES AND HEARINGS ON ABUSES
- PRESSURE ON LEAA TO ISSUE REGULATIONS OR SYSTEM SPECIFICATIONS
- 1973 LEAA AMENDMENTS: SECTION 524B
- 1973-1975: CONGRESSIONAL WORK ON PROPOSED SECURITY AND PRIVACY LEGISLATION
- FEBRUARY 14, 1974: DRAFT LEAA REGULATIONS ISSUED
- MAY 20, 1975: FINAL REGULATIONS PROMULGATED
- CRITICISM FROM STATES ABOUT COMPUTER DEDICATION AND DISSEMINATION LIMITS
- 1976 AMENDMENTS TO REGULATIONS
  - DELETED DEDICATION PROVISION
  - LESSENER DISSEMINATION LIMITS
- DECEMBER 1977: COMPLIANCE DEADLINE EXTENDED
  - DEADLINES NOW BASED ON STATE SCHEDULE AND CAPABILITY

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## REVISED DEADLINES

- EACH STATE SETS OWN SCHEDULE KEYED TO LEGISLATIVE SESSION
- OUTSIDE LIMITS:
  - JULY 31, 1978: FULL COMPLIANCE WITH REVIEW AND CHALLENGE AND ADMINISTRATIVE SYSTEM SECURITY
  - THIRTY DAYS AFTER END OF NEXT LEGISLATIVE SESSION: SUBMISSION TO LEAA OF DISSEMINATION POLICY
  - SIX MONTHS AFTER SESSION'S END: SUBMISSION TO LEAA OF OPERATIONAL PROCEDURES ON DISSEMINATION LIMITS
  - EIGHTEEN MONTHS AFTER SESSION'S END: SUBMISSION TO LEAA OF STATEWIDE AUDIT RESULTS SHOWING LEVEL OF COMPLIANCE
- NO OUTSIDE LIMITS ON:
  - COMPLETENESS AND ACCURACY
  - PHYSICAL (HARDWARE) SYSTEM SECURITY

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## COVERAGE OF REGULATIONS

- COVERS ALL CRIMINAL JUSTICE AGENCIES THAT HAVE USED LEAA FUNDS FOR INFORMATION SYSTEMS SINCE JULY 31, 1973
- "CRIMINAL JUSTICE AGENCY" INCLUDES:
  - COURTS
  - OTHER PUBLIC AGENCIES PRIMARILY ENGAGED IN:
    - . CRIME DETECTION (BUT NOT PREVENTION)
    - . APPREHENSION OF SUSPECTS
    - . PROSECUTION (BUT NOT DEFENSE)
    - . ADJUDICATION
    - . CORRECTIONAL SUPERVISION
- COVERS "CRIMINAL HISTORY RECORD INFORMATION":
  - RAP SHEET FILES PRIMARILY
  - ANY FILES THAT CONTAIN ID INFORMATION AND CRIMINAL TRANSACTIONS
  - DOES NOT INCLUDE:
    - . INTELLIGENCE AND INVESTIGATIVE FILES
    - . IDENTIFICATION FILES WITH NO CRIMINAL REFERENCES
    - . STATISTICAL OR RESEARCH DATA WITHOUT IDENTIFICATIONS
    - . TREATMENT, MEDICAL OR EVALUATIVE DATA

## EXCLUDED RECORDS

- WANTED POSTERS
- ORIGINAL ENTRY RECORDS (POLICE BLOTTERS) IF SOLELY CHRONOLOGICALLY COMPILED
- COURT RECORDS OF ALL TYPES
- COURT OPINIONS
- PUBLIC COURT, LEGISLATIVE OR ADMINISTRATIVE PROCEEDINGS
- TRAFFIC RECORDS FOR LICENSING PURPOSES
- PARDONS AND EXECUTIVE CLEMENCY

NOTE: PERMISSIBLE FOR AGENCIES TO RESPOND TO SPECIFIC INQUIRIES ("WAS X ACQUITTED JANUARY 22, 1977?" OR "WAS X CONVICTED JANUARY 22, 1977?") IF THE RESPONSE IS BASED ON INFORMATION OBTAINED FROM ANY OF THE ABOVE EXCLUDED TYPES OF FILES.

## DISSEMINATION PROVISIONS

- NO LIMITS ON CRIMINAL JUSTICE USE AND DISSEMINATION
- NO LIMITS ON RELEASE TO ANYONE OF CONVICTION RECORDS
- NO LIMITS ON CURRENT DATA (WHILE SUBJECT IS WITHIN THE CRIMINAL JUSTICE SYSTEM)  
E.G., PENDING CASES
- PERMISSIBLE TO RELEASE ARRESTS WITHOUT DISPOSITIONS FOR UP TO ONE YEAR AFTER ARREST
- LIMITS APPLY ONLY TO NONCONVICTION RECORDS:
  - ACQUITTALS (ALL TYPES)
  - DISMISSALS
  - INDEFINITE POSTPONEMENTS
  - PROSECUTION DECLINED
  - RELEASE WITHOUT CHARGES
  - ARRESTS OVER A YEAR OLD IF NOT ACTIVELY PROSECUTED
- DISSEMINATION OF NONCONVICTION RECORDS MUST BE FOR "LAWFUL PURPOSE":
  - BASED ON:
    - . STATUTE
    - . EXECUTIVE ORDER
    - . LOCAL ORDINANCE
    - . COURT RULE, ORDER OR DECISION
  - AS CONSTRUED BY APPROPRIATE STATE OFFICIALS

LEAA REGULATIONS ON CRIMINAL RECORDS  
 - Dissemination Limitations -

4. Traffic Records:  
 All offenses that are  
 for licensing purposes

3. Judicial Records:  
 Docket books  
 Case files  
 Transcripts  
 Opinions

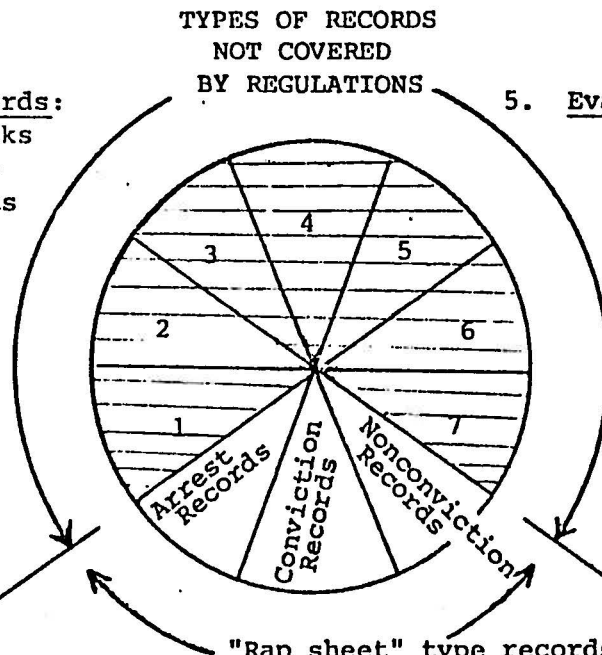
5. Evaluative Information:  
 Bail reports  
 Pre-sentence reports  
 Medical reports  
 Correctional treatment reports

2. Chronologically-Accessed  
 Original Entry Records:  
 Police blotters  
 Arrest books  
 Offense reports  
 Incident reports

6. Investigative & Intelligence Data:  
 Suspected criminal activity  
 Associates  
 Hangouts  
 Financial information  
 Ownership of property

1. Wanted Persons:  
 Posters  
 Lists  
 Bulletins

7. Executive Clemency:  
 Pardons



"Rap sheet" type records are covered by the Regulations if name-indexed. They are subject to provisions on accuracy and completeness, security, audit and quality control, review and challenge, and dissemination limits.

Good Morning.

Members of the Committee -- My name is Robert Bork, I am Deputy Attorney General in the Criminal Division here in Carson City and I would like to briefly address you, if I may, on AB 777.

Basically, what this bill does it to give the Attorney General's office express statutory authority to file criminal complaints and informations -- I would emphasize that this bill gives the Attorney General this power only in those areas where the Attorney General is already allowed or required to prosecute. I have supplied each committee member with a synopsis of those areas where the Attorney General's office has either exclusive or concurrent jurisdiction with local district attorney to prosecute cases.

I would like to briefly explain the factual background concerning AB 777 -- in other words, I would like to explain to the committee why this bill is needed by the Attorney General's office -- factual background.

The Attorney General is required or permitted under a variety of statutes to institute and conduct criminal prosecutions. In some instances, for example, those of antitrust, securities, election law, and open meeting violations, only the Attorney General has the authorization to prosecute. In other areas, for example, welfare, tax, food and drugs, and food stamp laws, concurrent authority with the local district attorneys exists.

As the committee knows, there are four basic ways by which criminal prosecutions may be initiated:

1. File a complaint for misdemeanors.
2. By filing an information for a felony or gross misdemeanor following a preliminary examination which was initiated by complaint.
3. By filing an information by affidavit in the district court following a dismissal of a felony or gross misdemeanor complaint at a preliminary hearing.
4. By initiating grand jury proceedings and obtaining an indictment.



A problem arose early in the 1970's when the Nevada Supreme Court in a case involving the filing of an information by affidavit by the Attorney General, concluded that the Attorney General has not power to file such informations. The Court indicated that, in the absence of express statutory authority, the Attorney General could not initiate prosecutions by information.

In other words, unless the legislature gives us the authority to initiate a prosecution by a particular method, we do not have that power. Although the statutes purport to authorize the Attorney General to "institute criminal proceedings" or use words to that effect, it is not clear that this constitutes express authority to file informations and complaints.

The result is that, even though the Attorney General has been given the responsibility to prosecute some cases, we do not have the exclusive responsibility, the explicit procedural power, or the tools to carry out those duties. The only clear authority we do have is by grand jury indictment. In this regard, it is significant to note that there are fifteen counties in this state that do not ordinarily have sitting grand juries. Nor do we have the authority to ask for impanelment of grand juries. Lastly, the rural counties, quite naturally, would be reluctant to undergo the expense of impaneling a grand jury for say, for on open meeting law violation which is only a misdemeanor. Even in Clark and Washoe counties, it is often difficult to get grand juries together.

The situation I have described is what AB 777 is intended to remedy. Our office has spoken to several district attorneys offices, including Clark County, Washoe County, Carson City and Douglas County, and to Steve McMorris, the president of the District Attorney's Association, and they have indicated they have no objection to the purposes of this bill.

## SYNOPSIS

### (A) Gaming

NRS 463.141(2) provides that the gaming commission may call upon the attorney general to "institute and conduct" criminal proceedings in the event the district attorney refuses to do so. Both a commission request and a refusal of the district attorney to act are preconditions to attorney general prosecution.

### (B) Food, Drugs and Cosmetics

NRS 585.540 provides for concurrent jurisdiction of the attorney general and district attorney depending to whom the commissioner refers the violation. This section says the attorney general ". . . shall cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner required by law." The next section also speaks of the "institution of a criminal proceeding". There are two preconditions to prosecution: (1) the commissioner must give the person notice and a hearing before he refers the violation to the attorney general; and, (2) the commissioner must then refer the violation to the attorney general for prosecution.

### (C) Unfair Trade Practice Act

NRS 598A.070 requires the attorney general to enforce, investigate and "institute proceedings on behalf of the state" for criminal penalties for violation of the provisions of the anti-trust chapter. The attorney general has original jurisdiction over antitrust, but the district attorney, with our permission or at our direction, may also prosecute.

### (D) Tax

NRS 360.260 provides that the tax commission may call upon either the district attorney or the attorney general "to institute and conduct" such criminal proceedings as may be demanded for violations of the chapter. Prosecutorial jurisdiction is concurrent. Whether the commission request is a precondition to the institution of criminal proceedings, or merely a power given the commission is not clear.

(E) Election Campaign Practices

NRS 294A.080 requires the secretary of state to report a candidate's failure to timely file or incomplete or inaccurate filings of campaign contribution and expense reports. The attorney general is then required to "cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay". Unlike in (D) above, it is clear that the referral from the secretary is a precondition to prosecution. The attorney general has exclusive jurisdiction of state or multicounty candidates.

(F) Securities

NRS 90.190 provides that the administrator may refer evidence of violations of the chapter to the attorney general, who may, with or without such referral, "institute the appropriate criminal proceedings under this chapter". The attorney general has exclusive jurisdiction in the area.

(G) Prison Inmates

NRS 228.170 is the only statute which expressly authorizes the attorney general to file an information in the Carson City district court against an inmate for an offense committed while he was confined in a facility of the Nevada State prison. The authority is limited to inmates only. It is not clear if the offense must have been committed inside the prison walls, or that it would extend also to an offense committed outside the prison while on a work crew or work release. In other words, does "confined" mean actual physical confinement and/or a constructive confinement? The authority is limited to the Carson City district court and would not include an offense committed by, for example, an escaped prisoner in Washoe County. The facility at Jean, Nevada is also excluded by virtue of venue being only in Carson City. In practice, we have construed the authority in the narrowest manner. Lastly, the authority is concurrent with that of the district attorney in Carson City.

(H) Food Stamps

NRS 207.340 provides that the administrator must report unauthorized acquisition, use, etc. of federal food stamps to the attorney general who may "prosecute the violations independently of the power of any district attorney to do so." The referral,

again, may or may not be a condition of prosecution. That a district attorney may prosecute for crimes arising from the unlawful use, possession, etc. of food stamps, e.g. larceny, forgery, does not preclude attorney general prosecution for the crime created within NRS 207.340(2).

(I) Open Meeting Law

NRS 241.040 requires the attorney general to investigate and "prosecute any violation" of the provisions of the chapter. The prosecutorial authority resides exclusively in the attorney general.

(J) Lobbyist Disclosure Act

NRS 218.936 provides that the secretary of state shall report violations of the law to the attorney general "who shall investigate and take any action necessary to carry out "the provisions of the act". It is not clear if "any action" necessarily includes the institution of criminal proceedings, but the broad language could be so construed.

(K) Miscellaneous

1. NRS 613.040 and 613.050 (Employment Practices): prosecution of employers for prohibiting or preventing employees from engaging in politics or running for public office.
2. NRS 607.200, 208.270 and 616.630: require the attorney general to institute criminal proceedings (misdemeanor) against a district attorney who refuses or neglects to enforce labor laws or certain workman's compensation complaints.
3. NRS 638.160 provides that either the district attorney or attorney general "shall prosecute" violations of this chapter governing veterinarians.
4. NRS 645.230 provides that the district attorney shall prosecute unlicensed real estate persons, except that the attorney general must prosecute if requested to do so by the administrator.
5. NRS 425.380 permits attorney general intervention in the event a district attorney fails or refuses to establish paternity or secure dependent child support. Upon intervention in a particular case, the attorney general may exercise all the powers granted the district attorney by law.

SENATE JUDICIARY COMMITTEE

May 22, 1979

FROM: ATTORNEY GENERAL'S OFFICE  
CRIMINAL DIVISION

SUBJECT: SUGGESTED LANGUAGE CHANGES IN A.B. 777

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The following change is proposed to clarify section five (5) of A.B. 777:

5. When acting pursuant to any provision of law allowing or requiring him to act in a criminal matter, [by] after first obtaining leave of the court which [first obtained] has jurisdiction to try the matter, institute criminal proceedings:

(a) By filing a complaint in a justice's or municipal court, where a misdemeanor is charged; or

(b) By filing a complaint and commencing a preliminary examination where a gross misdemeanor or felony is charged and thereafter filing an information in the district court, and may conduct those proceedings.

AMENDMENT TO AB 763

Strike "expected" in Section 1 (1)

Add: The ski area operator shall have an affirmative duty to:

1. Comply with all applicable regulations of the U.S. Forest Service or other local, state or Federal governmental agencies.
2. Comply with all applicable rules or regulations of the National Ski Patrol or similar organization.
3. Prepare and post trail boards at one or more prominent location within each ski area which shall include a list of the inherent risks of skiing, and the limitation on liability of ski area operator as defined in this act.
4. Prepare and provide a plan of action to deal with avalanches and other serious emergencies which may be reasonably anticipated.
5. Train and provide a suitable number of persons to deal with emergency situations.
6. Avoid overcrowding of facilities.
7. Post and maintain signs indicating closed areas or known hazards and the comparative difficulty of designated ski runs.
8. Enforce all applicable safety rules and regulations which he imposes.

A person who engages in the sport of skiing shall not be deemed to have assumed the risks that are inherent in skiing if the ski area operator has failed to comply with the affirmative duties as defined in this act, or has failed to follow known safety procedures, which failure has resulted in death or injury to such person.