

MEMBERS PRESENT: Chairman Stewart
Vice Chairman Sader
Mr. Thompson
Ms. Foley
Mr. Beyer
Mr. Price
Mr. Chaney
Mr. Malone
Mrs. Cafferata
Ms. Ham
Mr. Banner

MEMBERS ABSENT: None

GUESTS PRESENT: Mike Brown, Court Administrator
Nevada Court System
Larry Ryckman, AP
Larry Ketzenberger, LV Metro Police Dept.

The Chairman called the meeting to order at 9:36 a.m. and indicated that he wanted to spend this morning outlining the functions of the various Courts in the State. He asked that the members ask questions and make suggestions during the course of the discussion so that there would be a general understanding of the functions of each of the Courts. The Chairman then introduced Mike Brown, the Court Administrator for the Nevada Court System. He then briefly outlined the agenda for the remainder of the week and asked that members contact any individuals they felt should be present at the hearing of the Constitutional Amendments to be heard on Tuesday. Chairman Stewart also mentioned that Michael DeLa Torre of the Department of Law Enforcement Assistance wanted to make a presentation on Friday, which included a demonstration by the dogs trained to sniff out narcotics.

The Chairman then continued on to his discussion of the Court systems:

JP Courts

JP Courts handle misdemeanors, the penalties for which are 6 months in jail or up to \$500 fine. Some of those misdemeanors are as follows:

Petty Larceny (shoplifting)
Traffic Offenses (outside city boundaries)
Assaults
Prostitution

The second area of jurisdiction is small claims, dealing with amounts under \$750. No attorneys fees can be awarded here.

The next area of jurisdiction is general civil matters which include:

Evictions
All Landlord/Tenant matters
Personal injury
Property damage
All other claims which are under \$750

The fourth area of jurisdiction is felony preliminary hearings.

Mr. Sader explained that when a person is accused of a felony, the first step is an arraignment, which is held before a JP. The purpose of the arraignment is determine whether the individual is accused of a crime. At that point, the individual has the option of having a preliminary hearing. The preliminary hearing is held to determine whether there is probably cause to bind the individual over for the crime allegedly committed. This is the point where technicalities may bring about the dismissal of criminal charges, i.e. Miranda rights, search procedures, etc. If probable cause is found to bind the Defendant over, he is then ready for the trial stage, which is held in District Court.

Mr. Beyer asked what type of records are kept on individuals at the Justice Court level. Mr. Stewart indicated that these are all public records which are kept for quite some time. He indicated that a transcript is kept of all proceedings for appeal purposes. He further indicated that in the case of traffic offenses (convictions), those records were sent to the Department of Motor Vehicles for the purpose of keeping track of points against the drivers licenses.

Municipal Courts

The Municipal Court only has jurisdiction over misdemeanors which occur within the city limits, which include traffic offenses, simple assaults, petty larcenies, etc., all within the city limits; and jurisdiction covers small civil actions such as damage to City property, etc. (mostly suits by the City).

District Court

District Court is the court of general jurisdictions and also the most important court. It handles all the major business in the County. All cases from the JP and Municipal Courts are appealed to the District Court level. An appeal from the Municipal Court is taken through a new trial. An appeal from the JP Court is an appeal on the record. All criminal cases that are bound over at the Municipal Court level, then are tried in the District Court. Most jury trials occur in the District Court. All felonies, gross misdemeanors (battery, conspiracy, possession of controlled substances (prescription)), are referred to the District Court after the Preliminary Hearing or Grand Jury Indictment. District Court also has complete jurisdiction over the various writs and injunctions. Any damage suits over \$750 (contracts, negligence) are filed in District Court.

It was indicated by Mr. Malone that Mel Close conducted a study last session where all fines and sentences were uniformly set and the recommendations were passed.

It was also noted that there are approximately 25 District Judges throughout the state with a request for more.

Nevada Supreme Court

The State Supreme Court takes all appeals from the District Court level.

Mr. Sader clarified that there is a difference between the State Supreme Court and the Federal Court System. He indicated that the Nevada Supreme Court is the Court of last resort unless the Supreme Court's decision is appealed on a Federal Constitutional issue, in which case it would then go to the Federal Courts. This is an occurrence with many criminal cases. Usually, if a civil trial dealing with negligence or contract claims has been determined in the Supreme Court, that is the resting place.

Mr. Stewart indicated that violations of Federal laws are taken through the Federal Courts. Appeals from these courts are taken to the Ninth Circuit in San Francisco and then on to the United States Supreme Court.

Mr. Sader indicated that it is important to keep the two Court systems separate since the Committee would be hearing bills on the Prison System and many of the constitutional issues dealt with are actually in Federal Court.

It was further clarified that in the case of criminal violations which fall under both the jurisdiction of State and Federal Courts, the Federal Court pre-empts the State level. In the event of an act where two different statutes are violated, one at the State and one at the Federal level, the individual would be prosecutable in both areas. In the event the individual is sentenced to ten years for each crime, the sentences can be cumulative, depending upon the ruling of the Judge.

Chairman Stewart then asked Mr. Sader to explain to the Committee members the function of a jury. Mr. Sader stated that there are two decisions made in a court of law: (1) what the law is and (2) what the facts are. The function of the Court (Judge) is to determine the law and the function of the Jury is to determine the facts. In District Court there is an option of whether or not to have a jury trial or a court trial. When an appeal is taken to the Supreme Court, the law is the only thing that is appealed. The jury's function is to decide the facts and apply the law to those facts. Example: In the event a judge overturns a jury verdict, whereupon he finds there was not substantial evidence to find a particular fact, an appeal could be taken to the Supreme Court on the issue of whether there was substantial evidence and the Supreme Court could then overturn the District Judge's decision.

Mr. Stewart asked for questions from the members and then asked Mr. Brown for his comments. Mr. Brown indicated that his office was available for any questions that the Committee might have.

The Chairman recognized Ms. Foley, who asked for a list of the different Judges in the state indicating their jurisdictions. Mr. Brown said that he had a list of those judges available and would send them to the Chairman.

As there was no further business, the meeting was adjourned at 10:15 a.m.

Respectfully submitted,


Joy Ann M. Martin
Committee Stenographer