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

MEMBERS ABSENT: None

GUESTS PRESENT: Don Nomura, Washoe County District Attorney
Mike Cool, City of Las Vegas
Bill Curran, Clark County District Attorney

Chairman Stewart called the meeting to order at 8:05 a.m. and asked first for testimony on AB 403.

AB 403: Removes exemptions from responsibility as accessories to crimes for relatives who harbor offenders.

Don Nomura of the Washoe County District Attorney's office stated that this type of bill has been adopted in the State of California and also under the federal system. It has passed judicial scrutiny and has also faced social comments and not found wanting in that area. Certain problems which arise for prosecution and police enforcement in this area result from difficulty in locating defendants through the harboring by family members. The harm and potential of harm to other members of society is evident. Mr. Nomura related a case where an officer, James Hoff, was killed in a drug buy. During the course of the investigation, it was unknown how many individuals were actually involved and where they were. There were family members of two of the individuals who aided in their escape to out of state areas. There was no way to control that aspect and there were no hammers or sanctions to be held over the family members to compel them to provide the information necessary to gain access to the defendants.

Mr. Nomura felt there is no reason for exempting individuals in the family relationship under the former statute. If there is a problem with a 90 year old grandmother who does something, it can be handled by prosecutorial discretion.

Mrs. Ham asked what the penalty is for being an accessory. Mr. Nomura stated that if the defendant committed a felony, any accessory is liable for a felony offense or 1 to 6 years in prison with a possibility of probation. For a gross misdemeanant, the accessory is a gross misdemeanant as well.

Mr. Sader commented that for an accessory with no record of any kind, the conviction could very likely result in probation rather than prison time. Mr. Nomura agreed that would be the case in a situation of that type. To a question from Mr. Sader, Mr. Nomura stated that when family members decline to speak or provide information, it cuts down on a substantial area of investigation and ability to locate defendants. The cost factors of going around that are horrendous. The potential harm to society as a result of actions by these individuals while on the loose is also horrendous. Families are the first place officers can look to locate fugitives, a large and immediate area currently cut off from law enforcement.

Mr. Chaney asked if this bill would encourage family members to turn their relatives in. Mr. Nomura felt that most people would come forward with information. There followed a great deal of discussion among the committee members about families turning in their relatives, with most of the members feeling that a relative allowing a fugitive to spend the night or a week while attempting to reason with him should not be a criminal offense. Mr. Nomura commented that these considerations would affect the determination by the court or prosecutor on whether or not to bring charges. There were further comments about a mother's inability to turn in her child to the police. The majority of feeling by the committee was that family members should be exempted. There were also arguments in favor of the bill due to the hampering of investigations as a result of family harboring. It was further clarified by Mr. Nomura that whether or not a family member is liable to be charged revolves around the intent of that individual and knowledge that the fugitive is wanted.

Chairman Stewart moved AMEND AB 403 to the effect that a relative having knowledge of the commission of a crime and fugitive status of an individual be a misdemeanor, seconded by Mr. Malone. The motion failed with Mr. Sader, Mr. Stewart and Mr. Malone voting aye, and Mr. Banner being absent for the vote.

Mrs. Cafferata moved INDEFINITELY POSTPONE AB 403, seconded by Mr. Price and carried by a majority vote, Mr. Malone, Mr. Sader and Mr. Stewart voting nay, and Mr. Banner being absent for the vote.

AB 404: Amends various provisions relating to civil commitment of criminal offenders.

Don Nomura stated that the statute subject to AB 404 currently states that those individuals, before convicted of drug related crimes, would have a diversionary program under 458. The 458 program is a civil commitment program for those individuals deemed to be alcohol or drug abuse offenders and where the nature of their offense relates to drug and alcohol abuse and perhaps would not have been committed otherwise. It created a diversionary program prior to conviction, prior to entry of plea, and prior to completion of the formal prosecution and allowed these individuals to go into court approved programs. If they should successfully complete these programs for a period of 18 months or two years, then the prosecution would not go forward. AB 404 affords the diversionary program to the court after conviction but prior to sentencing.

Mr. Nomura stated there are two reasons why this bill is important. There is a difficulty in prosecution. Previously, the hammer over the defendant was that if he did not complete the program successfully, then the state has the ability without the speedy trial problem of coming back on the prosecution after two years and renewing the prosecution. The difficulty in that is that Nevada is a fairly transient state, the location of witnesses, the revitalizing of a prosecution two years after the fact, and a cost factor involved in the location and identification of witnesses involved in the initial prosecution. The prosecution becomes very stale two years down the road and is almost not prosecutable against the individuals who fail the programs. Mr. Nomura continued by saying that he had spoken to members of several of the drug and alcohol programs and specifically the Phoenix program, used extensively in the Northern Nevada area and which has had some success with these types of individuals. They indicated that they do not have a hammer over the offenders except the threat of renewed prosecution by the state. That is of no import whatsoever. They felt they have a better chance of success with these individuals if there is the hammer of a conviction already, with the sentencing being the only outstanding matter.

It is therefore the recommendation that these programs be put into use after conviction and prior to sentencing rather than before conviction.

Mr. Nomura commented that this statute eliminates the DUI crimes from the program and felt that they could be used in concert.

Mr. Price commented that the 458 program is very widely used in Clark County to deal with youngsters arrested for simple possession. They are placed into the program and do not result in a felony record. This was partially why penalties for possession were not lowered.

For clarification to Mr. Price, Mr. Nomura stated that no judgment of conviction is entered until the sentencing takes place. This bill simply eliminates the necessity to reinstitute the prosecution. The sentencing is up to the judge. During the time that an individual is undergoing a treatment program, he is not laboring under a felon situation. The status of the prosecution is ongoing but, because there is no judgment of conviction, they have not been adjudged felons. Until the judge enters judgment on a sentence, there is no conviction on the record.

Mr. Nomura added that there is a statute which provides that after the completion of probation by a defendant and being honorably discharged from probation, a defendant can petition the court for withdrawal of the plea and an entry of not guilty, resulting in the dismissal of the case. Any defendant has that option. This bill simply eliminates the necessity of the prosecution waiting two years.

Miss Foley asked for examples of the types of crimes which would fall under this bill. Mr. Nomura stated these would be property crimes where people are not harmed. Those individuals who commit property crimes as a result of their alcohol or drug abuse are afforded this option so that their problem can be treated, but without expense to prosecution or the proper use of the programs. Miss Foley wanted to know why DUI was excluded from this. Mr. Nomura stated it was his understanding and speaking as an individual that this was done in conjunction with other bills and because the DUI offense is different categorically than property offenses.

Miss Foley felt that drinking and destroying someone's property is a violent crime, but being drunk and driving is simply stupidity and not intentional. It was her feeling that a drunk driver needs a second chance and needs to complete an extensive program.

Mr. Nomura suggested that the DUI bills be read and these bills be conformed to give effect to both. He felt the import of AB 404 is simply to eliminate the "charged with" section and focus on after conviction but before sentencing.

Mr. Sader commented that SB 83 and this statute would be in conflict if the provisions remain the same. If this bill excludes DUI and SB 83 is passed there will be consistency.

Miss Foley pointed out that if SB 83 were not passed and AB 404 were passed, then DUIs could be charged with something and would not have to be convicted before they went to the treatment. Mr. Nomura stated that is incorrect since this statute would be altered in such a fashion that DUI would not fall within these provisions. DUI would simply fall under the existing law.

Mr. Sader suggested that any action on this bill wait until SB 83 has been acted upon.

To Mr. Beyer's question of the success ratio of the 458 program, Mr. Nomura stated that most of them have come back to him for reprosecution after a 6 or 12 month period. In talking with the staff of the Phoenix program, used quite frequently in Northern Nevada, they have better success figures but also stated that their figures and success rate would be substantially higher if they had something to hold over the individuals referred.

To questions from Mr. Sader, Mr. Nomura indicated that there are some judges in Washoe County who accept the filing of the papers and request for the 458 program, but are perhaps summarily denying 458 consideration, thereby complying with the dictates of the statute by going through the process but are not granting that consideration. This is being done because there is the feeling that this gives better treatment to those who can argue drug or alcohol problems than to those who do not have the problem. Others feel that the 458 program does not work unless there is a conviction to use. What the judges are doing and finding more successful is giving a defendant a conviction and making treatment a mandate of probation.

Mr. Sader asked if the 458 program had been used by defense attorneys in an attempt to avoid prosecution and conviction under the DUI statutes. Mr. Nomura agreed it had.

For clarification to Mrs. Cafferata, Mr. Sader pointed out that there is a very important element of crime included in AB 404 even if the DUI offender is excluded. The 458 program came into being on the premise that alcohol and drug abuse seriously contribute or actually cause many crimes, not just DUI. The drug abuser who robs or burgles to feed his expensive habit is a serious problem.

Mr. Malone asked if the 458 has been used in DUI cases. Mr. Nomura indicated it has been used that way.

By way of explanation to Mr. Chaney, Mr. Sader stated that under the current law and under AB 404, it must be found that young drug abusers are indeed drug addicts. Through his experience with clients, Mr. Sader stated that individuals such as NASAC will find that an individual who uses marijuana once or twice a week and socially is an addict.

Bill Curran of the Clark County District Attorney's office felt there was confusion on the possession of narcotics. He stated that the subsection 6 bill enacted a number of years ago to deal with the harshness of the felony classification of possession of a small amount of any kind of drug or narcotic is different than this. There are just not very many cases seen for possession of small amounts of narcotics by anyone. Mr. Curran felt that was because the police are just not arresting those individuals.

AB 404 would apply greatly to an addict who is a professional burglar. Mr. Curran stated there are cases where people commit 30 to 40 burglaries in a one or two day period. Most of those people do not take advantage of this. He alluded to a case where a police officer embezzled about $200,000 worth of cocaine from the police evidence vault and through good representation, his entire prosecution was suspended through this type of program.

Mr. Curran agreed that when a prosecution is reinstituted down the line through time it is difficult since witnesses cannot be reassembled.

AB 422: Extends time for issuance of notice to appear on citation for unlawful parking.

Mike Cool of the City of Las Vegas read EXHIBIT A as his testimony. He added that there are two issues being dealt with, one being the processing time in the City. The City has experienced a problem in an attempt to meet the 20 day deadline in the current statute. There have been some inaccuracies occur in matching the paid and unpaid lists, which have resulted in mailing notices to people who have actually paid their tickets. If more time were taken to correct the computer lists, there would not be that problem. It would also allow more time for the individual to pay his parking citation prior to the issue of any type of warrant.

Miss Foley asked if people were thrown in jail for parking violations. Mr. Cool was not aware of any.

Mr. Cool stated that the parking citation system in Las Vegas is a $500,000 a year revenue producer to the City. Those tickets which go unpaid and exceed the 20 day timeframe without notification to the people, result in outstanding parking ticket revenues which are outside the statutes to collect. He indicated that some people do come in and pay these tickets, but the City is not in a position where they can force them to do that at that point.

Mrs. Cafferata commented that 90 days seems like an awfully long time. Mr. Cool stated that would allow the establishment of a monthly data processing list instead of having to compile one at

the end of every 10 days. 90 days was selected by the data processing people to allow them twice during the 90 days to set up a monthly list. From the first day there are 10 days, 30 days from the 11th day a first list can be sent out. The following 30 days another list will be sent out, still allowing time for mailing to that individual so that they can come in before a bench warrant is issued.

Mrs. Cafferata felt 30 days would be better, commenting that if 180 days were given, it would be put off for 180 days. Mr. Cool did not feel that was the intent but that the time is a technical problem in terms of running the computer lists.

Mr. Stewart asked if 60 days would help. Mr. Cool stated that would still allow them the one month's processing time.

Bill Curran joined in supporting AB 422 and reiterated much of Mr. Cool's comments on the time periods and the enforcement problem after the 20 days has elapsed. He added that the County's largest problem stems from airport parking tickets.

Mr. Malone moved AMEND AB 422 to 60 days, seconded by Miss Foley, and carried unanimously.

Miss Foley moved DO PASS AS AMENDED AB 422, seconded by Mr. Chaney, and carried unanimously.

AB 405: Authorizes magistrates to give oral authorization to peace officers to sign magistrate's name to search warrant.

Don Nomura of the Washoe County District Attorney's office stated that AB 405 was not drafted in accordance with the request. He passed out EXHIBIT B and stated that Sections 1526 and 1528 of the California Penal Code had been submitted to be included in this bill. Only the first portion of Section 1528 was included in the bill. Subsection (b) of both those sections should have been included completely in order for the bill to pass judicial muster and scrutiny. The import of the bill is the telephonic warrant. What is suggested has been adopted and used for the past 8 to 9 years in California and has been scrutinized by the courts as passing constitutional muster. The only real change is that when time is of the essence and distance is of the essence and an officer cannot get to the magistrate for the in-person sworn testimony and having it written down. This allows the use of the telephones, recording and transcribing of the telephone conversations. It is simply a speedier method to effect search warrants during the evening hours and weekends when typists are not avail-

able and great distances are involved.

Mr. Nomura stated that in Washoe County has had a problem because of the size of the county and the fact that there are only 3 justices to be called upon in that area. The distance involved makes it difficult on weekends and evenings to get an officer to the magistrate's house and have the typed or handwritten affidavit and search warrant done prior. He continued by saying that there are times and circumstances when time is of the essence and that the implementation of the warrant needs to be done immediately.

Mr. Nomura commented that all the dictates of the statutes and the 4th Amendment to the Constitution must still be complied with in their entirety. This simply allows a quicker method of doing it.

If the bill is amended to include EXHIBIT B, it requires the magistrate not only to determine probable cause on the affidavit, but also to record that conversation, sworn testimony of the officer, over the phone and subsequently have that transcribed. That will enable defendants, defense attorneys and the courts to judicially scrutinize the affidavit and the information given by the officer to the magistrate so that an independent after the fact determination can be made that probable cause did exist and there was a valid basis to obtain the search warrant.

Mr. Nomura explained that since the peace officer is at the scene, he signs in the magistrate's name and lists it as signing it for the magistrate. Since a search warrant must be an original or duplicate original, this has to be done. The magistrate has the original search warrant, he enters where it is taking place, what is being searched, the nature of what is being sought, the time, date and officer, and files that together with the duplicate original returned to him by the officer upon completion of the search. The officer fills in the identical information on his copy of the warrant.

Mr. Nomura added that this will not be used all the time, but only in certain circumstances such as nights, weekends, or in emergency situations. He stated that the magistrate will do the recording and commented that California has consistently used the three party hook-ups where a district attorney is involved as well to determine that all the requirements of the warrant have been met.

Miss Foley asked how the identity of the speakers on the telephone were going to be determined. Mr. Nomura felt that in light of what has to be turned in after the fact and the nature of identifying the individuals is a logistical problem to be worked out. Miss Foley compared it to ordering a pizza. Mr. Malone commented that all the officers know all the magistrates and have personal communications with them.

Mr. Nomura stated California had not had any problems of this sort and it has been scrutinized by the court system. He added that California's viewing of constitutionality and the requirements of their search warrants are much higher than here.

To a question by Mr. Malone on the crime of an officer signing a warrant without the magistrate's consent, Mr. Nomura stated that the sanctions against signing that public document are already covered in other statutes. What the magistrate is doing along with this is recording the testimony, filing his own search warrant in addition to the officer's, and then having the testimony transcribed. This prohibits an officer from signing a warrant without the ultimate authority.

Mr. Malone referred to EXHIBIT C, a letter from Sheriff Galli. Chairman Stewart commented that he had just read the summary and Mr. Nomura indicated that if he had seen the bill as it had been proposed there would not have been an objection.

Mr. Sader moved AMEND AB 405 in accordance with EXHIBIT B, and re-refer, seconded by Mr. Price, and carried by a majority vote, with Mrs. Cafferata voting nay.

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

Respectfully submitted,

Jo Jan M. Martin
Committee Stenographer

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: April 14, 1981

SUBJECT: AB 403: Removes exemptions from responsibility as accessories to crimes for relatives who harbor offenders.

MOTION:

DO PASS ___ AMEND XX INDEFINITELY POSTPONE ___
RECONSIDER ___

MOVED BY: Stewart SECONDED BY: Malone

AMENDMENT:

Makes the harboring of a relative with knowledge of the commission of a crime a misdemeanor.

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

	MOTION		AMEND		AMEND	
VOTE:	YES	NO	YES	NO	YES	NO
Thompson	___	XX	___	___	___	___
Foley	___	XX	___	___	___	___
Beyer	___	XX	___	___	___	___
Price	___	XX	___	___	___	___
Sader	XX	___	___	___	___	___
Stewart	XX	___	___	___	___	___
Chaney	___	XX	___	___	___	___
Malone	XX	___	___	___	___	___
Cafferata	___	XX	___	___	___	___
Ham	___	XX	___	___	___	___
Banner	ABSENT		___	___	___	___
	___	___	___	___	___	___
TALLY:	3	7	___	___	___	___

ORIGINAL MOTION: Passed _____ Defeated XX Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____
AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF April 14, 1981

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: April 14, 1981

SUBJECT: AB 403: Removes exemptions from responsibility as accessories to crimes for relatives who harbor offenders.

MOTION:

DO PASS ___ AMEND ___ INDEFINITELY POSTPONE XX

RECONSIDER ___

MOVED BY: Cafferata SECONDED BY: Price

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

	MOTION		AMEND		AMEND	
VOTE:	YES	NO	YES	NO	YES	NO
Thompson	XX					
Foley	XX					
Beyer	XX					
Price	XX					
Sader		XX				
Stewart		XX				
Chaney	XX					
Malone		XX				
Cafferata	XX					
Ham	XX					
Banner	ABSENT					
TALLY:	7	3				

ORIGINAL MOTION: Passed XX Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

INDEFINITELY POSTPONED XXX

ATTACHED TO MINUTES OF _____

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: April 14, 1981

SUBJECT: AB 405: Authorizes magistrates to give oral authorization to peace officers to sign magistrate's name to search warrant.

MOTION:

DO PASS ___ AMEND XX INDEFINITELY POSTPONE ___
RECONSIDER ___

MOVED BY: Sader SECONDED BY: Price

AMENDMENT:

Include bracketed portions of EXHIBIT B attached.

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

	MOTION		AMEND		AMEND	
VOTE:	YES	NO	YES	NO	YES	NO
Thompson	XX					
Foley	XX					
Beyer	XX					
Price	XX					
Sader	XX					
Stewart	XX					
Chaney	XX					
Malone	XX					
Cafferata		XX				
Ham	XX					
Banner	XX					
TALLY:	10	1				

ORIGINAL MOTION: Passed XX Defeated ___ Withdrawn ___

AMENDED & PASSED _____ AMENDED & DEFEATED _____
AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF April 14, 1981

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: April 14, 1981

SUBJECT: AB 422: Extends time for issuance of notice to appear on citation for unlawful parking.

MOTION:
DO PASS XX AMEND ___ INDEFINITELY POSTPONE ___
RECONSIDER ___

MOVED BY: Foley SECONDED BY: Chaney

AMENDMENT:

Change time allowed from 90 days to 60 days.

MOVED BY: Malone SECONDED BY: Foley

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

	MOTION		AMEND		AMEND	
VOTE:	YES	NO	YES	NO	YES	NO
Thompson	XX	___	XX			
Foley	XX	___	XX	___	___	___
Beyer	XX	___	XX	___	___	___
Price	XX	___	XX	___	___	___
Sader	XX	___	XX	___	___	___
Stewart	XX	___	XX	___	___	___
Chaney	XX	___	XX	___	___	___
Malone	XX	___	XX	___	___	___
Cafferata	XX	___	XX	___	___	___
Ham	XX	___	XX	___	___	___
Banner	XX	___	XX	___	___	___
TALLY:	11	___	11	___	___	___

ORIGINAL MOTION: Passed ___ Defeated ___ Withdrawn ___

AMENDED & PASSED XX AMENDED & DEFEATED ___

AMENDED & PASSED ___ AMENDED & DEFEATED ___

ATTACHED TO MINUTES OF April 14, 1981

EXHIBIT A

AB 422 is a City sponsored bill.

The City of Las Vegas has been experiencing a problem with our processing of unpaid parking citations. This ~~AB 422~~ 604 is proposed to assist the City by extending the time for the issuance of a notice to appear on a parking citation.

Currently, the City issues approximately 400 parking tickets a day; the person ticketed has ten days in which to pay the $2.00, $4.00 or $10.00 fine, the amount determined by the nature of the parking violation. If the ticket is not paid within the ten days, the fines ~~are~~ can be increased to a maximum of $15.00. If the citation isn't paid within the next 10 days, or 20 days from issue. ~~Currently,~~ NRS ~~the~~ allows the City to issue a bench warrant for ~~a~~ the parking violation ~~only after~~ if:

1. ~~1st~~ A notice to appear concerning the violation is mailed to the person receiving the citation by 1st class mail within 20 days after orginal issue.

and 2. ~~2nd~~ the person does not appear within 20 days after the date of the notice ~~to appear~~.

The problem is that after the original ten days the City allows for payment of the citation, there are only 10 remaining days for the City to generate a "notice to appear" on those citations still unpaid. City records for fiscal year 1979-80 showed that approximately 80% of the tickets are paid within the original ten days. This leaves an average of 80 tickets unpaid for each daily issue of 400 parking citations. This ~~would~~ requires the Cities' Data Processing Department to generate daily listings of unpaid tickets to meet the requirements of ~~the~~ current statute concerning bench warrant - 10 day.

By amending the law to allow 90 days for the processing and mailing of a notice to appear, the City would exercise a more cost-effective approach to parking citations bench warrants; in lieu of ~~daily~~ processing notices, a monthly listing could be compiled, checked for accuracy, paid versus unpaid citations, and mailed to the person ticketed. This would allow for a more orderly and accurate notice system as well as reducing processing costs. It would also allow the violator more time to pay the ticket prior to bench warrant issue. We would appreciate your support on this matter. ~~and~~ I'd be happy to try and answer any questions you may have.

TITLE 12. SPECIAL PROCEEDINGS OF A CRIMINAL NATURE

CHAPTER 3. OF SEARCH WARRANTS

§ 1526. Issuance; examination of complainant and witnesses; taking and subscribing affidavits; transcribed statements in lieu of written affidavit

(a) The magistrate may, before issuing the warrant, examine on oath the person seeking the warrant and any witnesses he may produce, and must take his affidavit or their affidavits in writing, and cause same to be subscribed by the party or parties making same.

(b) In lieu of the written affidavit required in subdivision (a), the magistrate may take an oral statement under oath which shall be recorded and transcribed. The transcribed statement shall be deemed to be an affidavit for the purposes of this chapter. In such cases, the recording of the sworn oral statement and the transcribed statement shall be certified by the magistrate receiving it and shall be filed with the clerk of the court. In the alternative in such cases, the sworn oral statement shall be recorded by a certified court reporter and the transcript of the statement shall be certified by the reporter, after which the magistrate receiving it shall certify the transcript which shall be filed with the clerk of the court.

(Amended by Stats.1972, c. 662, p. 1223, § 1.)

PART 3. OF IMPRISONMENT AND THE DEATH PENALTY

TITLE 1. IMPRISONMENT OF MALE PRISONERS IN STATE PRISONS

CHAPTER 1. ESTABLISHMENT OF STATE PRISONS

§ 2082. Distribution of fingerprints, photographs and descriptions; notice of death: escape, discharge, etc.; additional information to bureau of criminal identification and investigation; expenses

The Director of Corrections shall within 30 days after receiving persons convicted of crime and sentenced to serve terms in the respective prisons under the jurisdiction of the Director of Corrections, except those cases under juvenile court commitment, furnish to the Department of Justice two copies of a report containing the fingerprints, photographs and descriptions, including complete details of marks, scars, deformities or other peculiarities, and a statement of the nature of the offense for which the person is committed. One copy shall be transmitted by the Department of Justice to the Federal Bureau of Investigation. He shall notify the Department of Justice whenever any of such prisoners dies, escapes, is discharged, released on parole, transferred to or returned from a state hospital, taken out to court or returned therefrom, or whose custody is terminated in any other manner. The Director of Corrections may furnish to the De-

recording of the sworn oral statement and the transcribed statement shall be certified by the magistrate receiving it and shall be filed with the clerk of the court.

(Enacted 1872. Amended by Stats.1957, c. 1882, p. 3288, § 1; Stats. 1970, c. 809, p. 1531, § 1.)

Cross References

Depositions, see §§ 686, 864, 870, 1335 to 1345, 1349 to 1362, 2622, 2623; Const. art. 1, § 13.
Probable cause, see Const. art. 1, § 19.

§ 1527. Affidavits; contents

The affidavit or affidavits must set forth the facts tending to establish the grounds of the application, or probable cause for believing that they exist.

(Enacted 1872. Amended by Stats.1957, c. 1883, p. 3288, § 1.)

Cross References

Probable cause, see Const. art. 1, § 19.

§ 1528. Issuance; magistrate satisfied as to grounds; formalities; command; duplicate original warrant

(a) If the magistrate is thereupon satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, he must issue a search warrant, signed by him with his name of office, to a peace officer in his county, commanding him forthwith to search the person or place named, for the property or things specified, and to retain such property or things in his custody subject to order of the court as provided by Section 1536.

(b) The magistrate may orally authorize a peace officer to sign the magistrate's name on a duplicate original warrant. A duplicate original warrant shall be deemed to be a search warrant for the purposes of this chapter, and it shall be returned to the magistrate as provided for in Section 1537. In such cases, the magistrate shall enter on the face of the original warrant the exact time of the issuance of the warrant and shall sign and file the original warrant and the duplicate original warrant with the clerk of the court as provided for in Section 1541.

(Enacted 1872. Amended by Stats.1957, c. 1885, p. 3289, § 1; Stats. 1970, c. 809, p. 1531, § 2.)

Cross References

Form of warrant, see § 1529.
Search warrant issued only on probable cause, see Const. art. 1, § 19.

EXHIBIT C

WASHOE COUNTY SHERIFF'S DEPARTMENT

P. O. Box 2915
RENO, NEVADA 89505
Phone: (Area 702) 785-6220

ROBERT J. GALLI
SHERIFF

VINCENT G. SWINNEY
UNDERSHERIFF

LORNE E. BUTNER
CHIEF, OPERATIONAL SERVICE BUREAU

BERNARD R. DEHL
CHIEF, ADMINISTRATIVE SERVICE BUREAU

MILLS B. LANE
CHIEF, INVESTIGATIVE SERVICE BUREAU

April 2, 1981

Janson F. Stewart, Chairman
Assembly Judiciary Committee
NEVADA STATE LEGISLATURE
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Re: A.B. 405

Dear Mr. Stewart:

While this office, and of course myself, personally, is very concerned and appreciative of legislation which supports law enforcement, I feel obliged to give a negative comment on the above referenced bill.

In my opinion this bill presents the opportunity for abuse. Historically, the peace officer has always stood before the Magistrate, affirmed his Affadavit, and having done so in the Magistrate's presence, the Magistrate would then either order the warrant to issue or refuse its issuance. This procedure allows the Magistrate to observe the officer and be fully aware of the Affadavit, as well as be able to examine the officer regarding the Affadavit.

Subsection 2 of Section 1 in A.B. 405 does away with that procedure completely, and in my judgment, it is unwise. There is also the possibility that an overzealous officer could sign the Magistrate's name on a warrant when in fact no such authority had been obtained.

I feel this is a piece of legislation which may do more harm than good.

Sincerely yours,

Robert J. Galli

ROBERT J. GALLI, SHERIFF *

RJG:NSM