

SUBCOMMITTEE MEMBERS PRESENT:

Chairman Stewart (Judiciary)
Chairman Price (Transportation)
Mrs. Ham
Mrs. Cafferata
Mr. Thompson
Mr. Malone
Mr. Chaney

MEMBERS ABSENT: None

GUESTS PRESENT:

Frank Anderson
Joan Anderson
Jack Cannon, Court Referral Services
Cindy Jones, Pro Family Coalition
Robert Jones
Debra Cascio
Arden Stumpf
Guy Hobbs, Clark County Manager's Office
David D. Doyle, Certified Substance Abuse Counselor
Dean Friedli
Ellen Doyle
Janet Stumpf
Frank Janise, Las Vegas Metro Police Department
Helen Norman
Seymore H. Brown, Las Vegas Municipal Court Judge
Bill Middleton
Florence McClure
William Walton
Frank Anderson
Bob Volin
Joan Anderson

Chairman Price called the subcommittee to order at 1:07 p.m. and explained to the guests present the bills to be discussed. He then introduced the subcommittee members present and asked for testimony on the bills.

SB 83: Increases punishment for driving under influence of intoxicants.

AB 67: Increases penalties for driving while under influence of intoxicating liquor or controlled substance.

AB 421: Requires impoundment of vehicle when person arrested for driving while intoxicated.

Jack Cannon of Court Referral Services addressed first the mandated alcohol education course for the first offender. One of the things seen locally and nationwide is that without some form of education, classification and referral to treatment for first offense DUI offenders, rehabilitation has not been actively addressed. Mr. Cannon stated that his program gets 1 out of 14 DUI offenders charged in Clark County.

Mr. Cannon next spoke to the treatment election, favoring that personally and professionally. He expressed concern and stated that if someone is first charged, first convicted and first deals with DUI, his chances of ever being picked up again are 1 in 500 nationwide. That takes into consideration low traffic density. For areas such as Las Vegas and Reno, that figure goes to 1 in 1,000, assuming the behavior continues. This indicates the need for increased enforcement as well as education and treatment. He stated that he sincerely hoped that the amendment process does not sabotage an extremely vital part of SB 83. It is absolutely essential that these people learn what they are doing, learn what they have done, learn the social, psychological, physiological effects of their behavior and make some concrete assisted attempt to solve their problems.

To a question from Mr. Malone, Mr. Cannon stated that through the studies done since 1973, in the East, the chances of being re-arrested were about 1 in 300, with the chances going down as you move west, with California indicating a 1 in 500 chance. The 1 in 1,000 figure applies to heavily congested areas with the indication that enforcement has more effect in the rural areas since it is not stretched so thinly as in congested areas.

To Mr. Chaney's question, Mr. Cannon stated that about 1 in 3 of the 14 offenders mentioned previously are repeat offenders. The vast majority of the others have their charges reduced, plea bargained or dropped. Some people elect to pay the fine. The people who should be treated are not being referred for treatment because of the courts' backlog, plea bargaining and the irresponsible approach to dealing with drunken driving. They are not being convicted of drunk driving either. He felt one of the good qualities of SB 83 is the limitation on judicial and prosecutorial discretion.

To Mr. Sader's question on which courts Mr. Cannon receives his referrals from, he responded they come from the justice courts.

Cindy Jones, representing the Pro Family Coalition of Southern Nevada, stated that Pro Family is an organization which deals with the issues that affect the family and is very strongly in favor of the subject bills.

Ms. Jones stated that she was raised in a family of drunk drivers and had spent many hours in the back seat of a car driven by a drunk driver. She felt herself fortunate for never having been in an accident as a result. She felt that had her father been arrested for DUI, her life would have been more important than the loss of income to the family.

To complaints by judges about the loss of discretion through SB 83, Ms. Jones stated that if the judges had been using their discretion to protect the community, the community would not need to protect itself by removing the judges' discretion. She referred to a traffic court she had attended in which there were 10 drunk driving cases, with 9 of them being dismissed. She further felt that if the social drinker were to know that he would lose his license for driving while drunk, he would be more inclined to call a sober friend or a cab. She added that an alcoholic has no business with a driver's license.

Debra Cascio stated her sister of 20 years was killed and her brother severely injured in an accident caused by a drunk driver. She supported SB 83 and referred to the inconvenience to the courts and drunk drivers as reported in the Review Journal recently. She felt the inconvenience to victims and their families needed to be considered and felt the courts and drunk drivers needed a little inconvenience and embarrassment.

David Doyle, a certified substance abuse counselor, stated he does not represent Reality House, but works there. Reality House is a rehabilitation facility for people with alcohol problems. At Reality House, incorporated in the program are 8 one hour DUI sessions per week.

Mr. Doyle referred to the portion of the bill which requires a person to be certified as chemically cured and stated that a person cannot be certified chemically cured because there is no cure for alcoholism and you have to rely upon the word of the individual that he will not drink again or use drugs.

Mr. Doyle commented about a moving violation he received, at which time he elected to take a one day driver's course. He suggested that before an individual is issued a driver's license and upon each renewal of the license, he should be required to attend the driver's course. He felt the course very enlightening with an excellent DUI portion.

Mr. Doyle felt that most drunk drivers are not alcoholics, but the average social drinker. After two ounces of alcohol are consumed, the person's decisions are not rationally made, including the decision to drive.

Mr. Doyle expressed 100% support of educational programs and rehabilitation facilities being mandated in SB 83, but expressed concern over the lack of funding which may result from the budget cuts. It was his opinion that education is the only thing which will keep the drunk driver and drug abuser off the road, and jail will not. He further agreed with the mandatory work requirement, feeling that taking a person's free time away would hurt him more than two days in jail and a fine.

Chairman Price commented that the bill does not require certification that a person is chemically cured, but that he successfully complete a program and go back to the court for review. Mrs. Cafferata pointed out the portion of the bill which talks about certifying an individual to be an alcoholic. Mr. Doyle stated that it is literally impossible to certify an individual an alcoholic, even by a professional. The manual lists alcoholic symptoms, but a professional cannot certify someone an alcoholic; he must certify himself. If a person has been convicted of a third drunk driving charge, Mr. Doyle felt he would have a serious drinking problem and probably be an alcoholic. A professional would be able to state an opinion to that effect, but would not be able to make a certification.

Mr. Doyle asked how SB 83 would affect the tourists. Mr. Stewart stated that tourists would be subject to our laws as with any other offense. With reference to the work requirement, it has been suggested that there be an alternative: allow the judge to order 48 hours of work; allow the judge to require jail for 72 hours; allow the judge to work with the other state with reference to revoking the driver's license.

Mr. Doyle further recommended that plea bargaining be eliminated, commenting that if a person is guilty of drunk driving, he should be convicted of drunk driving and not reckless driving.

Jack Cannon testified again and agreed with Mr. Doyle that a person cannot be certified as an alcoholic by anyone other than himself. A professional can report the behavior of an individual and subject him to all the testing, but it still does not provide a defacto definition of an alcoholic or drug addict. By the same token, there is no concrete indicator of success in treatment, although there are obvious indicators of failure such as recidivism. He also agreed with Mr. Doyle's opinion that we are not dealing with the alcoholic, but with the social and pre-problem drinker. Because of this, he emphasized the mandatory education and treatment.

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Mr. Stewart asked how it is determined that a person has successfully completed a treatment program. Mr. Cannon stated that the only thing that can be done is to report indications of progress and a prognosis. There are verifiable indications through attendance, an individual's attitude and ability to comprehend, but there is no way to say he is cured.

Frank Janise stated that he has been a police officer in the city and county for 13 years. In the last 6 years he has been involved in accident investigation and traffic enforcement. He stated that there are 55 traffic officers on the Metropolitan Police Department, spread out three shifts, which amounts to about 9 or 10 men to a shift to cover the entire Clark County area. On the graveyard shift, probably 80% of the traffic accidents involve at least one drinking driver. On the swing shift, the percentage of accidents involving drinking drivers increases after the sun goes down. He referred to his knowledge of several persons still driving with valid drivers licenses who have been repeated offenders on DUI more than 3 or 4 times. He next recited a couple of examples of accidents resulting from previous DUI offenders, driving on revoked licenses or still having a drivers license after 10 DUI arrests.

Mr. Janise felt that there should be more teeth in the law with regard to what the courts can and cannot do. He agreed with mandatory provisions that the courts must comply with in dealing with DUI offenders. He commented that the DUI offenders he deals with regularly are hard core drinkers and are people whose charges are being reduced and who are not getting the education they need.

With reference to tourists involved in drunk driving accidents, Mr. Janise commented that these are a very low percentage and their involvement in accidents stems mainly with being unfamiliar with the traffic and streets.

It was Mr. Janise's opinion that punishment in the form of a fine and/or work is just as much a deterrent as education and would at least make a lot of the people think twice before repeating the offense.

Seymore Brown, Chief Judge, Municipal Court, City of Las Vegas, stated that he was a police officer for the Las Vegas police department for 14 years, and is a licensed marriage counselor. Judge Brown stated that there is a problem nationwide with drinking since it is socially accepted and cocktails are served at almost every function. He also agreed that DUI charges are being reduced and dismissed, particularly when the blood alcohol level is below .10. He suggested incorporating the offense used in other states which deals with the blood alcohol level between .05 and .10. This would enable the court to at least

put the individual in this category through an educational program. He suggested adding a probationary period to this as well.

Judge Brown continued by saying he supports SB 83, but that it should be amended. He referred to the 40 hours of labor, pointing out that this will need to be supervised and the result of an injury or death during the work period. He commented that there will be an impact on local government and funding will be needed for detox centers, education and hard core counseling.

Mr. Stewart asked Judge Brown if instituting the offense between reckless driving and DUI, where the blood alcohol level is between .05 and .10, would be used by the judges as a means of reducing the charges. Judge Brown felt it could be used that way, but didn't know if it in fact would be. He felt that someone age 40, 50 or 18 who is stopped for DUI, goes through a 6 month or one year program, should have his charge dismissed. If, after that, he is picked up again, he should be dealt with harshly.

Judge Brown continued by commenting that if there is going to be a jail penalty mandated, that penalty should apply to everyone. He did not agree with that jail time being served on weekends due to the problems of threats by full time inmates to those coming in only on weekends.

Mr. Stewart next read some statistics which showed that out of all the municipal courts - 350 DUI cases, 145 were reduced to a lesser charge. Judge Brown commented that Judge Foley had ordered that people be kept out of jail if possible, therefore necessitating fines and/or treatment programs.

Chairman Price asked Judge Brown how he felt about putting the pictures of convicted DUI offenders in the papers at their own expense. Judge Brown agreed it would be effective if it would pertain to everyone.

Bill Middleton stated that the country is saturated with alcoholism and had supported a bill that would tax alcohol with the money going to rehabilitation. He stated that he supported vehicle impoundment, but felt that once the vehicle is impounded there should be some way of preventing the individual from licensing a subsequent car or borrowing a car.

William Walton stated that his daughter was killed and two of his other children hurt badly in an accident. He commented from experience that he knew all about drinking, driving, and what goes on in the mind of a drunk. He felt that there was not enough discipline and the first offender should be fined \$500 and put in jail for 30 days.

Mr. Walton continued with remarks to the judiciary and the fact that they should be concerned with enforcing the laws and imposing the penalties without concern for the costs involved. He recited his actions when convicted of DUI on several different occasions and stated that the only effect can be achieved by a heavy fine and having his car impounded.

Frank Anderson testified next and stated that his daughter and two of her friends were killed by a drunk driver. He favored SB 83 and commented that he personally felt it should be a harsher bill. The accident in which his daughter was killed took place a year and a half ago, it was a quite well proven case against the man who kept delaying the trial through a number of tactics such as changing attorneys and failing to appear, and through the loss of witnesses the District Attorney felt the best they could achieve would be to plea bargain the case to one count of DUI. He was sentenced to 3 years in jail. A newspaper account appears in EXHIBIT A.

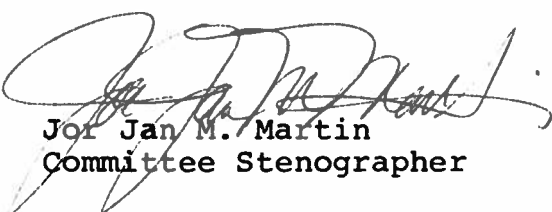
Bob Volin testified and commented that there are not enough officers to supervise, apprehend and enforce SB 83. He felt that Section 3, which is being deleted from the bill, should be left in to give more teeth to the bill.

Joan Anderson testified next and stated that she had spent time in the back seat of a car as a teenager with a drunk at the wheel. She stated she is a student at the University in the nursing program. She referred to information given by a speaker at the University who stated that there is only about a 2% success ratio with people referred for alcohol treatment by the court system. She suggested that a good educational tool might be to involve the people in EMT training, where they would have a chance to ride in an ambulance and be in the emergency room for several hours.

David Doyle came forward again and spoke in support of the bill, commenting that the bill is intended to deal with all individuals who drink and drive and not just alcoholics.

Since there was no further testimony, Chairman Price concluded the hearing at 3:02 p.m.

Respectfully submitted,



Jor Jan M. Martin
Committee Stenographer

ASSEMBLY JUDICIARY COMMITTEE

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DATE: 4/26/81

GUEST LIST

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL NO.
Frankie Anderson	self			
Jean Anderson	self.	X		
JACK CANNON	COURT REFERRAL SERVICES			
Cindy JONES	PRO FAMILY COALITION	✓		
Robert Jones				
DEBRA CASCIO	self	✓		
Arden STUMP	Self	✓		
Guy Hobbs	Clark County Managers Off.			
David D. Doyle	Critical Substance Abuse Comm.		X	
Dean Fucelli	Self			
Ellen Boyle	Self.			
Janet Stump				
FRANK JANISE	SELF - TRAFFIC LUMP			
John Zelman	Self			

Three Men Draw Prison Terms

A Las Vegas man was sentenced Friday in District Court to two concurrent life prison terms, with the possibility of parole, for murdering his girlfriend and their landlord.

Ray Rosasco, 43, of 6861 Mesquite Ave., was given the terms by District Court Judge Michael Wendell.

Rosasco pleaded guilty to first-degree murder in the slaying last July 4 of Joan Evans, 25, and second-degree murder in the killing of Raymond Coopersmith, 50. Each victim was shot twice in the head.

"This was a cold-blooded killing — both victims were seated in chairs

and there was no sign of a struggle," Deputy District Attorney John Redlein said.

Deputy Public Defender Terry Jackson said that the slaying of Evans climaxed a long feud but that of Coopersmith was not intended and "happened in the heat of passion."

Police said the trio had argued over plans to kidnap the wife of auto dealer Fletcher Jones and hold her for \$2 million ransom. They also said Rosasco was jealous of his girlfriend's attention to his friend, Coopersmith, whose home they shared.

Rosasco will be eligible for parole

after serving 10 years.

Also sentenced by Wendell was Robert F. Jones Jr., 23, of 45 Armstrong Circle, Henderson, who was handed a three-year prison term for causing the deaths of three persons in an auto accident.

Jones, a concrete finisher, pleaded guilty to one charge of felony drunk driving in exchange for dismissal of two similar charges and one of leaving the scene of an accident.

He admitted being the driver of a Ford Mustang that smashed head-on into a Volkswagen on the Salt Lake Highway four miles north of

North Las Vegas on Sept. 29, 1979, killing Chante Hamel, 15, Bonnie Anderson, 17, and Mark Rodgers, 19, who were in the smaller car.

Police said he had a blood alcohol count of .188 some three hours after the accident. Blood tests on the dead persons showed no alcohol nor drugs.

Deputy Redlein urged imposition of a maximum six-year term. He noted Jones had five speeding citations prior to the accident and three since.

"These three kids were killed, but this individual hasn't come to terms with himself," Redlein said.

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inmate in ground.

Wrong Way' Dr

A California man who admitted driving a wrong-way car that killed a man in another car on the freeway was placed on probation Monday in District Court for three years and fined \$3,000.

Burton William Shaw Jr., 54, of Long Beach, was given the suspended six-year jail sentence by District Court Judge Tom O'Donnell.

Shaw pleaded guilty to

involuntary manslaughter the death last Aug.

Richard Charles Walk.

Police said Shaw drove the wrong lanes of the way for 12 miles before accident.

They said he had a blood alcohol count of .030.

One of the conditions of his probation is that he refrain from the use of alcohol.

The mother of the dead man was upset over the sen