

Library

JUDICIARY MEMBERS PRESENT:

Chairman Stewart
Vice Chairman Sader
Mr. Chaney
Miss Foley
Mr. Price
Mr. Thompson
Mr. Beyer
Mrs. Cafferata
Mrs. Ham
Mr. Malone

TRANSPORTATION MEMBERS PRESENT:

Chairman Price
Mr. Glover
Mr. Polish
Mr. Schofield
Mrs. Westall
Mr. Beyer
Mr. DuBois
Mr. Prengaman

MEMBERS ABSENT: Mr. Banner

GUESTS PRESENT: See attached Guest List (EXHIBIT A)

Chairman Stewart called the meeting to order at 7:10 p.m. and explained to the guests present that this is a concurrent referral of these bills to the two committees present.

Chairman Price explained that occasionally when a bill comes through, it appears to have a subject matter that should be considered by more than one of the 13 committees, at which time the bill is concurrently referred. In the particular case of these bills, when they were first introduced on the Floor, they were first referred to the Assembly Transportation Committee and after that committee takes an affirmative action, they will be referred to the Assembly Judiciary Committee.

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

Senator Cliff McCorkle began with the showing of a film entitled "Until I Get Caught", produced and funded by a New York State Senator whose daughter was killed in a DUI accident and became quite involved with the movement. New York State now has one of the toughest laws in the country.

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Senator McCorkle next referred to EXHIBIT B and reviewed the information contained therein page by page. He explained that the picture entitled "Fatal Collision" was taken from the Nevada Appeal where he personally became involved up until the accident. He had been supporting people for their personal reasons and, coincidentally, in the middle of the campaign for this effort, Gene Pieretti, a member of the Legislative Counsel Bureau, and his son were killed by a drunk who had a revoked license from a previous DUI. He next read the Samples of Nevada Victims and Results of Cases section of EXHIBIT B and stated that this page illustrates the current imbalance of justice, adding that we currently have penalties which are far less severe than the severity of the crime.

Senator McCorkle next explained that the substance of SB 83 begins on page 2, line 33, making the penalty for a first offense 40 hours of manual labor, 90 day loss of license and a mandatory alcohol education course paid for by the offender. At line 44, if the driver has a revoked license and is caught driving with a revoked or suspended license, it is 30 days in jail. One of the problems found is that people tend to flaunt the loss of a license.

Lines 49 and 50 are a major amendment which resulted from criticism from people who felt that people with physical limitations, elderly people, could not perform manual labor. They also felt that requiring the local judicial jurisdictions to impose a work program was too restricted, so the language in the amendment allows the court to specify the type of work and take into consideration the circumstances of the offender.

At page 3, on the second offense, 15 days in jail minimum, \$1,000 minimum fine, 6 months loss of license. One line 13, it specifies treatment for alcoholism. On any offense, first, second or third, the offender can select to choose, if he is determined by a physician or a drug abuse counselor, certified for the purpose of determining alcoholism, a treatment program and receive no penalty under the law except a loss of license until he completes the treatment program. If he is caught driving after choosing treatment and with a suspended or revoked license, it is a one year jail sentence, the same as a felony.

At page 3, line 40, no plea bargaining, no suspension of sentence, no reduction of sentence is allowed.

Page 4, starting at line 20, provides that on a third offense or an offense where bodily injury occurs to the victim the crime is a felony. On the third offense, even if there is no bodily injury, it is a felony. If someone is hurt, even on a first offense, it is a felony with one year in jail and a \$2,000 to \$5,000 fine.

Due to the concern with overcrowding the prison system and putting a first-time offender in jail, at lines 22-25 on page 4 it states that "a person so imprisoned must be segregated insofar as practicable from offenders whose crimes were violent and must be assigned to an institution of minimum security or as space is available to an honor camp or similar facility." At line 26, on a first offense, the judge may suspend a sentence, but if he does so, there is a \$5,000 fine payable to the victim and a permanent loss of driving privileges.

The balance of the bill, Section 4, deals with the implied consent laws. Currently, if someone refuses to take an alcohol field test, they automatically receive a 6 month loss of license. That is a lesser penalty than a second offense currently. Therefore, the penalty needs to be stiffened if someone refuses to take the test and it has been increased to a one year loss of license.

Senator McCorkle referred the committee's attention to the language at page 3, line 16, paragraphs (a) and (b), where it says that the court shall sentence the violator to undergo specified treatment for alcoholism if he is determined to be an alcoholic by a licensed physician and drug abuse if he is determined to be a drug abuser. The intent is not to allow only a physician to determine alcoholism and a drug abuse counselor to certify drug abuse. He proposed an amendment beginning at line 16 to read "For alcoholism or drug abuse, if he is determined to be an alcoholic or drug abuser by a licensed physician or drug abuse counselor certified for that purpose by . . ." so that a physician may certify either alcoholism or drug abuse and a drug abuse counselor may certify either alcoholism or drug abuse.

To a question by Chairman Price, Senator McCorkle stated that the language reads "certified for that purpose". Not any drug abuse counselor can certify alcoholism. It would be too easy for an offender to simply pay someone off and choose alcoholism treatment rather than a third offense which would be a felony and a year in jail. Only those people certified to determine alcoholism, a physician or drug abuse counselor certified for the purpose of determining alcoholism for this purpose can do so, limiting the number of qualified people.

To Chairman Stewart's question, Senator McCorkle stated that on a first offense, an alcohol education program, which is a course only, is required. A treatment program is far more extensive and that is an option on any offense.

To questions from Mr. Sader, Senator McCorkle stated an offender must first plead guilty and then begin treatment or be convicted. An offender can avoid a sentence and a mandatory jail term by successfully completing the program.

Mr. Sader asked Senator McCorkle to explain the amendments that had been made by the Senate. Senator McCorkle stated there were three or four major amendments. On line 41 of page 2, the language ". . . and not to allow him any limited driving privileges unless his ability to drive to and from work or in the course of his work would cause extreme hardship or prevent his earning a living. . ." was done as a result of testimony from labor, which felt that some people such as taxi drivers, policemen, firemen, who drive as part of their work would be put out of a job. Also, in the rural areas of the state, it becomes more than an inconvenience where people drive many miles to mines and cannot catch a ride with someone. It was felt that there are some circumstances only on a first offense, only if it causes extreme hardship, that limited driving privileges would be granted.

The language on the certification of alcoholism was also changed as previously explained.

The last major amendment was that on a first offense, with bodily injury, the judge may suspend. The circumstances were described where there might be a minor bodily injury, such as a broken arm, by a woman who has never been drunk before at the .1 level and then be put in the state prison as a felon. It was felt this would be unjust and there should be discretion under those circumstances. Also, there could have been a circumstance where someone with a .1 blood level could have been involved in an accident caused by someone else and because bodily injury or physical damage was caused, they would be mandatorily put in prison.

Mr. Sader commented that with regard to the alcohol treatment program on page 3 he did not see a provision for the sentence being suspended or dropped upon successful completion of the course. It was his understanding that was the intent. Senator McCorkle stated that on page 3, line 24, if the violator does not satisfactorily complete the treatment, he must be sentenced according to subsection 346 of the program. It is the intent that if the treatment is successfully completed and so certified, the sentence will not be imposed.

At the top of page 3, lines 1 and 2, Mr. Sader asked what happens if a violation occurs 4 years after the first offense. Senator McCorkle stated that if someone has a first offense and 4 years elapse, the next offense becomes the first offense. Mr. Sader commented that the language should be clarified somewhat. Senator McCorkle stated that Frank Daykin had explained that it was automatically understood. He added that was an amendment

to the original and explained the situation of a man whose second offense was 40 years ago and it seemed absurd to make him a felon if he got a third offense at this point.

Mr. Sader asked if there was a reason why the compulsory time served should be physical as opposed to simply mandatory time. He felt that the term "physical labor" contemplated actual manual labor. Senator McCorkle stated that was not particularly the intent and felt there should be an alternative of community service.

Mr. Sader commented he had attended some of the Senate hearings on SB 83 and was in favor of the bill, but was concerned about the gross misdemeanor on the second offense. Senator McCorkle stated gross misdemeanor was specifically chosen knowing that would cause the case to go directly to district court, knowing that would impact the district courts, but doing so because it was felt that in many cases the second offense would be appealed from the justice court to the district court anyway.

Mr. Sader suggested the possibility of making that second offense a misdemeanor but keeping the penalties just as stringent, feeling it would still remain within the original concept of the bill. Senator McCorkle stated that Senator Bilbray who used to be a municipal judge recommended district court, feeling that was the place to take it. Mr. Sader was concerned that elevating the second offense to the level of a gross misdemeanor, it might become the type of offense in which a defense attorney can always ask for a jury trial, which causes a lot of delay, problems and tremendous court costs for the state. The Senator stated the intent is to minimize the ability or tendency of an offender to appeal.

Mrs. Westall asked how this could remain a misdemeanor and keep the penalties as strict. Mr. Sader stated that the penalties in the bill now are 15 days but no more than 6 months in the county jail, a fine of not less than \$1,000 and not less than 6 months suspended license. He indicated that the only thing that could not be done in justice or municipal court is to fine \$1,000 at this point, but the time in jail could be increased to accommodate that. Senator McCorkle felt that a misdemeanor would allow a \$1,000 fine, but that prison or jail time would be limited. Mr. Malone clarified that the maximum misdemeanor penalty is \$500 or 6 months in jail.

Mr. Sader read a letter from the Court Administrator in Reno on the standard sentence practices in Reno and commented that it did not follow his understanding of the current practices.
(EXHIBIT C)

Senator McCorkle felt that the severity of sentencing in Reno is dramatically higher than the balance of the state.

Chairman Price asked the Senator if the time limit on the DUI convictions starts to run at the time of the accident or at the time of the sentencing. Senator McCorkle stated the time starts to run at the time of conviction. Mr. Sader stated that time spent incarcerated prior to the conviction is always credited to the sentence. Mr. Price then asked about an offender serving 30 days in jail prior to being released from jail, with a conviction not being made until 6 months later. Senator McCorkle stated that was addressed and was concerned about having someone appeal if the time limit is based upon a conviction. A conviction on an appeal could fall beyond three years, reducing the severity of the offense, i.e. making it a second offense rather than a third offense due to the number of years between convictions. He suggested that perhaps the time should start to run on the occurrence of the accident. Mr. Price agreed. Mr. Sader commented that there could be the potential for abuse here as in the case of driving under the influence and having a license revoked if the offenses occur within a two year period.

Mr. Price suggested a further provision to deal with the license being suspended immediately upon arrest. Mr. Sader commented that there is a constitutional problem with that since a person is innocent until proven guilty. The license can be taken for refusing to take a field sobriety test, which falls under the implied consent law.

Mr. DuBois addressed the language at page 4, line 33, whereby probation could be granted to an individual whose license will be revoked forever and also will pay a \$5,000 fine. He felt that a convenient fine for people who can afford to pay the \$5,000 and a chauffeur. Senator McCorkle stated that the intent was to keep that person, in a limited number of circumstances, out of prison, but to impose such severe penalties that it would continue to serve as a deterrent when someone is injured or killed.

Mr. Beyer asked about a statute providing at what level an individual is "under the influence". Chairman Stewart stated that the statute provides that .1 is the presumption and .05 does not give rise to the presumption, but may be considered by the court. Mr. Beyer asked who determines whether an individual is under the influence. Senator McCorkle stated the test is the principal evidence and will specify the blood alcohol. The test may be a field test or a chemical test in the police department.

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Mr. Schofield asked about page 4, lines 34 through 37, commenting that it appeared to him that there would be quite a question on the extent of injury in the event of an accident. Senator McCorkle stated that he did not think "bodily injury" is defined anywhere in the statutes and the bill had been amended to leave the extent of injury to the discretion of the judge with regard to a fine of \$5,000. It was added by both Mrs. Cafferata and Mr. Malone that the language says "substantial bodily injury", which is defined by law. Mr. Sader explained that a major bone must be broken to have substantial bodily injury.

Mr. Prengaman asked how an individual is prosecuted who, at page 4, line 33, has his license permanently revoked, pays the \$5,000 fine and then gets cited again for DUI. Senator McCorkle stated that was not dealt with and was an oversight. He suggested a penalty be proposed for that instance.

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.

Chairman Price stated that during the last session of the Legislature ACR 89 was passed, which provided for the interim study of motor vehicle insurance rates and grading practices. The committee consisted of Senator Hernstadt, vice chairman, Assemblymen Bremner and Barengo, Assemblyman Westall and Assemblyman Polish, and Assemblyman Fitzpatrick and Mr. Price as chairman. Hearings were held throughout the state, primarily addressing the problem of insurance rates and rating practices. During those hearings, some held in Reno, it was determined that the problem of DUI in Nevada would certainly have a negative impact on automobile insurance rates. As a result, there was a piece of legislation as well as a resolution proposed. He added that some of the figures already given at this meeting were compiled by that committee.

The committee felt that if the court system were imposing the types of fines and sentences currently available to them today, it would certainly have some impact on the problem. Mr. Price pointed out that in North Las Vegas a new municipal judge was elected two years ago who has made it a practice to deal stiff penalties for DUI convictions and, as a result, the state coffers have been enhanced and the DUI is at a very low rate.

Mr. Price continued by saying that after much discussion and recommendations, the considerations were narrowed down to five things: Mandatory fines for first time offenders; mandatory jail sentences for repeat offenders; lowering the alcohol blood rate which makes the presumption of being under the influence; redefining and increasing the reporting requirements for disposition in alcohol related offenses; providing stronger referral requirements to driving schools and treatment programs. The result of these considerations is the very simple bill, AB 67, sponsored by members of that sub-committee. In the final analysis, it was provided that upon conviction, the offender shall be punished by a fine of \$500 and may be punished further by another 6 months jail time.

During the course of the sub-committee hearings there was extensive testimony and, in conjunction with the legal counsel, Mr. Price discussed the possibility of confiscating the automobile. The legal counsel indicated that was done with aircraft in the case of narcotics. Upon reading that a judge was confiscating automobiles in Sacramento, California, Mr. Price had the bill drafted and introduced in the form of AB 421.

Miss Foley asked if it was the intent of AB 67 that the judge could not sentence an offender to 6 months in jail without first fining him \$500. Mr. Price agreed that was the intent and commented that it was his feeling that if enough monetary damage could be imposed to these people, it would achieve results.

To AB 421, Miss Foley commented she would be upset if someone borrowed her car and had it impounded as a result of a DUI. Mr. Price responded by saying that people would be much more careful about who they loan their cars to, such as their children. Mr. Thompson raised the question of a cab company or truck company which had a vehicle impounded as a result of one of their drivers being picked up. He felt there should be a provision for those dependent upon the vehicle to make a living. Mr. Price agreed that would have to be addressed.

Mr. Malone commented that there are people who could pay a \$500 fine with no inconvenience to themselves.

To the continued arguments about clogging up the court system, Mr. Beyer commented that the intent of the legislation is to keep the drunk drivers off the road and if they're continually being arrested and put in jail, then that intent is not being accomplished.

Mr. DuBois asked what the success rate in California has been with the impounding of vehicles. Mr. Price stated that there is a task force dealing with the problem of DUI, and there is just one judge who is using it. He added that there are some provisions for confiscation under California law.

Don Nichols, a concerned citizen, testified next and commented that he has been associated with the work that went into SB 83 since the beginning and commented that it is unique due to the amount of work and testimony that went into it. He argued against Mr. Price's bills and in favor of SB 83 for the reasons that SB 83 imposes more stringent penalties and something this extreme is necessary to somehow prevent all of the tragedies which occur at the hands of drunk drivers.

He next addressed educating the public to the seriousness of driving while under the influence, commenting that education begins at home.

He argued that SB 83 is fair, treating the alcoholic and drug abuser fairly and justly while treating the victims to some fairness. He felt that AB 421 enhances SB 83, but that AB 67 leaves too much discretion to the judge who can construe it in anyway he wants. He added that the overwhelming support is for stricter DUI legislation and that the desire is to make it effective.

Mrs. Westall pointed out to Mr. Nichols that the directive of the sub-committee that came out with AB 67 was not drunk driving, it was insurance. This bill resulted because a few of the members of that committee felt strongly enough about the subject of DUI to get something out that could begin to address the problem. She added that she supports SB 83 and felt Mr. Price did too and defended AB 67 by saying that it was an effort launched before SB 83 was hatched. She reiterated her support of SB 83 and complimented Mr. Nichols and the others involved with the bill for their success and accomplishments in preparing the legislation and getting it passed through the Senate.

Mr. Price commended Mr. Nichols and Senator McCorkle in the way they held hearings throughout the state on SB 83. He added that with AB 67, the hearings held in Reno were advertised on television, in the newspapers and on the radio. He pointed out that the subject matter of the sub-committee was insurance. Mr. Price commented that this particular hearing is to develop legislation and that any AB 67 can be amended to be three times as tough as SB 83.

Mrs. Ray Ceccarelli commented that she lost four members of her family to drunk drivers and, after her daughter's funeral, decided she had to do something. She stated that at the hearing held, her prosecuting attorney reminded her that Nevada does nothing about the DUI and then did nothing in their defense in the courtroom. It was her conclusion that the real victim in the courtroom is the drunk driver, with everyone going out of their way to protect him. She stated they had just buried a 20 year old girl and the driver got 90 days in jail and served only 60 days, getting off on good behavior.

Mrs. Ceccarelli stated she started out alone and now has more than 300 members, victims who came forward. She commented that the only reason offenders were being fined \$300 is because of all the publicity resulting from the stand the victims are taking. It was her feeling that once the legislative session is over, the judges will go back to \$150 and \$200 fines. She then related an experience where she attended the hearing of a woman who had been hit on the sidewalk and left partially paralyzed. The driver had hit 8 other cars. At the hearing, the court knew exactly who she was. As a result of her appearance in the audience of the courtroom, the driver got 3 years in prison. She felt it sad that justice is only served when there are victims who must sit in the courtroom. She suggested having a task force sit in the courtrooms.

Mrs. Ceccarelli continued by saying that she represents all the victims and concerned citizens who are tired of having their families wiped out and bearing the outrageous financial burdens resulting from the accidents, as well as not having children to share Christmas and other holidays, while the drunk walks away from any responsibility. She commented that there should be equal justice with the rich being treated like the poor, the Indians, whites and blacks to be treated the same. She urged the passage of SB 83.

Jane Pena stated she is a victim of a drunk driver, as well as two of her daughters. She related her experience of being hit head-on by a drunk driver, stating that her husband was in the car behind when the accident occurred. She indicated that she was not breathing and was revived through the work of her husband who would not give up. One of the children was bleeding very badly as the result of a head wound and the other had gone into shock. Mrs. Pena, who was pregnant at the time, lost her baby one week after being released from the hospital. She had all the bones in the left side of her face broken and her hip was broken in three spots. She continued by testifying to the fear and emotional suffering of she and her family as a result of the accident and added that the driver had viewed the whole episode as a joke and served no time as a result. He was put on probation and later broke the probation and is now in prison. It was Mrs. Pena's feeling that if mandatory penalties are not fixed, the judges will do nothing to drunk drivers.

To Chairman Price's question on when her accident had occurred, Mrs. Pena responded it happened on July 5, 1977, at 8:35 p.m. on Highway 395 at the South Hills turnoff.

Bill Montgomery, Business Representative for the Teamster's Local 533, Northern Nevada and South Lake Tahoe, stated this is a very emotional issue and is not testifying against the concept of the bill. He stated that the Teamster's Union does not condone drunk driving and hurting innocent people. However, SB 83 does hurt innocent people, including the State of Nevada and its taxpayers. He felt that this bill is for Nevada residents only and does not have much of an effect on people from out of state. He suggested the bill be amended to provide extradition for out of state offenders.

He commented that a big problem seen is the payments to the dependent children of the people serving sentences by the State of Nevada as the bill is currently written. He asked who will provide the food and social services for the spouse and dependents of the convicted individuals. He continued his testimony in accordance with EXHIBIT D and the proposed amendment attached as EXHIBIT E. Mr. Montgomery stated his amendment is not a totally new concept and has been done in other states and is being done with drug abusers. It was his feeling that this would satisfy the intent of the bill.

Mr. Montgomery commented that he did not agree with some of the provisions of SB 83 and could not understand why someone arrested for murder can plea bargain, whereas someone arrested for DUI cannot. It was his feeling that young people convicted of DUI should not be mandatorily incarcerated or forever lose a license to drive.

Chairman Price commented that it was his understanding under the current prison work program that a portion of the prisoner's earnings went to repay the prison for transportation to work, etc. He asked if Mr. Montgomery would have any objection if the proposed amendment required that the prisoner be transported by the prison to his place of employment at the expense of the prisoner. Mr. Montgomery stated his amendment addressed the necessary expenses incurred. He commented that in California, the prisoners are charged for room and board and their paycheck goes to that, with the remainder being sent to the spouse.

Mr. Polish commented that there is nothing in the bill or the proposed amendments which actually keeps drunk drivers off the road until they are arrested. He also expressed concern over those individuals who continue to drive after their licenses have been suspended or revoked.

Mr. Montgomery continued by addressing the social problems which occur when a young individual is imprisoned for a minor crime and has to deal with hardened criminals and homosexual rape as occur in the prison system, feeling that there should be some solution which could avoid such situations occurring.

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Murray Cohen, representing the Nevada Food & Beverage Assoc., stated that the testimony he had heard throughout the evening was such as spoken of God: "If you don't believe, there is no proof; if you do believe, no proof is necessary." It was his opinion that SB 83 is the worst bill ever to appear before the Legislature, being so destructive of the basic freedoms of our country. He commented that Senator Blakemore, chairman of the committee which prepared the bill, requested that his name be removed from sponsorship of the bill and labeled it an irresponsible piece of legislation.

Mr. Cohen felt that SB 83 is a scurrilous attack -- reptilian in its attack on one of the basic concepts of the American system, the right to a fair and impartial trial by the judge who assesses the case on its merits. He agreed that there were instances where a judge would make a "home town decision", but he felt a criticism of the entire system and take out of its hands these responsibilities is a direct attack upon the American system of juris prudence.

Mr. Cohen continued by saying that SB 83 creates involuntary servitude. Chairman Stewart commented that work programs have been a part of our laws ever since their inception.

Mr. Cohen further pointed out that the bill does not allow a judge's determination to be made according to the particular circumstances of a case. He commented that there is a difference between a DUI and the impact driver, which is not addressed by SB 83 which treats every driver equally. He pointed out that the punishment for someone being arrested after having two drinks is the same or worse if a third time offense than to go out and kill someone on a first offense.

Mr. Cohen that someone electing not to take a blood alcohol test and having his license suspended or revoked has had his right to remain silent abused.

Chairman Price countered by saying that a person is still entitled to a fair trial under SB 83. He added that an individual killing someone on a first offense would be facing the manslaughter problem. He pointed out that there is a movement across the United States for mandatory sentencing which is permitted under the Constitution of the United States, giving a little less leeway to the courts and judges since, based on the track record, society has lost some faith in the court system to perform.

Mr. Cohen passed out EXHIBIT F, explaining that it contains some specific recommendations for amending SB 83.

Mr. Cohen stated that 25 states conform to the Uniform Vehicle Code, 14 states seek that, but out of all of those states, only 4 have had fewer accidents than the State of Nevada. He added that the only state which does not have any criminal penalties attached to the DUI law is New Hampshire, which has only half as many traffic fatalities as the State of Nevada. It was his feeling that the statistics which went before the sub-committee show that this type of legislation does not work. He stated that EXHIBIT F addresses itself to keeping the killer driver from behind the wheel.

Mr. Cohen stated that education is more effective than jailing offenders. He commented that the alcohol abuse program has a success ratio of 50% of those who go through their program and indicated that it is about to run out of money.

To previous testimony that the judges are in favor of SB 83, Mr. Cohen stated that there had been a letter received by one of the committees which indicated that this particular bill was opposed by municipal judges.

Mr. Cohen stated he is in favor of harsher penalties for the person who impacts, not because he had been drinking. He was not in favor of penalizing someone for having a couple of drinks. He stated that statistics show that the impact killer is the one time offender who gets drunk once.

To a question from Mrs. Westall, Mr. Cohen cited a study done in 1973, one in 1975, and another in 1973, stating "The vast majority of those appearing in court to face the charge of DUI are more likely to experience low speed rearend collisions, sideswipes and clipping of parked cars. The killer driver, on the other hand, is more likely to kill while driving at high speeds. He also appears to be less likely to have a record of prior arrests and fewer violations than the typical DUI defendant." He added that there were also studies done in 1970 and 1971.

Mr. Malone commented that he had not seen any of the victims in the room receive fair and impartial trials before their families were wiped out. He added that dispositions of these offenses had been left up to the judges and alluded to a rap sheet on two individuals, one with 4 DUIs and no time in jail, and the other with 6 DUIs. He stated that \$150 is the most one was fined and that the individual with the 6 DUIs was arrested again for DUI with an accident and injuries.

To Mr. Cohen's comments about reading an individual his rights, Mr. Malone countered that no one read these victims their rights. The implied consent law gives the officer the power to take a

driver's license before reading the individual his rights if he refuses to take the field sobriety test.

Bob Feldman of the All Risk Insurance Company, passed out EXHIBIT G, and stated he is the Secretary/Treasurer of the Insurance Agents' Protective Association, a non-profit association. He indicated that his members insure over 100,000 cars in Clark County and a few in Northern Nevada. Mr. Feldman stated he is a resident of Las Vegas of 24 years and has insured over 60,000 in Clark County over the past 8 years.

Mr. Feldman indicated that the top page of EXHIBIT G shows that Nevada is #1 in the entire United States for traffic fatalities per 100 million vehicle miles per hour. Not only is Nevada #1 in the entire nation, Nevada's rate is almost double the rate of the State of California. In addition, the Nevada Development Authority is projecting at least 906,000 residents of Southern Nevada before the year 2000, plus the MX missile impact. The traffic is going to very shortly more than double.

Mr. Feldman stated that during the past two years his members had presented testimony to the ACR 29 committee and commented that Mr. Price has worked very hard, referring to two 12 hour sessions in particular in Las Vegas. He indicated that any drunk with a lawyer stays on the road and has no fear of losing a drivers license at all. In the State of California in 1979-1980, there were 283,000 DUI arrests, 206,000 convictions, 20,000 licenses suspended. California has about an 80% conviction rate and Nevada has probably about 15%, with about 12% being in Reno. Mr. Feldman commented that the judges in Reno seem to be a little more realistic.

In 1975, this Legislature loosened up the motor vehicle laws and via AB 725 removed the requirements for proof of insurance for all people who have been suspended in this state for the point system. Although the requirement still exists for revocation, no one ever gets revoked. Mr. Feldman stated that maybe 2% of multiple DUI offenders have their licenses revoked. Since 1976 the pressure has been eased on some very dangerous drivers, which was not the intent. The intent was to eliminate that requirement for people with just a few speeding tickets. Unfortunately the attorneys in Southern Nevada have changed that through plea bargaining.

Mr. Feldman stated that one judge was convicted of fixing traffic tickets, a couple of judges resigned after being investigated for fixing traffic tickets in Las Vegas, a couple of judges use bad judgment for their personal friends. He presented to the ACR 29 committee a list showing that the Metro Traffic Division was understaffed by almost 50% in controlling Clark County.

With the plea bargaining, the judges dismissing traffic tickets, reducing them to parking tickets, and the tickets in some cases just disappearing, the police officers are suffering in morale and not even bothering to write some of the DUI tickets.

Mr. Feldman stated there is an officer from Las Vegas, the traffic fatality investigator for Metro, has extensive files but was unable to attend the hearing. Referring to EXHIBIT G, he stated that DUI fatalities are becoming commonplace. He stated that one of his clients, a 19 year old boy who had never had a ticket, was hit by a drunk doing 80 miles an hour on Charleston Blvd. This boy, Harwick, had a passenger in his car by the name of Vanderdrift. Vanderdrift was in a coma for 11 days and just died in the hospital. His bill was over \$40,000. Harwick is still in the hospital, cannot talk, and his father just got a hospital for 11 days in the amount of \$37,000 and the doctors estimate that if the boy survives, he will have almost a million dollars in medical bills and may be in the hospital for a full year. In investigating the accident, the driver was found to have a previous record, including a drunk driving conviction, 3 speeding tickets. On the same day, there was another head-on collision with another fatality on Sahara Avenue, with that person having a prior record of great length.

Mr. Feldman next referred to a letter from an attorney contained in EXHIBIT G who was requesting that a client be insured. The client has 7 arrests for drunk driving, another assortment of failure to yield for emergency vehicle, reckless driving, etc. He was refused insurance although he had a clean driving record due to plea bargaining. There is an article included which is entitled "One man killed in auto accident" which involved a vehicle registered to this same individual.

Feldman stated he was in favor of SB 83, feeling the bill very fair. He expressed concern over the first time offenders, feeling they should have a 30 day revokation, so that the person is required to file and maintain proof of insurance at the Department of Motor Vehicles via the SR 22 file. On the second offender, he felt the penalties were reduced somewhat. He agreed that there should be no plea bargaining and should be at least minimum sentences. He commented that only convictions go to DMV and if there are no convictions, then the bill is worthless.

Mr. Feldman concluded by saying that up to 80% of the dollar accident payouts in insurance in Clark County is caused by people who are drunk, 56% by people under the influence of alcohol, and 20% under the influence of something else. He commented that he has extensive files and the traffic fatality investigator has more files yet.

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Mr. Price commented that the individual referred to who was killed happened to be a close friend of his.

Mr. Feldman stated that Senator McCorkle spoke to the father of the boy currently hospitalized, and commented that the Welfare Department realizes that if there was any insurance it will not be adequate. The taxpayers are going to pick up the tab for about a million dollars in medical bills for that one boy.

To Mr. Malone's question, Mr. Feldman agreed that Nevada's accident and fatality rate affects the insurance rates. As long as the multiple offenders are allowed on the streets, there will be nothing but trouble and on the increase. Mr. Feldman suggested that the judge revoke a license right there in court rather than going through DMV and further suggested that if an individual gets driving under revocation, they spend the period of revocation in jail. It was his recommendation that a revocation actually be a suspended jail sentence. He did indicate that 60% of people with revoked licenses will not drive. The others who will drive on a revoked license will have a tendency to drive more carefully, with about 10% who are just dangerous and uncontrolled.

Due to the late hour, Chairman Stewart stated that the hearing would be continued on April 15 at 7:00 p.m. He asked next to hear from those people who had come from long distances and asked the others to return for the next meeting.

Paul Vierling came forward with Mrs. Lillian Keith and spoke on her behalf recounting her experience as the result of a drunk driver. He stated that her case was somewhat unique. Prior to 1969, Mrs. Keith had lived in Winnemucca, Nevada and had conducted a complete life of normalcy there for 15 years, being very well liked and respected. On March 27, 1969 at 12:18 a.m., a truck traveled down a side street at about 70 to 80 mph, hit two parked cars, crashed through a fence, the front wall of the home and the bedroom wall of the home, landing in the bedroom with Mrs. Keith. Mrs. Keith was alone at home and the fear resulting from the accident created physical injuries. She hid in the rear of the home, being disoriented and frightened, and was not discovered until the next morning. At that time a great amount of emotional and mental discomfort began to develop and is still continuing, with continuing physical repercussions. The disposition of the charges against the driver was a \$100 fine with the charge being reduced to reckless driving. It was found that the driver had previous DUI arrests in California.

It was felt that in addition to death and severe physical injury, there are a segment of the victims who experience emotional and psychological injuries and remain a silent sector of the group of victims and feel incapable of presenting their cases.

Mr. Vierling continued by saying that as a result of the drunk driving incident and the resultant injuries, Mrs. Keith lost her husband through a divorce and the love relationship with her son and daughter-in-law. It was her feeling that it is essential that this type of loss be understood in addition to death and physical injury.

Chairman Price asked if there had been any actual physical injury as the result of the incident. Mr. Vierling stated there was not. Mr. Price then related a similar experience which had happened to his home when two of his daughters were at home, stating that the driver went through the wall, hit the couch on which the children were sitting, and the driver actually continued on and was not caught until the next day. He stated that when the man was charged, because there was no physical injury, the charges were substantially reduced. The driver was never convicted of anything.

Florence McClure, a resident of Clark County for 15 years, stated that she has been working in the area of victimization for 7 years. At the past convention of NOVA, National Organization of Victim Assistance, in Portland, the membership was asked to consider adding victims of drunk drivers to their list. Prior to 1974, Mrs. McClure stated she had followed cases of victims of drunk drivers in the newspapers. She commented that her first cousin had done two tours of duty in Viet Nam and had returned to his wife and children without a scratch, only to be cut down a year later by a drunk driver, dying at the age of 27.

Mrs. McClure stated that the driver who killed her cousin was the son of a prominent man in the community. Outside of the insurance company paying the widow and children a small amount after three years in the court, nothing was done to put him in jail or keep him from driving.

Mrs. McClure recounted the experience of a family where a boy of 9 had recently been killed by a drunk driver. The driver left the roadway and went up on the sidewalk, crushing the boy against a block wall. The family said nothing had been done to the driver.

Mrs. McClure felt that a driver who has been drinking has a loaded weapon. If alcoholism is a disease, it should be treated and quarantined. She urged passage of SB 83.

Mrs. McClure next read a newspaper article where a drunk driver drove through the wall of an apartment complex, injuring an 8 year old girl sleeping in bed.

Jerry Nims, a psychologist from Reno, stated that he is a drunk driver, never having been stopped, arrested and never having done any damage except to his own bumper. It was his statement that passage of SB 83 would result in his driving less when drunk as well as being infinitely more cautious. He indicated that he could easily write a \$500 check and impounding his vehicle would be useless since he has three cars. He felt there is merit to impounding a car and would like to see that develop with some refinements. He added that SB 83 would hurt him since he cannot buy 15 days of his life for any amount of money.

Mr. Nims suggested that for second offenders, a professional opinion is not necessary to determine that individual has a problem. A second offense defines the problem and that person should go directly to jail and to a treatment program. He felt that a treatment program instead of jail is inappropriate and inadequate.

Mr. Nims commented that with the clock running out and starting over again every three years would allow about 15 or 20 drunk driving convictions in a lifetime. He suggested a lifetime total after which there were no more opportunities.

Mr. Nims felt that there should be some awareness that in a therapy program, the authority to determine when a person is "cured" is being given to a professional. It was his feeling, as a professional, that this is a conflict of interest since the professional can require an individual to come back as long as he wants and can make a lot of money as a result. He suggested that some other authority without the potential financial conflict be required to make the decision.

Mr. Nims concluded that there should be little sympathy for the potential drunk driver since that driver has the option to not drive when drunk or not get drunk when he knows he must drive.

Mr. Nims urged the passage of SB 83.

Pat Bats, Executive Director of the Churchill Council on Alcohol and Drugs, stated she is a recovered alcoholic and the mother of a son killed by a drunk driver. She supported the intent of SB 83, feeling it is time to do something but suggesting further study is needed. Ms. Bats commented that jail, in and of itself, is not a deterrent. She was a drunk driver 5 times, arrested and jailed in Reno. The alcoholism continued to progress for a number of years, the arrests continued, and she continued to drink and drive. Only by finally being refused entrance to the Reno jail by one of the judges did she turn to help. As a result of the education and treatment she received, her behavior finally changed and she learned of her own personality problems and what alcoholism is.

It was Ms. Bats' suggestion that treatment should be an option under all three offenses in SB 83 - education under the first offense, mandatory treatment under the second and third offenses. She further supported the amendment for state certified counselors to be included in lines 16 and 17 of page 3. She felt it a very important change since the medical profession, as it stands now, has not done much with alcoholism. The national statistics show that usually the medical profession has about a 2% success rate with alcoholism as opposed to a higher percentage of success rate with alcohol counselors.

Ms. Bats continued by saying that in Churchill County, they run a clinic for the county and surrounding areas as well as the New Frontier Treatment Center which treats people from all over the state. She estimated that between the New Frontier Treatment Center, the Churchill Council and the Transition House in Reno, 80% of the clientele (500 per year) have come with a history of DUI at one time or another.

Mr. Glover asked how many people were referred to those programs by the court and how many come of their own volition. Ms. Bats estimated about 20% are referred by the courts. Mr. Glover asked if it would do any good to refer people for treatment if they don't want it. Ms. Bats stated she used to believe that an individual had to want treatment, but now finds that through early intervention a lot of chronic phases of addiction can be turned around. She added that after approximately 72 hours a turn-around can be seen, or once the individual becomes aware of the problem and begin to identify with other people with the same problems.

Mr. DuBois asked if Ms. Bats' experience that jail served no purpose was typical. Ms. Bats stated that nothing really happens in jail. She pointed out that there is now some intervention that takes place in some of the jails as in Fallon, where her council visits the jail on a weekly basis bringing awareness material and group therapy to the people in jail in order to motivate them to go further into treatment. Years ago, there was no intervention in the jail setting. Ms. Bats added that jail was never a deterrent to her since it was a place to get warm, free cigarettes, and a cup of coffee.

Mr. Price commented that during the interim study in 1979, through investigating the different programs their finding was that a jail situation did almost nothing but offer a chance for someone to sober up temporarily. They found the same to be true of a detox center with no follow-up program. Ms. Bats added that the threat of jail to an individual who has never been there will often aid in their response to treatment as with those who may lose their employment.

1271

Mr. Glover asked how many times Ms. Bats was convicted of DUI. She stated she had been convicted three times and was driving now. Mr. Glover stated he had a problem with the penalty that after so many convictions a person could never drive again since Ms. Bats was an example of someone who should be driving. Ms. Bats stated she had been recovered 17 years and also had a problem with that section of the bill as well since she knows recovery is possible. She suggested that be given heavy consideration and wondered about the constitutionality of something like that, commenting that a murderer can be out of prison in 7 years.

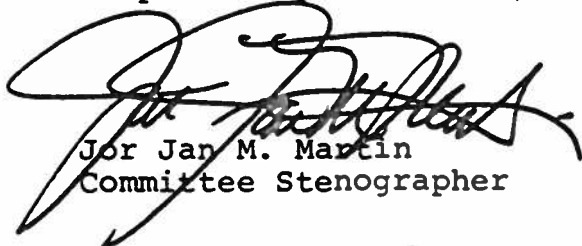
Mr. Malone agreed that permanent loss of driving privileges is severe, but added that loss of a life is more severe. He suggested adding her program to the bill instead of replacing provisions. He did not feel that all people would become "miracles" of the program, with those that aren't being a hazard to society.

Mr. Sader commented that under the provisions of this bill, mandatory permanent loss of driving privileges would only occur if there was substantial bodily injury involved and a conviction, as well as the judge deciding that he will suspend mandatory prison sentence of a year or more on the acceptance of the terms by the offender.

Dan Hansen of Sparks objected to having waited so long and asked to be put on a list to testify at the next hearing. Mr. Sader suggested that those unable to testify at this meeting would get priority at the next hearing.

Chairman Stewart adjourned the meeting at 11:35 p.m.

Respectfully submitted,



Jor Jan M. Martin
Committee Stenographer

Also attached:

Exhibit H

Exhibit I

Exhibit J

Exhibit K

Exhibit L

AGENDA

JOINT MEETING OF ASSEMBLY

COMMITTEES ON JUDICIARY AND TRANSPORTATION

Date Wednesday, April 8, 1981, Time 7:00 p.m., Room 131

THIS AGENDA CANCELS AND SUPERSEDES THE PREVIOUS AGENDA FOR THIS DATE.

- 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.

1274

GUEST LIST

DATE: 4/9/81

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	T WITH CO-SUB		BILL NO.
		FOR	AGAINST	
QUINCY A. Mc COMAS	1st BAPTIST CHURCH & RET. TEACHERS	✓		83
HAZEL D. Mc COMAS	" " " "	✓		83
BERNIECE BLANKENSHIP	" " "	✓		83
GEORGE BLANKENSHIP	" " " "	✓		83
FRANK HART	" " " "	✓		83
Georgia Day		✓		83
Uella Linn	Concerned Citizens of Mt. Pleasant	✓		83
Vernon	" " "	✓		83
Stella V. Nordst	St. John's Presby. Church	✓		83
Jani K. Brown	" " " "	✓		83
Andrew Marschke			✓	83
Coran Madson	1st Baptist Church + Church Women United	✓		83
R. J. Smeltzer	myself	✓		83
Patricia Smeltzer	Jani Linn myself	✓		83

GUEST LIST

DATE: 4/8/81

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL NO.
Martha Coon	Gov's Edu Bd + NASAC	✓		SB 83
Ron Carducci	Licensed Substance Abuse ^{THERAPY} _{PROBATION}	✓		SB 83
Dave Foster	Concerned Citizens	✓		SB 83
Bill Woller	NASAC	✓		SB 83
Pat Bats	Church Hill Council	✓		"
Martha Coon	Concerned Citizen	✓		"
Allison Joffee	Ockes	✓		"
Robert E. Summers	INTER-Tribal Council of Nevada	✓ with change		"
Florence McChesney	Concerned Citizen	✓		"
Steve Dollinger	Attorney -	✓	✓	"
Estelle Latona	Bar Owners.		✓	SB 83
✓ ✓	✓ ✓		✓	AB 67
✓ ✓	✓ ✓		✓	AB 421
Sharon Alcamo	DMV - Driver's License Division			SB 83

ASSEMBLY JUDICIARY COMMITTEE

GUEST LIST

DATE:

4/8/81

1276 3

PLEASE PRINT
YOUR NAME

PLEASE PRINT
WHO YOU REPRESENT

~~FOR OR AGAINST~~
FOR

AGAINST

BILL NO.

JACK Pienetti

Concerned Citizen

✓

SB 83

GUEST LIST

PLEASE PRINT!

4/27/81

Date: 4/8/81

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL NO
Ruth TABER	Concerned citizen CARSON TABOR HOSPITAL	X		SB 83
Jim Spoo ^{CITY MGR} _{off. Sparks}	City of Sparks & self.	X		SB 83
Jerry Henderson	First Baptist Church Reno	X		SB 83
Diane R. Iron	First Baptist Church Reno ^{church} Womens United	X		SB 83
Amy B. IRVIN	First Baptist Church Reno	X		SB 83
ROBERT COOK	N A S A C	X		SB 83
Dae June	First Baptist Church Reno	X		SB 83
Jan Louless	St John's Presbyterian	X		SB 83
MARTIN POTTOCK	MARTIN'S SATIN COUNTS		X	SB 83
Lois G. Best	Concerned citizen	X		SB 83
Janet Ness	Concerned citizen	X		SB 83
Bobby FELDMAN	INSURANCE AGENTS PROTECTIVE ASSN. AUTO INSURANCE CENTERS - ALL RISK INSURANCE	X		SB 83
✓ Murray Cohen	Nevada Food & Beverage Ass'n		X	SB 83
Chester O'Raymond Jr.	Sam's Place Warehouse		X	SB 83
Mary Ann D... ...	concerned citizen	X		SB 83
Sam's Place Warehouse	Sam's Place Warehouse		X	SB 83
Caroline H. Lind	The Wharf, Carson City		X	SB 83

ASSEMBLY JUDICIARY COMMITTEE

6
1279

GUEST LIST

DATE: 4/8/81

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL NO.
✓ Mr. Ray Casarelli				SB 83
Rev. Ed Irvine				SB 83
Angela		FOR		SB 83
Dr. Richards		FOR		SB 83
Marcia Williams		FOR		
W.M. Luntke		yes		SB 83
Edmy L. Powell		yes		SB 83
Kimmel Connors		yes		SB 83
Naomi Norton		yes		SB 83
Jerry P Nims PhD	self	yes		SB 83

GUEST LIST

PLEASE PRINT!

1284

Date: 8 April 1981

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL
✓ W.H. Montgomery	TEAMSTER LOCAL 533	amendment of the bill	ITS DRAFT FORM	SB 83
Kathie Beck	housewife			
Eldo and Mary Coccarelli	Counselor	FOR 83		SB 83
✓ Tracy Kim, Jane Pena	VICTIMS OF DRUNK	FOR 83		SB 83
Sue Goff	concerned citizen	FOR		SB 83
Odile Haddard	PROFESSIONAL DRIVER	FOR		SB 83
Wayne Stoddard		FOR		SB 83
Paul & Christman	Concerned Citizen	FOR		SB 83
Hazel Christman	Concerned Citizen	FOR		SB 83
John W. Baida	NEW Mtr. Trans. Ass'n		✓	AB 421
Heidi J. ...	victim of drunk driver	FOR		SB 83
David G. ...	victim of drunk driver	FOR		SB 83
Suzan Beauchamp	concerned citizen	FOR		SB 83
Chris Beauchamp	concerned citizen	FOR		SB 83
Kathie Hjelone	Myself	FOR		SB 83
Florence McClure	Myself	FOR		SB 83
Mr. & Mrs. Ray Coccarelli	Counselors	FOR		SB 83

GUEST LIST

PLEASE PRINT

2821
9

Date: 4/8/81

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL N
Ray Cecconelli	Mrs. Bobt. Amaral	For		SB 83
Alice Letta	Concerned citizen	X		SB 83
Natalie Piereth	Eugene & Matthew Piereth	X		SB 83
Joe Piereth	Eugene & Matthew Piereth	X		SB 83
Diane Moler	Eugene & Matthew Piereth	X		SB 83
Dino Pruzak	Eugene & Matthew Piereth	X		SB 83
BARBARA L CUTLER	BARB'S HUB - RENO		X	SB 83
Bar Cutler			X	
Mary Nichols	concerned citizens	X		SB 83
Dorothy Nichols	" "	X		SB 83
Eleanor M. Mellman	" "	X		SB 83
Jessie Jone	concerned citizen	X	X	SB 83
Francis Paulsen	Carson city	yes		SB 83
Opal Hanks	Carson City	yes		SB 83
Dorothy Coalter	Carson City	yes		SB 83
Thylis Hanks	Carson City	yes		SB 83
Marguerite Delon	Reno Nev	For		SB 83



THE CONCERNED CITIZENS OF NEVADA WANT TO TAKE THIS OPPORTUNITY TO PLEAD A MATTER OF GREAT IMPORT AND LIFE CONSEQUENCE.

THE OCCURRENCE OF DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL HAS BECOME SO COMMON IN OUR STATE THAT THE TRAGEDY OF ACCIDENT, ECONOMIC LOSS, AND DEATH TOUCHES MORE OF US THAN EVER BEFORE. MORE TRAGICALLY, THE MENACE OF DRUNKEN DRIVERS HAS CAUSED SOME FAMILIES TO LOSE SEVERAL DIRECTLY RELATED MEMBERS IN DIFFERENT ACCIDENTS OVER A SHORT PERIOD OF YEARS.

WE APPEAL TO YOUR COMPASSION FOR THOSE OF US WHO HAVE SUFFERED GREATLY AT THE HANDS OF CALLOUS BAR MEN, IRRESPONSIBLE DRINKING INDIVIDUALS, AND INSENSITIVE JUDGES. WE ASK YOU TO WEIGH OUR LOSS AGAINST THE PRIVILEGE, SPECIAL CONSIDERATION, LENIENCY GIVEN TO THOSE WHO WASTE OUR TAX DOLLARS, DAMAGE OUR PROPERTY, AND KILL OUR SONS, DAUGHTERS, HUSBANDS AND WIVES.

UPON YOUR JUDGEMENT, YOUR COMPASSION AND YOUR ABILITY TO ACT HANGS THE WHOLE REMEDY OF OUR GREAT LOSS AND THE MOMENT TO RIGHT A GRIEVOUS WRONG. UPON YOUR VOTE LAYS THE SAFETY OF OUR CHILDREN, BROTHERS AND SISTERS, MOTHERS AND FATHERS.

WE, THE PEOPLE OF THIS STATE, ASK YOU TO SIGN INTO LAW THE MEANS AND THE METHOD TO PROTECT US FROM THE EVER GROWING FACT OF SENSELESS, DRUNKEN DRIVERS.

Mrs. Ray Ceccarelli
Mrs. Ray Ceccarelli, Chairman
Concerned Citizens
&
Victims of Drunk Drivers

STATISTICS

- D.U.I. defedents paid fines of \$622,355, an average of \$123.16.
- The National Safety Council credits drunk drivers in 1978 with about 26,000 deaths.
- The Nevada Department of Transportation in 1978 listed 271 fatal accidents, killing 312 persons.
- Fatal Analysis: January - December, 1978
 - Fatal Accidents - 271
 - Persons Killed - 312
 - Had Been Drinking - 152 or 56.1%
- Deputy District Attorney L. J. O'Neal said that drunk driving has not been taken seriously in Nevada, which has the highest number of traffic fatalities per vehicular mile in the United States.
- Fernley - Canal Township Justice of the Peace Steve Lehman: "In the past year, 14 of 18 accidents involved people who were either intoxicated or on drugs."
- Legislative Council Bureau - State of Nevada - 11-month period, 1979: D.U.I. arrests: 7,922; convictions: 2,447.

UNIFORM VEHICLE CODE

Under the Uniform Vehicle Code, a person convicted of driving under the influence may be imprisoned for not less than ten days nor more than one year on a first conviction, and for not less than 90 days nor more than one year on any subsequent conviction.

Twenty-five states follow the Uniform Vehicle Code in authorizing a maximum one-year confinement. Fourteen states have a maximum period of confinement for driving while under the influence of greater than one year. Twelve states, including Nevada, have a maximum period of confinement of less than one year.

ARRESTS AND CONVICTIONS

The Department of Law Enforcement Assistance indicates that there were 13,812 DUI arrests in 1978. The department only shows 2,704 charged with the offense and 988 found guilty of the DUI charge. Mr. John Compston, with the Department of Law Enforcement Assistance, advises that the reporting of about 4,000-5,000 DUI cases "falls between the cracks" each year. The Department of Motor Vehicles can account for 9,274 DUI convictions during 1978.

According to the court clerk's office in Washoe County, the DUI convictions there in 1978 resulted in \$159,623. In Clark County during 1978, the court clerk estimates that two-thirds of their "DUI" convictions are reduced to reckless driving and that if the remaining one-third receive a fine it would probably be no more than \$150.00.

PLEA BARGAINING

According to an article in the Nevada Appeal December 22, 1980, banning plea bargaining does "not" bog down the courts. Alaska has banned plea bargaining, however, it is still allowed in all the other states. A study funded by the National Institute of Justice, said that the state's experiment with plea bargaining which began in 1975 contradicted the views of most people that defendants would not plead guilty causing a huge backlog of court cases. "Court processes did not bog down," the study said. Although there was a big increase in the trial rate--97 percent in Anchorage, for example--the caseload did not become unmanageable. Defendants continued to plead guilty at about the same rate as before.

PENALTIES FOR DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

Traffic Laws Annotated 11.902 (c)

1287

Within Yrs. of Prior Conviction

State	-----First Conviction-----					Within Yrs. of Prior Conviction	/-----Second or Subsequent Conviction-----/					(or more)
	10 days to	1 yr.	&/or	\$100 to	\$1000		90 days to	1 yr.	&	-	to \$1000	
Alabama	-	1	X	100	1000	-	-	1	&/or	100	1000	
Alaska	-	1	X	-	1000	5	3-days mand.	-	-	-	-	
Arizona*	10	6 mos.	&/or	100	300	2	20	6 mos.	&/or	150	300	
Arkansas*	1	30 days	&	50	500	1	-	1	X	250	1000	
California*	2	6 mos.	&/or	250	500	5	2	1	&	250	1000	
Colorado*	10	1	&/or	100	1000	5	90	1 mand.	X	100	1000	
Connecticut*	-	6 mos.	X	150	500	-	60	1	-	-	-	
Delaware	60	6 mos.	X	200	1000	5	60	1 1/2	X	500	2000	
Florida*	-	6 mos.	X	25	500	3	10	6 mos.	X	-	500	
Georgia*	-	-	-	-	-	3	-	15 days	-	-	-	
Hawaii	-	1	X	-	1000	-	-	-	-	-	-	
Idaho*	-	6 mos.	X	-	300	-	-	5	-	-	-	
Illinois	2	1	X	100	1000	5	90	1	X	-	1000	
Indiana*	5	6 mos.	X	25	500	3	5	1	X	250	1000	
Iowa*	-	1	X	300	1000	-	-	1	&/or	500	1000	
Kansas	-	1	X	100	500	-	90	1	X	-	500	
Kentucky*	-	-	-	100	500	-	-	6 mos.	X	100	500	
Louisiana*	30	6 mos.	X	125	400	5	125	6 mos.	X	125	500	
Maine	-	90 days	&/or	-	1000	-	24 hours	6 mos. mand.	&	250	2500	
Maryland*	-	1	X	-	1000	-	-	2	X	-	1000	
Massachusetts	14	2	X	35	1000	-	-	-	-	-	-	
Michigan*	-	90 days	X	50	100	-	-	1	X	-	1000	
Minnesota*	10	90 days	or	10	100	3	10	90 days	-	-	-	
Mississippi*	10	1	X	100	1000	-	-	-	-	-	-	
Missouri*	-	3 mos.	X	-	50	3	7 days	6 mos.	-	-	-	
Montana*	-	6 mos.	X	100	500	-	10	6 mos.	X	300	500	

Idaho	-	3 mos.	X	-	100	-	5	3 mos.	X	-	300
Illinois	-	-	-	-	-	J	10	6 mos.	6/or	100	500
Indiana	-	-	-	-	-	-	-	-	-	-	-
Iowa	-	-	-	-	-	-	-	-	-	-	-
Kansas	-	-	-	-	-	-	-	-	-	-	-
Kentucky	-	-	-	-	-	-	-	-	-	-	-
Louisiana	-	-	-	-	-	-	-	-	-	-	-
Maine	-	-	-	-	-	-	-	-	-	-	-
Maryland	-	-	-	-	-	-	-	-	-	-	-
Massachusetts	-	-	-	-	-	-	-	-	-	-	-
Michigan	-	-	-	-	-	-	-	-	-	-	-
Minnesota	-	-	-	-	-	-	-	-	-	-	-
Mississippi	-	-	-	-	-	-	-	-	-	-	-
Missouri	-	-	-	-	-	-	-	-	-	-	-
Montana	-	-	-	-	-	-	-	-	-	-	-
Nebraska	-	-	-	-	-	-	-	-	-	-	-
Nevada	-	-	-	-	-	-	-	-	-	-	-
New Hampshire	-	-	-	-	-	-	-	-	-	-	-
New Jersey	10	1 mos.	X	200	500	-	3 mos.	-	-	-	-
New Mexico	30	90 days	X	100	200	-	90	1	X	-	1000
New York	-	1	X	-	500	10	60	2	6/or	200	2000
North Carolina	-	1	X	-	500	-	2 mos.	6 mos.	6/or	200	500
North Dakota	30	6 mos.	X	100	500	-	2 mos.	6 mos.	6/or	200	500
Ohio	3	30 days	6/or	-	100	1 1/2	3	30 days	X	150	500
Oklahoma	1	6 mos.	6/or	-	1000	-	-	-	-	-	-
Oregon	10	1	6	100	300	-	1 yr.	5	X	300	500
Pennsylvania	-	1	X	-	1000	-	-	-	-	-	-
Rhode Island	-	3	X	100	-	-	-	-	-	-	-
South Carolina	-	1	X	-	500	-	-	-	-	-	-
South Dakota	10	30 days	or	50	100	10	1	-	6/or	1000	-
Tennessee	-	90 days	6/or	-	300	-	30	6 mos.	6/or	100	500
Texas	2	1	6	10	500	-	5	1	X	25	750
Utah	3	2	6	50	500	-	10	2	6/or	100	5000
Vermont	10	6 mos.	6/or	100	299	-	-	-	-	-	-
Virginia	-	1	6/or	-	125	-	-	-	-	-	-
Washington	-	1	X	200	1000	10	1 mo.	1	X	200	1000
West Virginia	30	6 mos.	X	200	1000	10	1 mo.	1	X	200	1000
Wisconsin	5	1	6	50	500	5	30	1	6	100	1000
Wyoming	1	6 mos.	6	50	500	5	6 mos.	1	-	-	-
District of Columbia	-	-	X	-	-	5	5	-	X	-	500
	-	30 days	X	-	100	-	-	60 days	6/or	-	200
	-	6 mos.	6/or	-	500	-	-	1	6/or	-	1000

*See Appendix

Criminal code provides a penalty of up to 1 yr. in jail and/or \$1000.

1288

TRAFFIC ACCIDENTS INVOLVING DUI DRIVERS*
1971 THROUGH 1980

12821

DUI ACCIDENTS

Year	Property Damage Accidents	Injury Accidents	Fatal Accidents	Total Injury Victims	Total Fatal Victims	Total Accidents
1971	855	578	65	954	70	1498
1972	1052	705	69	1153	83	1826
1973	1090	703	76	1121	93	1869
1974	1026	710	72	1154	79	1808
1975	1030	717	73	1190	82	1820
1976	1117	737	52	1198	61	1906
1977	1239	906	85	1490	91	2230
1978	1447	1045	99	1833	117	2591
1979	1476	1037	125	1819	148	2638

1980 Statistics not complete at this date.

As of Nov. 1, 1979, 7 persons were in Nevada prisons for felony drunk driving.

TOTAL ACCIDENTS FOR THE CALENDAR YEARS

1971 = 20929	1976 = 23655
1972 = 22035	1977 = 26155
1973 = 23709	1978 = 31582
1974 = 21639	1979 = 32476
1975 = 22223	1980 = Not yet available.

*Pertains only to drivers cited for driving under the influence of alcohol

Facts courtesy of B. W. Ross, Assistant Director of Nevada State Department of Transportation

Las Vegas Sun - Las Vegas, Nevada October 5, 1980

10-5-80 LVS

The Ceccarelli Story

Mrs. Raymond Ceccarelli came to Las Vegas last week with a message every Nevadan should hear. The lady from Washoe County believes people who drink and drive under the influence of alcohol or other drugs should be looking at the world from behind jail bars. Strong language, to say the least.

Is Mrs. Ceccarelli some kind of a intolerant zealot without feelings for people with problems? No, she is a lady who lost her first husband, two sons and a 20-year-old daughter in accidents with vehicles driven by intoxicated people. She is angry and has set out to keep others from suffering the losses she has felt.

She is pushing legislation which in rough form would do as follows:

- A first offender would lose his driving privileges for 90 days. Without exception, first-time DUI offenders must attend an alcohol education course administered by the Office of Traffic Safety. If arrested without a license, he would be hit with a 30-day jail sentence and an additional fine.

- The second time a person is arrested on DUI, the penalty is a mandatory 15-day jail sentence and a fine up to \$1,000. His driver's license would be revoked for six months. First and second offenders are guilty of a misdemeanor.

- Should a person's record be marked with a third DUI arrest, it automatically becomes a felony. Upon conviction, the offender will serve between one to six years in a state prison and be fined from \$2,000 to \$5,000. A person charged with DUI for the third time cannot cop a plea for a lesser charge, such as reckless driving.

Pretty tough stuff coming from a nice looking lady from northern Nevada. Then again, just how much suffering can we expect one person to tolerate during the short period humans are allowed on this earth? It won't bring back her loved ones, but it may save yours and mine.

THIS ARTICLE IS THE SAME EXPERIENCE I HAD TO LIVE WITH. DRUNK DRIVER KILLING MY HUSBAND AND TWO SONS.

Mrs. Ray Ceccarelli

We get letters Feb. 19, 1980

CARSON CITY-NEVADA APPEAL

Family tragedy - where is justice?

TO THE EDITOR:

Buried on page 5 of Sunday's Nevada Appeal was an obscure but absolutely horrifying story of a family that was slaughtered by a drunken driver. When I received a phone call from friends informing me of the senseless tragedy through my total disbelief and tears all I could ask myself was one question - why?

Why had this beautiful and wonderful family, who have been dear friends for a number of years, been so unjustly wrought with this tragedy? When I received another phone call from my friend's father asking me to go to their home to look for insurance or other papers I asked myself the same question - why? When we got to their house, a beautiful house built by a father for his wife and daughters so they could be happy and enjoy a peaceful and happy life, tragedy and the one-time happiness of this family surrounded me.

A tastefully and beautifully decorated nursery bedroom for an 8-month-old baby stood in front of me. Tears rolled down my face as I thought back eight months ago to how happy this family was when their third child was born. In two other bedrooms, one for a 4-year-old girl and one for a 7-year-old child, love was evident all around me - Christmas presents and pictures of a once-together and happy family. In the living room were many pictures of the family together and separate, along with a Valentine's Day card from a husband to his wife telling her how much he loved and needed her. As I made my way into the master bedroom to look for some papers, wedding albums and many boxes of other pictures of a once happy and together family stared at me in the face. Everywhere I looked, love stared at me. Three wonderful children; a loving mother and wife, a wonderful husband and friend who loved his family, who would do anything for his friends.

Suddenly, all that is changed. In one senseless moment a drunken driver appeared in this family's lives. A mother, an 8-year-old child and a 4-year-old child are to be buried this week. A father and husband lies in a coma in critical condition on a breathing machine. A 7-year-old girl lies recovering in a hospital, knowing she will never see her mother or sisters again; and not knowing whether her father will live or die. Countless friends and relatives will mourn in a state of shock, praying for a father to survive. And then there is a 19-year-old drunken driver, released on \$5,000 bail, probably sitting in his living room drinking a beer.

Since the weekend, rain has been constantly falling both here and in Southern California, where this tragedy occurred. Is God crying for a mistake that he made? It has to be a mistake to have slaughtered this innocent and wonderful family. The wrong people have to have been taken. If anybody, anywhere can tell me the reasons and justice for this tragedy, please let me know. Meanwhile, John, our prayers are with you to recover and be strong and raise your surviving daughter with all the love you have in you.



Fatal collision

A Carson City Sheriff's Department spokesman said recently preliminary investigations indicate a truck driven by Antonio Galvan of Carson City, struck a truck driven by Eugene Pierelli broadside with such force that the bed of Pierelli's vehicle, left, was knocked off the frame. Pierelli and his son Matthew died from injuries suffered in the wreck at Ceiler Drive and Clear Creek Avenue. All five accident victims had to be extricated from the vehicles and taken to hospitals by ambulance. (Appel photo by Andre Ney)

THE DRUNK DRIVER WHO CAUSED THE ABOVE-PICTURED ACCIDENT WAS DRIVING WITH A REVOKED LICENSE.

SAMPLES OF NEVADA
VICTIMS AND RESULTS OF CASES

1. Mrs. Ray Ceccarelli

Killed--Daughter (Joan A.), age 20, August 17, 1979. No record of D.U.I.'s, however, nurses at Washoe Medical Center recognized drunk driver as having been there before. (30 years ago Mrs. Ceccarelli lost a husband and two sons who were killed by two teenagers who had no insurance, no driver's license, received no jail and were put on PROBATION.)

Result of Hearing--Received 90 days in jail, no fine, no rehabilitation, still driving right after accident, no license suspension. Served 60 days in county jail and got off on good behavior.

2. Mrs. Jane Pena

Mrs. Pena, pregnant, and two children, July 5, 1977. Two seriously injured, unborn child murdered, and one hospitalized in guarded condition.

Result of Hearing--License revoked one year; however, can drive to and from work--precisely what he was doing when he hit Mrs. Pena and family. Five previous D.U.I.'s. No rehabilitation required and no jail. Driver uninsured.

3. Mrs. Vernita Funk

Lost her son Dennis, 32, his girlfriend Sherri, January, 1979. When body claimed in Las Vegas was told drunk driver had 7 D.U.I.'s, one or two invalid licenses, no insurance.

Result of Hearing--All D.U.I.'s wiped out, no fines, no rehabilitation, and still drives. He was given 6 months, week-ends only, with possibility of probation. Hearing held December, 1979.

4. Karen Newport

Three victims, July 30, 1979. Drunk driver fell asleep at wheel. Karen needs four years of continuous medical care.

Result of Hearing--Drunk driver repeated offender, third accident she caused. D.U.I. changed to reckless driving, 6 months probation but fined \$415.00.

5. Sue Beauchamp

Three victims--son, daughter-in-law and grandson, 1980. All hospitalized, grandson for two months. Drunk driver had previous citations (2 in 1980).

Result of Hearing--Closed hearing on January 21, 1981, in Elko.

6. Robert McDonald

Lost father, step-mother and 7-year old sister, January 21, 1979, on Hwy. 95-A at Wabuska, NV (Lyon Co.). Offender had juvenile record and 4 adult arrests--1 felony, 3 misdemeanors.

Result of Hearing--Given 4 years probation during which time cannot drink or possess alcohol. He could serve 4 months in Lyon Co. jail or 640 hours in a work program. He was told to go into an alcohol rehabilitation program. DRIVER'S LICENSE REVOKED FOR 3 YEARS; HOWEVER, PERMIT TO DRIVE TO AND FROM WORK TO BE DETERMINED BY PROBATION AND PAROLE. No fine. The case was plea bargained from 3 counts of manslaughter to 1. 1292

7. Mr. and Mrs. John Oppenheimer

Daughter Cindy, age 19, killed on Hwy. 395, 1978.

Result of Hearing--Drunk driver was 1/10 of 1% below blood alcohol test, SO CASE WAS DISMISSED.

8. Mr. and Mrs. Daris Cable

Daughter, age 21, killed on Hwy. 395, 1978.

Result of Hearing--No fine, no rehabilitation, put on probation.

9. Donna Goodacre

Hit in two separate car accidents by drunk drivers. Left her physically injured.

First accident--received a lower back injury resulting in degenerative arthritis, and car totally demolished, 1976.

Result of Hearing--\$150.00 fine, no insurance, no jail.

Second accident--3 victims. Second car totalled by 17-year old drunk boy, 1977. He hit four other cars. The last one head-on which contained two girls who were seriously injured. Mrs. Goodacre received a severe reoccurrence of the lower back injury and an upper back injury. She lives in constant pain.

Result of Hearing--no insurance, drunk driver fined \$250.00. DID NOT EVEN LOSE HIS LICENSE.

10. Mr. and Mrs. Paul Leonard

Son killed, age 24, 1977.

Result of Hearing--probation.

ENDORSEMENTS

1. President Carter's Administration gave its support to legislation by Senator Claiborne Pell (D-R.I.) which would require establishment of comprehensive alcohol traffic-safety programs in all states and impose uniformly stiff penalties for those convicted of driving under the influence.

The Administration also supported MANDATORY license suspensions and revocations as the most effective deterrent to future drunk driving by those convicted.

Pell's bill would require states, as a condition of receiving federal highway safety funds, to enact minimum criminal penalties of 10 days imprisonment or 10 days alternative community service for any convicted drunken driver. It also would require participation in an alcohol treatment or safe driving program.

Administrator Joan Claybrook, National Highway
Traffic Safety

2. Carson City Board of Supervisors.
3. Sparks City Council.
4. National Conference of Christian and Jews, Las Vegas, Nevada.
5. Reno City Council endorses subject legislative proposal specifically.
6. County Commissioners.
7. The Greater Nevada Health Systems Agency.
8. Department of Human Resources.
9. B & C Building Supplies, Sparks, Nevada.
10. Sierra Nevada Motor Repair, Sparks, Nevada.
11. Mini Camper Sales, Sparks, Nevada.
12. Bob Feldman, Representative of All Risk Insurance, Las Vegas, Nevada.

Sunday, March 9, 1980, Gazette-Journal, Reno, Nevada.

He said there are valid reasons when tickets are issued but "the courts" traffic judges are making shambles of our system by dismissing traffic tickets and reducing D.U.I. to speeding tickets. "Judges are either stupid or performing political favors," he said.

13. The following legislators who indicate their support:

Bill D. Brady, Assemblyman
Sue Wagner, State Senator
James N. Kosinski, State Senator
Cliff McCorkle, State Senator
William Raggio, State Senator
Alan Glover, Assemblyman
Jean Ford, State Senator
Joseph Dini, Jr., Assemblyman

"Spike" Wilson, State Senator
Robert Rusk, Assemblyman
Erik Beyer, Assemblyman
Dave Nicholas, Assemblyman
Michael Malone, Assemblyman
Roger Brener, Assemblyman
Robert Sader, Assemblyman
Patty Cafferata, Assemblyman

14. Individuals indicating their support:

Paul Laxalt, U. S. Senator
Richard Bryan, Attorney General
G. P. Etcheverry, Executive Director, Nevada League of Cities
Robert Weise, past Nevada Assemblyman
William McDonald, District Attorney, Humboldt County,
Winnemucca, Nevada
Municipal Judge Steve Dollinger, Reno, Nevada
John Mowbray, Supreme Court of Nevada
Florence McClure, Director, Community Action Against Rape,
Las Vegas, Nevada
Thelma Smid, Nevada Safety Council, Las Vegas, Nevada

15. SIGNATURES ENDORSING STRONGER D.U.I. LAWS FROM CONCERNED CITIZENS
ALL OVER THE STATE OF NEVADA: 1,834

NEVADA STATE JOURNAL, Sunday, July 6, 1980

Walt Kinney, Police Officer on the D.U.I. problem--

"The judges have strange ways of dealing with the D.U.I. cases. We put them in jail, the judges let them out."

Municipal Judge Steve Dollinger--

"Make the enforcement and penalties so stiff that the town of Reno gets a reputation: you don't drive and drink here."

Judge Peter Breen--

"Drunken driving is the only area where maybe uniformity and consistency in the laws would work. If there's a known consequence, a certainty of punishment, in some form, some kind of incarceration, built into law itself, so everybody knows."

Bringing up the question of leniency with judges rattled a few chamber doors. One judge didn't want to discuss it. "You're opening up a mess," he said.

REVIEW JOURNAL, Las Vegas, Nevada, December 19, 1980

CRIMINAL DRUNKS

"What makes people consider the D.U.I. driver the victim? When are people, courts, and laws going to get with it? Quit babying these people who are picked up for D.U.I. They sure wouldn't baby them if they had walked up to the car and shot them, would they? That would be considered open murder.

"Instead of people saying, 'What if that was me driving the car?' they should be thinking 'What if that was a loved one of mine!'

"THE LAWS HAVE GOT TO BE CHANGED! IT'S NOT AN ACCIDENT WHEN YOU TAKE A LIFE, if you're stupid enough to drive while on drugs and alcohol."

NEVADA STATE JOURNAL, July 6, 1980

A prominent Las Vegas judge said: "State Supreme Court justices are letting personal disputes get in the way of professional responsibility and are doing an unsatisfactory job of setting clear legal precedent." He also rebuked the justices for misstating facts in some opinions and for not having the faintest idea of what goes on in a trial court.

SPARKS TRIBUNE, 1980

"Legislation, to be effective, must be sufficiently stringent and armed with deterrent penalties that will discourage drunken driving."

SPARKS TRIBUNE, May, 1980

Report by Municipal Judge John Morrison--

"What is needed is clarification on the part of the legislature as to the intent of the law.

"It was also pointed out that some defendants are released and again allowed to drive, even after they have missed a number of the mandated weekly sessions without being required to make them up."

DAVE NICHOLAS, ASSEMBLYMAN

Letters to voters in his district--

Polling sample of 1,000: 72% favored increased penalties for D.U.I., 17.5% against, and 10.5% undecided.

TRIPLE A - MOTORLAND MAGAZINE, November-December, 1980 Issue

"Drunk drivers have almost nothing to fear from the system. They kill, maim and seriously injure innocent victims and they often get away with it.

"But the fact is that all these arrests, and all the resulting convictions and license suspensions, aren't really solving the problem. We're being far too lenient with drunk drivers. They're killing and injuring thousands of innocent people, and causing staggering financial losses. IT'S TIME FOR THE PUBLIC TO RECOGNIZE JUST HOW SERIOUS THE PROBLEM IS."

KOLO-TV DIMENSION 8, Sunday, July 13, 1980

Bart Jacka, Director, Department of Motor Vehicles
Jim Allison, Nevada Highway Patrol, Reno, Nevada

Both spent a good portion of their program time explaining about the pains they take to produce evidential material which will keep the drunk drivers off the road only to have the judges "play their games." (We assume that "play their games" means that the judges are not doing their jobs.)

READERS DIGEST, January, 1981

"They've Killed My Daughter Twice"--

The National Highway Traffic Safety Administration conservatively estimates the dollar cost of this alcohol-induced mayhem at \$5 BILLION a year, if a dollar cost can be associated with such massive loss of life.

Why is it that for every 2000 drunks on the road at a given time, only one is arrested? And why is it that that lone individual's chances of receiving a stiff fine, revocation or suspension of license, even a jail term, are MATHEMATICALLY INSIGNIFICANT?

ISN'T IT TIME WE GOT SERIOUS ABOUT THE PROBLEM?

Editors, Readers Digest '81

READERS DIGEST, January, 1981

According to the National Highway Traffic Safety Administration, on any given weekend night, ONE OUT OF EVERY TEN DRIVERS ON OUR HIGHWAYS IS DRUNK.

Roughly, ONE-HALF of all fatal highway accidents--which average between 50,000 and 55,000 year after year--involve alcohol.

NEVADA APPEAL, 1981

We the 6th period Driver Education class of Carson High School direct this letter to the judicial and traffic system of the State of Nevada.

Why abide by the law if it's not going to be enforced?

In the December 2, 1980 issue of the Nevada Appeal it states that Mr. Antony Galven has received a total of eight D.U.I. with the 9th resulting in the death of two innocent lives. The Nevada Handbook states that the license must be revoked and the judge may punish by confinement in the county jail for not less than ten days or more than six months. Mr. Galven had two of the eight D.U.I. within three months, but yet no mention of being taken off the road by confinement in jail.

Besides having his license removed, why wasn't any action taken to remove him from our highways? What we read is that each time he was convicted of a D.U.I. his hands were merely slapped. Why?

Causing death to another while driving under the influence of alcohol is a felony in Nevada, the sentence being 1 to 6 years imprisonment and a fine of up to \$5,000. It will be interesting to see the kind of sentence that is passed for murdering two people--or will it be another slap?

6th PERIOD DRIVER
EDUCATION CLASS
CINDY ADAMS
Representative of Class



STEPHEN H. DOLLINGER
Judge

MICHAEL V. ROTH
Judge

GAYL B. DODGE
Court Administrator

P.O. BOX 1900
RENO, NEVADA 89505

March 6, 1981

RENO MUNICIPAL COURT DRIVING UNDER THE INFLUENCE STATISTICS
CALENDAR YEAR 1980

January 1, 1980 - December 31, 1980:

Beginning Inventory:	350 cases
New cases filed:	1,514
Cases Terminated:	1,185

Normal sentences:

1. First time D.U.I. violation - \$300.00 plus Community Counseling Services - Certified by Department of Motor Vehicles. Tuition for CCS is \$120.00.
2. Second D.U.I. violation: \$400.00 - \$500.00 plus 30 to 60 days Reno City Jail.
3. Third (or more) D.U.I.: \$500.00 plus 60 days to 180 days Reno City Jail.

Driving on a suspended or revoked license carries a mandatory 10 days sentence in the Reno City Jail.


Gayl B. Dodge
Court Administrator

(2) THE SPOUSE AND CHILDREN OF THE CONVICTED INDIVIDUAL

(A) NO PROVISION HAS BEEN MADE TO PROTECT THE TRULY INNOCENT VICTIMS OF THE DRUNK DRIVER, THOSE BEING THE SPOUSE AND THE CHILDREN. HOW ARE THEY TO BE SUPPORTED WHILE THE INDIVIDUAL IS SERVING HIS OR HER SENTENCE? EVEN IF BOTH PARENTS WORK THIS BILL WOULD DEPRIVE THE DEPENDENTS OF A PORTION OF THEIR NORMAL WAY OF LIFE, BY LOSS OF INCOME BY THE CONVICTED INDIVIDUAL. THESE DEPENDENTS ARE TRULY INNOCENT OF ANY CRIME BUT UNDER THIS LAW "AS WRITTEN" SHALL SUFFER ALONG WITH THE DRUNK DRIVER.

I HAVE PREPARED AN AMENDMENT TO MAKE THIS BILL MORE FAIR TO THE INNOCENT VITINS OF THIS BILL. THIS BILL WOULD THEN BE IN CONFORMITY TO IT'S INTENT, AND ADDRESS ITSELF TO THE PURPOSE OF THE BILL AND GET THE DRUNK DRIVER OFF THE HIGHWAY.

I RESPECTFULLY SUBMIT THIS REQUEST TO THE CHAIRMAN TO SPONSOR AN AMENDMENT TO SB 83 AS FOLLOWS:

READ AMENDMENT

DISCUSS CHANGE FROM PRISON TO COUNTY JAIL.

RESPECTFULLY REQUEST CHAIRMAN

TO SPONSOR AN

AMENDMENT TO

SB 83

The 40 hours of labor may be preformed on the individuals normal days off from his normal employment. In the event an individual is sentenced to any confinement up to one (1) year, the individual shall be allowed to serve such time in confinement as to allow the individual to continue to work at their normal employment. Upon completion of the individuals normal work day, including such overtime work deemed necessary by the individuals employer, the individual shall return to confinement by the most direct route available to them, unless a time period is set by the Court having jurisdiction. Any reasonable expenses necessary to carry out these provisions shall be borne by the individual sentenced to such confinement.

In the event an individual is sentenced to a period of confinement of more than one (1) year, the individual shall serve such confinement in the nearest County facility of the Court having jurisdiction and shall serve such confinement under the same provisions as the individual receiving a sentence of confinement under one (1) year.

CROWELL, CROWELL & CROWELL, LTD.

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MEMBERS
Wm. J. CROWELL
WILLIAM J. CROWELL, JR.
ROBERT L. CROWELL

February 26, 1981

Murray Cohen, Secretary-Treasurer
Northern Nevada Food and Beverage Association, Inc.
Carson City, Nevada 89701

Re: Upcoming Legislation, and S.B. 83

Dear Murray:

Following our office conference this morning,
I am herewith enclosing, on separate sheets of paper,
the proposed counter-legislation.

I hope this meet with your approval.

Thank you for the courtesy of spending the
time with me to go over it on a phrase by phrase basis,
which I believe was most beneficial to the project.

Sincerely yours,


William J. Crowell, Jr.

WJC:mw

Enclosures

Section 1. N.R.S. 484.379 is hereby amended to read as follows:

484.379 1. It is unlawful for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of a vehicle within this state.

2. It is unlawful for any person who is an habitual user of or under the influence of any controlled substance or any person who inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any chemical, poison or organic solvent, to a degree which renders him incapable of safely driving or steering a vehicle to drive or steer a vehicle within this state. The fact that any person charged with a violation of this sub-section is or has been entitled to use [such]that drug under the laws of this state [shall not constitute] is not a defense against any charge of violating this subsection.

3. Any person who violates the provisions of this section is guilty of a misdemeanor and [such person's license to operate a vehicle in this state may, by the decision of the court, be suspended by the department of motor vehicles for a period of not less than 30 days nor more than 1 year] may be punished by confinement in the county or municipal jail for not more than 6 months or by a fine of not more than \$500, or by both fine and imprisonment, and in addition thereto, the court may sentence him to attend and pay tuition for, educational courses on the use and abuse of alcohol and controlled substances to be provided by the department of motor vehicles in its traffic schools, and may direct the department of motor vehicles to suspend his license for a period of not less than 30 days nor more than 1 year.

4. Upon a subsequent conviction within 3 years, the person so convicted shall be punished by confinement in the county or municipal jail, for not less than 10 days nor more than 6 months or by a fine of not more than \$500.00, or by both such fine and imprisonment[.], and in addition thereto, the court may direct the department of motor vehicles to suspend his license for 6 months and not to allow him any limited driving privileges.

5. No judge or justice of the peace in imposing sentences provided for in this section shall suspend the same or any part thereof, except that the court may determine that any sentence of imprisonment may be served by physical labor at the rate of four hours of labor for each day of imprisonment.

6. No prosecuting attorney may dismiss a charge of violating the provisions of subsection 1 or 2 for a second offense in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause, in which event the prosecuting attorney shall dismiss the charges.

7. Any term of confinement imposed on the provisions [sub-section 4] this section may be served intermittently at the discretion of the judge or justice of the peace. This discretion[shall] must be exercised after considering all the circumstances surrounding the offense and the family and employment [situation] of the person convicted [. However the full term of confinement shall], but any sentence of 30 days or less must be served within [a 6 month period] 6 months from the date of conviction, and any segment of time the person is confined [shall] must not consist of less than [a 24 hour period.] 24 hours.

8. Jail sentences simultaneously imposed under this section and N.R.S. 483.560 or 485.330 [, shall] must run consecutively.

484.3791 Driving under influence of intoxicating liquor, controlled substances when minor bodily harm to other person, or property damage results: Penalty.

a) Any person who, while under the influence of intoxicating liquor, and a controlled substance, or any person who inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent to a degree which renders him incapable of safely driving or steering a vehicle, does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle, which act or neglect of duty proximately causes minor bodily harm to any person other than himself, or property of another person, is guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for not less than 30 days nor more than 6 months.

b) That in the event it becomes evident to the judge or justice of the peace in any prosecution pursuant to the foregoing section that the bodily harm to the other person is in fact substantial, the judge or justice of the peace shall immediately halt the proceeding and direct the prosecuting attorney to reinstitute prosecution of the defendant pursuant to N.R.S. 484.3795, which provides for prosecution for a felony.

c) Nothing in this section shall be construed to prohibit the owner of any other vehicle or any person to whom is caused bodily harm from seeking damages in a civil proceeding against the offender.

d) No prosecuting attorney may dismiss a charge of violating the provisions of this section in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause, in which event the prosecuting attorney shall dismiss the charges.

e) No judge or justice of the peace in imposing sentences provided for in this section shall suspend the same or any part thereof.

NRS 484.3795 is hereby amended to read as follows:

484.3795 1. Any person who, while under the influence of intoxicating liquor, or a controlled substance as defined in chapter 453 of NRS, or under the combined influence of intoxicating liquor and a controlled substance, or any person who inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent to a degree which renders him incapable of safely driving or steering a vehicle, does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle, which act or neglect of duty proximately causes the death of, or substantial bodily harm to, any person other than himself, shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years [, or] and must be further punished by a fine of not less than \$2,000 nor more than \$5,000. [, or by both fine and imprisonment.]

2. No person convicted of violating the provisions of subsection 1 may be paroled or released on probation. No prosecuting attorney may dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probably cause in which event the prosecuting attorney shall dismiss the charge. No judge may suspend a sentence provided in this section or release on probation a person convicted under the provisions of subsection 1.

Section 1. NRS 458.025 is hereby amended to read as follows:

458.025 Bureau of alcohol and drug abuse: Creation; duties. The bureau of alcohol and drug abuse is hereby created in the rehabilitation division of the department. The bureau shall:

1. Formulate and operate a comprehensive state plan for alcohol and drug abuse programs which shall include but not be limited to:

a) A survey of the need for education, prevention and treatment of alcohol and drug abuse, including a survey of the facilities needed to provide services and a plan for the development and distribution of services and programs throughout the state.

b) A plan for programs to educate the public in the problems of the abuse of alcohol and other drugs and such programs to be made a mandatory part of all driver education and/or traffic school courses.

c) A survey of the need for trained teachers, health professionals and others involved in alcohol and drug abuse education and prevention and in the treatment and recovery of alcohol and drug abusers, and a plan to provide such necessary treatment.

d) A plan for locally-controlled programs to employ off-duty peace officers to provide a safe and lawful form of transportation for intoxicated persons to their place of residence.

2. Be responsible for coordinating the implementation of the state plan and coordinating all state and federal funding of alcohol and drug abuse programs in the state. The bureau shall be consulted in project planning and advised of all grant applications from within the state which are concerned with alcohol and drug abuse programs, and shall have the responsibility to review and advise concerning such applications.

3. Develop and publish standards of certification and have the authority to certify or deny certification of any facilities, programs or personnel on the basis of such standards, and publish a list of such certified facilities, programs and personnel. Any facilities, programs or personnel which are not certified are ineligible to receive state and federal funds for alcohol and drug abuse programs.

Page Two

4. Upon request from a self-supported facility, have the authority to certify such facility, its programs and personnel and add them to the list of certified facilities, programs and personnel.

We get letters to the editor

Crime, punishment

TO THE EDITOR:

Lop his head off with a Japanese sword. Hang him. Gas him. Drop the blade on his neck — right at the adam's apple. Electrocute him. That would be good. Now we're going to plunk the needle into him. That's the way to go. Don't anybody help him. Kill him anyway you can. Choke him; then kick him. Put a blindfold on him; and throw him over a cliff or to the lions. These have all been excellent deterrents to violent crimes for years and years.

In England, way back, they used to hang pickpockets in public. At these public hangings more pockets were picked than any other day in the year. They had a field day! Tell you anything? Did lynching stop rustling? Did 25 years stop bank robberies and kidnapping or hijacking? Read the papers.

Did \$400 fines stop drinking drivers? With three good whips you can

be pronounced "under the influence." I, and many others, gargle with that mitch every morning. All of our big clubs serve cocktails only at laid shows. Seventy-five percent of everyone leaving the clubs have had three drinks. If you stopped every car coming down the hill at highway 80 and 293 at night, you'd have 1,000 to 1,500 drunk drivers including legislators and judges. Lock them up. Take their drivers licenses away. That'll stop it — in a pig's eye.

If it were not for this state's gambling and liberal hours for drinking, we would all be eating sagebrush with the jackrabbits and there is just not enough sagebrush here to feed us all.

What are the solutions? Who knows? Nobody has come up with them yet. They have to be studied, studied, and studied again. Doctors, psychiatrists, sociologists, probation officers, students, judges, everyone (except prosecuting attorneys) all have to tear into these problems until they are solved or at least diminished.

More laws, stricter laws are not

the solution and never have been. Laws, the wrong laws, have created more problems in these United States than any other one factor. Prohibition and prostitution laws in the '20s and '30s created more criminals in this nation than any thing we have ever done. We had more enemy No. 1s than Carter had peanuts.

Roosevelt solved most of it by abolishing prohibition. Nevada helped by legalizing prostitution. Think about it. Get with it. Write those letters. Representatives are supposed to be working for you. So is the sheriff. So are the judges. Even that sneaky, gung-ho highway patrolman. None of these people are Jesus. They are all your representatives — actually your employees — you are paying them! So tell them what you think! Somebody will come up with something besides another idiotic law.

JOE PRUETT
Carson City

Barely passes committee

Anger brews over drunk driving bill

By SUE MORROW

Appeal Legislative Bureau

One of the most controversial bills of the Legislature narrowly cleared the Senate Transportation Committee Tuesday afternoon and the committee chairman denounced its passage as "irresponsible" and demanded his name be taken off measure.

The bill, SB-83 which provides for harsh penalties for persons convicted of driving under the influence of alcohol, has been the subject of two highly emotional public hearings, punctuated by dramatic testimony from families of persons who have suffered at the hands of drunken drivers countered by members of the liquor industry who asserted it would not solve the problem.

A third hearing was held recently to allow members of the judiciary to testify as to how the bill, if it became law, would effect them in the performance of their duties.

SB-83, introduced by Sen. Cliff McCorkle, R-Reno, and co-sponsored by all the other members of the Senate with the exception of Clark County Democrats

Jean Ford and Joe Neal, passed the committee 4-3.

The measure provides that a person convicted the first time of driving under the influence is guilty of a misdemeanor and must perform 40 hours of work in a work program. The person's drivers license would be suspended for no less than 90 days. If the violator's drivers license had been suspended or revoked prior to the time of the offense, there would be an automatic jail sentence of no less than 30 days.

A second or third offense would be a gross misdemeanor and call for heavy fines and automatic jail sentences.

In those cases a person could elect to be certified as an alcoholic and be required to undergo treatment instead of being fined or sent to jail.

The bill also prohibits plea bargaining in cases of drunken driving as well as any dismissal of the charge.

Sen. Rick Blakemore, D-Tonopah, chairman of the Senate Transportation Committee, told fellow members the bill needed some more changes before it was voted on, but he received no support.

Then he suggested it be referred to the

Senate Judiciary Committee because there was a question as to its legality.

But, McCorkle said there has been talk "many, many weeks ago" in the committee as to whether the bill would fall under the purview of the Judiciary Committee "and it was decided by you (Blakemore) that that was unnecessary, and we relied on that."

McCorkle was joined by Democrats James Bilbray and William Hernstadt, both of Las Vegas, and Lawrence Jacobson, R-Minden, in voting for the bill.

Joining Blakemore in voting against it were Joe Neal and Wilbur Faiss, both Clark County Democrats.

"This is, in my view, gentlemen, a piece of irresponsible legislation," said Blakemore after the vote.

I don't think we considered it properly and it that it was going to solve the problem.

He said he was firmly convinced "we should do something to solve the problem and asked that his name be removed from the bill. He said he felt that the measure should go to the Judiciary Committee because of the penalties provided for in it.

"Whether we refer this to finance (committee) for a fiscal note or Judiciary for a legal opinion, I believe the sentiment of the Senate is to pass this legislation," said Hernstadt.

"We have to rely on the competency of our bill drafters to draft a proper and constitutional piece of legislation," he said, adding the committee hadn't received any notice from the Legislative Counsel Bureau so it was his belief the bill was properly drafted and constitutional.

Bilbray said the subcommittee spent many hours on the bill and that with his legal training and constitutional background, "I really feel that we didn't pass an irresponsible piece of legislation.

"I think we passed a good piece of legislation that we worked hard on and I think it will go to the Assembly, and if there's some flaws in it I'm sure they will let us know about it."

Blakemore said his committee was capable of turning out a good piece of legislation that is workable, but he didn't think SB-83 was workable.

Judges not keen on DUI legislation

By SUE MORROW

Appeal Legislative Bureau

A legislative hearing on a bill providing harsher penalties for drunken driving was held Monday with none of the emotionalism characterizing the first two, but the message remained the same.

The public has become disenchanted with the treatment by the courts of persons driving under the influence of alcohol, said Assemblyman Alan Glover, D-Carson City, and such people are sometimes treated less severely because of "power, money or political influence."

Another speaker acknowledged that the publicity over SB83, which among other things prohibits suspended sentences and plea bargaining in drunken driving cases, has resulted in a change of attitude of the judges in such cases.

Monday's joint hearing of the Senate and Assembly Transportation Committees was scheduled to take testimony from the judiciary, but the only judge who appeared was Carson City District Judge Mike Griffin.

The lawmakers heard from proponents and opponents — mostly members of the liquor industry — in the first two hearings on the bill.

A letter by Justice of the Peace Tom Davis, who was unable to attend, was read into the record at the beginning of Monday's hearing.

The letter, written on behalf of the Nevada Judges' Association, said the Senate bill would create a "computer justice system."

While the judge's association "deplores the loss of life and limb" resulting from accidents involving drunken driv-

ers, it believes the jail sentences and maximum fines provided for in the bill "will not deter the incidence of such offenses as long as the ingestion of alcohol is a socially acceptable practice," said the letter.

He said past legislation, setting mandatory penalties such as automatic loss of license for two years and 10 days in jail as a result of a second conviction, "have been totally inefficient."

The average citizen, said Davis, "hasn't the slightest concept" of the penalties resulting from drunken driving convictions. He said because of this, an educational program is needed.

Davis said "many of these individuals convicted continue to drive without consequence or conscience regardless of penalty or subsequent loss to their family — loss of license is not significant because for the most part, people think driving is a right, not a privilege," he said.

Implementation of the bill, he said, "may liken itself to that of a computer justice system which would mandate an accused to be sentenced without the benefit of circumstances in mitigation or reasonable explanation as to what took place at the time of arrest," the letter said.

He asked that the legislature "channel some of the funds derived from traffic fines now being sent to 'education' to a more specific designation such as education of drinking and driving, or 'drinking and being.'"

Judge Griffin, who also spoke for district judges Michael Fondi, also of Carson City, and Howard McKibben of Minden, said he had no opinion as to whether the bill was good or bad but

wanted to tell the committees what he thought it would do.

He said by providing that a second offense is a gross misdemeanor, the case would go to the district court level and therefore greatly increase the caseload in that court.

And, persons who disobey the provision of attending mandatory alcohol abuse classes could only be cited for contempt of court, and the law requires they be afforded a jury trial for such an offense. That would also increase the district court caseload, said Griffin.

He said the bill removes the ability of a judge to sentence an offender to a certain term, suspend the sentence, and put him on probation with a certain amount of time in jail as a condition of the probation. If the person doesn't comply with the terms of his probation, as the law now stands, he or she could be sent back to complete the full sentence.

By removing probation, said Griffin, "you remove the flexibility in achieving the goal you want to achieve."

Griffin said the present law provides a "cohesive hammer" to require a drunken driving offender to comply with certain orders of the court.

Each case involving such offenders, said Griffin, amounts to an "intellectual exercise." There must be a consideration of individual circumstances to determine "how much punishment, what's the danger to the community." He said the effect of imprisonment on the offender's family is also a consideration.

"It's difficult to sentence someone to prison when it is not a vicious crime and he has a family to support," said Griffin.

Sen. Cliff McCorkle, R-Reno, said it appeared to be "an imbalance of jus-

tice" when a drunken driving victim is obligated to \$175,000 in medical bills and the offender gets a \$250 fine.

Reno Deputy City Attorney Don Gladstone told the lawmakers he supported the bill in concept, but suggested a number of changes.

Among them was keeping the jurisdiction for second and third offenses at the lower court level and out of the district court.

Gladstone also objected to the removal of plea bargaining, saying that is often the only way a conviction can be obtained.

He said that by sending second offenses to the district courts would increase the caseload to the extent "I doubt they could deal with them."

If he were a defense lawyer, he said, he would simply request a jury trial and thereby gain a substantial delay. It is common knowledge, he said, that "delays work to the advantage of the defendant."

Cary Miller, Las Vegas Municipal Court administrator speaking on behalf of four judges, said he understood the need to stiffen penalties for drunken drivers but cited several general problems the judges found with the bill.

He said "each case is 'unique' and there are considerations such as the mental and medical condition of the offender, age and economic means, and whether or not the offense has involved personal injury or property damage.

Miller said he was concerned with the provision for mandatory 40 hours of physical labor on the first offense, saying it could create liability and administration problems.

Stricter drunken driving laws knocked

By MARTIN GRIFFITH
Journal Capital Bureau

An attempt to detour a bill to strengthen Nevada's drunken driving laws was made Tuesday during a raucous hearing of the Senate Transportation Committee.

Tavern owners claimed SB 83 would knock many small bars out of business and wouldn't take drunken drivers off state highways as supporters maintain.

The two-hour hearing, held solely for opponents of the measure, was marked by several sharp exchanges between committee members and witnesses who spoke out against the bill.

The sharpest clash involved Bill Montgomery, of Teamsters Local 553, and Sen. Cliff McCorkle, R-Washoe, the proposal's main sponsor. The incident came after McCorkle questioned Montgomery's motives for opposing the bill.

"Your question is asinine and facetious . . . if you can't stand the

heat, get out of the kitchen," Montgomery shot back.

"You're a disservice to your union . . . I hope you conduct your negotiations better than you have conducted this presentation," McCorkle said.

Before the episode, Montgomery protested a provision calling for a minimum 90-day loss of driver's license for first-time offenders, claiming it would "ruin many lives."

"Not one Teamster driver could survive this time without a license," he said.

However, McCorkle told him: "The stronger you react, the more credence you give to the reason for the bill. If it has the effect on people you say it'll have, it's doing its job."

Murray Cohen, a spokesman for the Nevada Food and Beverage Association, said the measure would reduce bar business from 5 to 10 percent, and would put some "borderline" bars out of business.

Estelle Latona, owner of the Hangman's Tree Saloon in Washoe City, testified that enforcement of current laws was the answer to dealing with the problem, not enactment of SB 83.

"I've talked to a lot of people and the average person feels this law is very unjust," she said. "It's aimed at the unaffluent. The people with money still will be able to get off."

Eddie Anderson, a Reno bartender, said he opposed the bill partly because it would have an adverse impact on tourism. Moreover, he said the bill was unfair to small bar owners.

Explaining the bill's intent, Sen. William Hernstadt, D-Clark, said, "It's a false point that we're opposed to having a drink. A person still will be able to patronize his favorite bar. We just want to keep the heavy drinker off the road."

During the hearing, six girls carrying placards in support of the bill marched quietly into the hearing room. Among their mes-

sages: "If You Like Booze, Use Your Shoes," "Beware of the Rolling Stone," and "If You Drink Like Fish Swim, Don't Drive."

More than 100 persons attended the committee's first hearing on the bill earlier this month, with a majority supporting it. An equal number attended Tuesday's hearing.

Under the measure, penalties would remain basically the same, but judges no longer would have the discretion of handing out lighter sentences. Offenders would receive mandatory sentences.

First-time offenders would face a 90-day loss of their driver's license, an alcohol education course and 40 hours of labor, while second-time offenders would face a \$1,000 fine, 15 days in jail and six months' loss of license.

Third-time offenders would face from one to six years in jail and a \$2,000 to \$5,000 fine. No plea-bargaining or suspended sentences could be given under the measure.

Letter to the editor:

Facts about drinking and drivers

EDITOR'S NOTE: What follows is a letter to the editor which is far too long to meet our letters to the editor requirements. However, it deals with a subject we should all be interested in and the writer is obviously involved and concerned. Therefore, we've decided to run Mr. Garrett's letter in full.)

I appreciate the opportunity to respond to the letter from Mrs. Ray Ceccarelli et al., which you published in the Jan. 18 issue of the Nevada Appeal.

While I do not wish to perpetuate an exchange of views on an issue which is obviously fraught with endless potential for debate, I do feel that it is essential to focus some light on those of Mrs. Ceccarelli's "facts" which I believe she has misinterpreted. To begin with you should know that Mrs. Ceccarelli and I are amiable adversaries who differ less in our interest in reducing traffic deaths caused by drinking drivers than we do in our beliefs about what is useful and what is wasteful in furthering that interest.

I believe that it is not useful to misquote the research literature through the uncritical use of terms like "drunk" and "drunks" to imply that one's position is supported by that literature. I am likewise opposed to the misuse of the term "alcohol-related" by failing to properly define it. Such practices serve only to raise our emotional temperatures and obscure the issue.

Since Mrs. Ceccarelli suggests that it is the "facts" which are at issue here, I will include references to at least a few of the studies which can make a legitimate claim to facticity. These references should also tend to distinguish more clearly between matters of my own opinion and the published work of researchers.

In order to remain faithful to the studies which support her

influence (DUI) of alcohol by the laws of most states. Therefore, the presence of amounts of blood alcohol as low as 0.1 percent (one-tenth the presumptive level) resulted in the labeling of the tested subject as a drinking driver. Examination of the data which support the conclusions of the studies to which Mrs. Ceccarelli has referred show that of those drinking drivers involved in fatal accidents 40 to 44 percent had a BAC of 10 percent or higher (Perrine, et al., 1971; Bremner and Selzer, 1969). That being the case, BAC levels below 10 percent have been shown by epidemiological study not to have a significant causal relationship to crash involvement (Zylman, 1972).

While Mrs. Ceccarelli expresses the traditional belief that massive arrests will reduce alcohol-related highway deaths, the research does not support that belief. Although tens of millions of taxpayers' dollars (As I recall the figure was \$88 million) were spent in concentrated Alcohol Safety Action Programs in 29 areas of the United States in an effort to combat the drinking/driving problem, the subsequent evaluation of that effort (Zabor, 1974) refutes any claim for success. To be specific: "The authors of the official evaluation report (U.S. Dept. of Transportation, 1974) were correct: there was no evidence of a positive relationship between alcohol-related arrest activity and a decrease in night-time fatal crashes." (See Zylman, Alcohol, Drugs, and Traffic Safety. Proceedings of the Sixth International Conference on Alcohol, Drugs and

were suspended or revoked because of "drunken driving" convictions continue to drive anyway. In the case of revoked licenses alone, the harsher and lengthier penalty, 75 percent are reported to still be driving. I want to remove the drinking driver from the highway

judge shall enter any order in derogation of this section." I have quoted from a document entitled "Recommendation Outlining Penalties For DUI Offenders" which Mrs. Ceccarelli gave to me and said represented her legislative proposals.

Mrs. Ceccarelli complains of the inadequacy of our courts. She testifies that persons who have caused the deaths of others while driving under the influence of an intoxicant finding of guilt the imposition of a lighter sentence by the judge in the case of death or substantial

hear the facts about particular cases and particular judges. If she feels she can identify a judge or judges who have failed to properly exercise the duties of the office then let's get on with it. We await the evidence. Unhappily, she has remained silent on specifics and seems content to irresponsibly tar all judges with the same brush.

Research does not support the belief that massive arrests will reduce alcohol-related highway deaths

but I will not support mandatory measures which give only the appearance of effectiveness when in fact they have a proven record of failure.

Mrs. Ceccarelli's insistence that each and every convicted offender be given exactly the same sentence, regardless of the difference in circumstances, is the element of her proposal I find the most wasteful. For example, earlier last year a young woman in her early twenties appeared in a Las Vegas court on a DUI charge. In this particular case the young woman had been given a prescription for a muscle relaxant by her physician which she took according to the directions. Unfortunately, while the medication had the potential to significantly impair her ability to drive, neither the physician nor the pharmacist warned her of that potential. She took the medication, drove, and was arrested for driving under its influence. The traffic officer's action in making the

We are faced with a serious problem, a very serious problem and the search for effective remedies is difficult. For example, we have persuasive evidence to show that several characteristics come together to identify the high risk group of drinking drivers. However, even if we could identify all members of that group we cannot know which of them will be involved in a fatal accident and which will not. Furthermore, if we knew which ones would be involved in fatal accidents we would not be able to predict when they would occur — next week, next year, or ten years from now? To assume that a good stiff penalty will somehow "rehabilitate" the wayward driver and convince him or her never to drink and drive again is to ignore an enormous amount of experience to the contrary.

injury the defendant faces a felony charge and the case is heard at the district court level, not at the justice or municipal courts where the bulk of DUI cases appear. If, as are routinely avoiding stiff fines, loss of the driving privilege, and jail. Such consequences can be avoided in two ways, but a finding of not guilty at trial or following a

in the case of a former sheriff in a neighboring county, the jury finds the defendant to be not guilty of the charge, then Mrs. Ceccarelli's dissatisfaction should be directed at her fellow citizens who serve on juries. Or perhaps she should inform herself of the circumstances which led the jury to a finding of not guilty. If her complaint is about leniency in the sentencing of those who have been convicted, then let's

As for the law enforcement officers of Carson City, I have seen no evidence to suggest they are not looking up their end. A look at the arraignment streets indicates that if you drink and drive in this community they are likely to cite you, even at BAC's below the presumptive level. Which can be made to stick, by the way.

No Mrs. Ceccarelli, I have no fear of a trampling herd. I have confidence that we will continue working with our legislators to find ways to develop and implement measures which will effectively, if not totally or immediately, reduce the risk represented by drinking drivers. And, contrary to your view, I do not see us as innocent victims. We are the congenial but misguided hosts who encourage our guests to drink more than may be wise. We are folks who continue to tolerate the abuse of drinking and driving by ourselves, our family members, and our friends. We are not innocent but we do tend to accept the myths of easy answers.

JIM GARRETT,
Carson City

in crash; woman arrested

A 25-year-old Las Vegas woman was arrested on two felony counts of drunk driving Thursday night in connection with a two-car collision at Charleston Boulevard and 26th St., in which two men were critically injured, Metropolitan Police said.

Donna Perkins, 5900 W. Tropicana Ave., was booked into the City Hall Jail annex after being treated and released from a local hospital, police said. The collision occurred about 7 p.m.

The other driver, Ronald Harwick, 19, of 509 Dolores Dr. and Ferrill Vandegrift, also 19, of 50 N. 21st St. were in critical condition at Southern Nevada Me-

morial Hospital, a hospital spokesman said. Harwick was undergoing surgery late Thursday night.

Vandegrift was a passenger in Harwick's car.

Police said Perkins was driving west on Charleston Boulevard at a high rate of speed and smashed into the car driven by Harwick while he was turning onto the street.

Harwick was turning left to go east on Charleston Boulevard after stopping at a stop sign on 26th St.

The car driven by Perkins struck the driver's side of the other vehicle, pushing it about 50 feet, police said.

One Dies, Three Hurt In LV Auto Mishaps

One man was killed and three others were injured in two traffic accidents late Thursday and early Friday.

As a result, two persons face felony charges, police said. David Edlis, 26, of 6415 Whippoorwill Way was killed at 5 a.m. Friday in a two-car collision at the intersection of Sahara Avenue and Interstate 15. Police said Edlis' car was struck by a vehicle driven by Tim Kitto, 21, of 2825 W. Sahara Ave. Officers arrested Kitto on suspicion of drunken driving and possessing a controlled substance.

Police said a passenger in Kitto's vehicle, Brent Wessock, 24, of 5065 Campbell Drive, sustained minor injuries.

Police said Friday two persons remained in critical condition in Las Vegas hospitals following an accident at 10 p.m. Thursday.

Ronald Harwick, 19, of 509 Dolores Dr. was taken to Southern Nevada Memorial Hospital and Ferrill Vandegrift, 19, of 50 N. 21st St. was taken to Sunrise Hospital after a collision at 26th Street and Charleston Avenue.

Police said Harwick and Ferrill were turning from 26th onto Charleston when their vehicle was struck by a car driven by Donna Perkins, 25, of 5900 W. Tropicana Ave.

Police said the impact knocked Harwick's vehicle 50 feet across the intersection.

Officers said Perkins was charged with drunken driving.

LV Youth Hurt In Crash Dies

29.81
A Las Vegas teenager injured in a traffic accident two weeks ago died early Wednesday at Southern Nevada Memorial Hospital.

Ferrill Vandegrift, 18, of 50 N. 21st St., was injured March 19 when the car in which he was riding collided with a vehicle driven by Don-

na Lee Perkins, 26, at 26th Street and Charleston Boulevard.

Witnesses said Perkins was traveling west on Charleston at a high rate of speed when her car collided with a vehicle carrying Vandegrift as it pulled out of 26th Street. at about 7 p.m.

AUTO INSURANCE CENTERS

1920 E. SAHARA AVENUE
LAS VEGAS, NEVADA 89104
Phone: (702) 457-0887

DATE 3-23-81

SUBJECT FIRST REPORT OF LOSS

TO CLAIMS DEPARTMENT
COLONIAL INSURANCE COMPANY

(FIRST REPORT - MED-PAY ONLY LOSS)

CLAIM # GAC 6222 1 our insured: Harwick, Ronald E. Jr. DCL: 3-19-81
REPORTED: 3-20-81

Our insured's father called me Friday evening to report this non-fault accident and I do suggest that you set up two maximum medical payments reserves of \$1,000 each for our insured and 19 year old passenger in our vehicle. This is such a disgusting claim, no matter how much other medical coverage these boys may have will not be enough.

Per attached news articles a drunk hit our car broadside. Police investigator Maglish (who is the department's fatality investigator) said the drunk was doing at least 30 MPH in the residential area. Woman was arrested for felony D.U.I. and will probably be charged to manslaughter if either of the boys do not survive.

Our insured Ronald had punctured lungs, ruptured spleen, broken ribs, broken pelvis, heart and kidney damage and other injuries. The other boy is in at least as bad a condition. Both in a coma in intensive care. According to Ronald Harwick Senior (father) it is miraculous that the boys are still alive. Father will stop by our office this week to give us more details.

AUTO INSURANCE CENTERS

1920 E. SAHARA AVENUE
LAS VEGAS, NEVADA 89104
Phone: (702) 457-0887

SIGNED *Ray Feldman*

DATE 3-24-81

SUBJECT CONTINUED LOSS

TO REX PHILLIPS, CLAIMS DEPARTMENT
COLONIAL INSURANCE COMPANY

(LOSS PREVIOUSLY REPORTED IN YESTERDAY'S MAIL)

CLAIM # GAC 6222-1 our insured: Harwick, Ronald Jr. DOL: 3-19-81
REPORTED: 3-23-81

Rex... I sent in a first report of this accident and also spoke with you on phone today. This is the accident whereby adverse drunk hit our vehicle broadside at about 90 MPH according to police investigators. If you have any question contact officer Maglish of Las Vegas Metro Police. He has a more detailed report and he is usually the fatality investigator but the boys are still alive as of today's date. Police report is attached.

I have today verified coverage for the adverse party with FARMERS MID CENTURY INSURANCE COMPANY (phone 702-870-6212) policy #10669-75-15. I have sent both the parents of our insured and mother of our passenger to FARMERS to report and to advise all of their possible sources of medical insurance for the boys. At best the medicals on this (if they survive) will exceed \$100,000. Our boy Ronald is hanging in, cannot speak but was awake for a while. The other boy apparently has severe brain damage and multi-fractured skull along with an array of other injuries and his mother is not too optimistic. He has been in deep coma for five days with little signs of improvement. Both parents will call you in a few days on the \$1,000 of medical payments coverage we have available for each boy.

SIGNED *Ray Feldman*

RJ- 6-30-80

One man killed in auto accident

The driver of a 1979 Chevette was reportedly involved in two separate accidents early Sunday morning when he allegedly struck a pedestrian, fled the scene, and ran a stop sign, killing another driver, Metropolitan Police and Highway Patrol officials said.

Rita Peal, 38, was walking north on the Boulder Highway pavement south of Sahara Avenue when a 1979 Chevrolet Chevette veered to the right and struck her, causing serious injuries, a Highway Patrol spokesman said. She was taken to Sunrise Hospital where her condition is listed as stable.

A witness attempting to obtain a license plate number said the Chevette then traveled east on Wyoming Street, where it ran a stop sign at the Sandhill intersection, became airborne, and struck a 1978 Chrysler traveling north on Sandhill.

The driver of the Chrysler, Phillip Emanuel Bell, 27, of 2292 Las Puente, was pronounced dead at the scene by the deputy coroner.

The driver of the Chevette, Carl Job, 23, of Pasadena, Texas, was taken to Sunrise Hospital where his condition on Sunday afternoon was listed as good.

The passenger and owner of the Chevette, William Mattingly, 26, of Las Vegas, was taken to Sunrise where he was treated and released.

A Metropolitan Police spokesman said Job has been charged with felony driving under the influence of alcohol. A Highway Patrol spokesman said he also would be charged with felony hit-and-run charges.

(B)

ATTORNEY AT LAW

CABLE ADDRESS:

LAS VEGAS, NEVADA 89104

RESIDENCE

April 26, 1977

Mr. Bob Feldman
All Risk Insurance Company
2337 East Sahara
Las Vegas, Nevada 89104

Dear Mr. Feldman:

William Dennis Mattingly has been arrested on the following dates for the reasons stated therein:

1. Arrested August 1, 1975 for DUI. Case dismissed on December 9, 1976.
2. Arrested November 26, 1975 for DUI. Case is set for May 2, 1977, at which time Mr. Mattingly is to pay \$100 fine. (Reduced to reckless driving).
3. Arrested December 26, 1975 for possession of controlled substance and cited for failure to yield while turning left. Preliminary hearing is set for May 2, 1977.
4. Arrested February 20, 1976 for DUI, failure to yield to an emergency vehicle and reckless driving. DUI and failure to yield dismissed February 28, 1977. \$100 fine paid on reckless driving April 26, 1977.
5. Arrested June 25, 1976 for assault with a deadly weapon. Case dismissed November 15, 1976.
6. Arrested August 10, 1976 for DUI. Case set for trial September 19, 1977.
7. Arrested September 2, 1976 for DUI. Case continued until August 31, 1977. A reduction to reckless driving is expected at that time.
8. Arrested November 12, 1976 for burglary and assault. Case continued until August 31, 1977 on the assault case. Burglary set for July 20th. Possible dismissal of assault on that date.
9. Arrested November 19, 1976 for DUI. Case continued until August 31, 1977. A reduction to reckless driving is expected at that time.
10. Arrested January 6, 1977 for burglary, reduced to petty larceny.
11. Cited for failure to use due care and failure to have insurance. Court date set for November 7, 1977.

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Mr. Bob Feldman .
Page Two
April 26, 1977

As you see, he has no convictions for driving under the influence.

Very sincerely,

/cb

All Risk Insurance Agency Inc.

2337 EAST SAHARA AVENUE
LAS VEGAS, NEVADA 89105

April 27, 1977

Attorney at Law

Las Vegas, Nevada 89104

Re: William Mattingly and your letter of April 26.

Dear

I do thank you for suggesting that Mr. Mattingly contact our office for liability insurance but I am unable to insure him with our companies. We are usually able to provide coverage for any reasonable type of risk, considering that I have people insured with D.U.I.'s, violations, accidents, etc. Those that we do insure we believe should be allowed to drive on our highways.

In review of Mr. Mattingly's actual driving record, aside from the fact that he has an attorney who would make Perry Mason look like a law student, it is my opinion that he does not belong on the road at all until such time as he has fully completed some sort of rehabilitation program. I do understand that he has not been drinking or whatever for the past three months according to what you mentioned, but three months is hardly adequate for the situation.

If we could write him insurance with a private carrier, premium rates would be over \$3,000.00 per year for minimum coverages. I therefore suggest that you find him an agent who writes the state assigned risk plan, if they will accept him. We do not write assigned risk policies.

Please send me a few of your business cards and I will refer some clients to you. We have many clients that are in need of a good attorney for D.U.I.'s, uninsured accidents, etc., but those people have reasonable records and are more of the insureable nature.

Mr. Mattingly would be better off if he took a taxi to work for the next 2 1/2 years, not to mention the public's exposure.

Best regards,

R.B. Feldman

R.B. Feldman, Pres.

Resident Agent

ATTORNEY AT LAW

CABLE ADDRESS:

LAS VEGAS, NEVADA 89104

RESIDENCE

May 2, 1977

Mr. R. B. Feldman, President
All Risk Insurance Agency, Inc.
2337 East Sahara Avenue
Las Vegas, Nevada 89105

Dear Bob:

Thank you for your letter, I really enjoyed it and I appreciate the nice compliments regarding Perry Mason.

I told Mr. Mattingly he would have to pay over \$3,000 for insurance and hope he will not start drinking again. We will attempt to find someone in the assigned risk plan to insure him.

Meanwhile, as you mentioned, I am enclosing some of my business cards and if you will send me some of yours, I will send you some more stellar drivers for insurance purposes.

Very sincerely,

/cb

All Risk Insurance Agency Inc.

2337 EAST SAHARA AVENUE
LAS VEGAS, NEVADA 89105

May 3, 1977

Attorney at Law
Las Vegas, Nevada

Re: your letter of May 2.

Dear

Enclosed are a few of my business cards and I will be glad to assist any person with a problem with insurance so long as we have some feeling that they belong on the road.

As mentioned, I will refer a few of my clients to you. Some of these people get themselves into situations due to their lack of education or an error in judgement rather than a habitual problem.

I did give Mr. Mattingly a free lecture (for whatever good it will do) and I hope you can get him straightened out.

Best regards,



R.B. Feldman, Pres.
Resident Agent

P.S. Not necessary that they be "stellar" drivers as we do insure people with suspensions, revocations, DUI's, manslaughter charges, multiple violations, etc., if we think their records will improve.

Attorneys consider drunken driving bill archaic

By Gary Ebbels
Staff Writer

A bill introduced in the Assembly last week that would require authorities to impound a thly driver's car from 10 days to six months has been met by Las Vegas attorneys with skepticism and scorn.

Under the legislation, sponsored by Bob Price, D-North Las Vegas, and 18 others, a car would be impounded for 10 days for the first drunken driving offense, 30 days for the second and six months for any additional ones.

Price claims his bill will discourage drunken driving by making it a financial hardship on the driver.

"Why don't they just reach back to the 16th century and install some stocks in front of the courthouse?" asked attorney J.R. "Hing" Smith. "Then they could just lock people into them like they did back then and hold them up to public ridicule. This legislation makes about that much sense."

Smith said any new drunken driving legislation should center on counseling.

"We have counseling programs that are working and we could use some more," the attorney declared. "Are they trying to cure a problem or make people's lives miserable?"

Smith said he believes the measure, should it become law, will never stand a constitutional test in the Nevada Supreme Court.

"If it passes I will take on its constitutionality and I will expect to win," said Smith flatly.

Lawyer Henry Gordon agreed.

"This type of thing has al-

ready been ruled unconstitutional," he said. "The Supreme Court held a long time ago you can't punish the poor for simply being poor. You can't send someone to jail just because they can't afford to pay a fine.

"In this case you are imposing a hardship on someone who can only afford one car. The rich people, who have more than one car, are not going to be hurt by this."

Deputy District Attorney John Wawerna said he opposes

the measure because it will hurt innocent people.

"I don't care what they do to the drunk driver," said Wawerna, "but I do care about his family. Suppose you have a man who has a wife and a baby and one car. How is the wife going to get the baby to the doctor if you take away the car because of something her husband did?"

"How is she going to do her shopping? What happens if the man loses his job because he

has no transportation to work? Who is going to support the innocent members of the family?"

Justice of the Peace John McGroarty said he foresees problems with the proposal from a practical standpoint.

"Where are you going to get a lot big enough to hold all these impounded cars and who is going to pay for it?" the judge asked.

"And do you really think this is going to keep these people from driving?"

Drunk Drivers May Lose Their Wheels

CARSON CITY (AP) — Drunk drivers would have their cars impounded for up to six months under terms of a bill introduced Wednesday in the state Assembly.

AB421 was sponsored by Assemblyman Bob Price and 18 others. Price said the bill could provide an alternative to sentencing drunk drivers to jail. "We have an obvious problem with the jails being full," he said.

The measure would require authorities to impound the car of anyone arrested for driving

under the influence of alcohol. The vehicles would be held for 10 days for a first offense, 30 days for a second offense and six months for a third offense.

Price said he'd considered impounding drunks' cars before, but dismissed the idea as being "too far out." But he said he recently heard of a judge in California who was impounding intoxicated drivers' vehicles, and "decided the idea isn't as far removed from possibility as I once thought."

Attorneys claim DUI legislation will slow justice

By Gary Ebbels
Staff Writer

Eighteen state senators are pushing for legislation that would eliminate plea-bargaining in drunken driving cases as well as carry mandatory jail-sentences for tipsy motorists — a measure Las Vegas attorneys say will create chaos in the Justice Court system.

"It will be great for defense attorneys and a nightmare for the court," declared lawyer David Abbatangelo.

"We'll just ask for jury trials every time a client is charged with DUI and that will probably clog up the calendar for a year or so.

Then, when it finally comes time for the trial, there's a good chance the arresting officer will have left the force or left town or for some reason won't be available to testify. They'll have to dismiss the case and we, as defense attorneys, will look like geniuses in the eyes of our clients."

It currently takes two weeks to resolve a traffic case through plea-bargaining and 30 days if a trial is required.

Attorney Gerald Neal agreed with Abbatangelo.

"If they can't or won't plea-bargain, then they force us to go to trial. When I was practicing in California they tried that and it just tied up everything.

"If they want to force us to go to trial on every case, then we'll go."

Under current Nevada law, punishment and plea-bargaining is discretionary with the court and the prosecution respectively.

Under the proposed law, a first-time offender would have to perform 40 hours of labor and lose his license for 90 days. A second-time offender would face a minimum of 15 days behind bars and a third-time offender would be jailed for one year and fined at least \$2,000.

"I don't think they'll get that on," said attorney Henry Gordon.

"They used to have mandatory jail sentences for second-offenders and the Supreme Court threw it out because it took all say in the matter out of the hands of the judge, who was elected by the people for the express purpose of exercising his discretion in the cases that come before him.

"I think this proposal is unconstitutional and impractical. Why bother having a judge and a prosecutor if you're going to have laws like this?"

"This kind of legislation is dangerous."

Justice of the Peace Jim Bixler, who, with his four fellow benchwarmers would have to bear the expected load of trials should the proposed legislation become law, said he could resign himself to the whims of the lawmakers.

"Naturally, it's going to increase our caseload greatly, but that's their prerogative," said Bixler.

"Our DUI laws are not as tough as the ones in some other states.

Liquor interests oppose bill on drunken driving

Appel Legislative Bureau
Nevada bar owners hope to convince the Legislature that stricter penalties are not the solution to the problem of drunken drivers.

Although it has an obvious financial interest in a Senate bill to hike drunken driving penalties, the Nevada Food and Beverage Association contends a more important interest is seeking a better solution than the one proposed in SB33 (a bill that greatly increasing penalties for drunken driving).

Spokesman Murry Cohen, a local bar owner, agrees there is a problem with drunken drivers, but says stiffer penalties for convictions will not solve it. He is expected to suggest today the Legislature fund a program to give drunken drivers a better way to get home.

"We can't always criminalize behavior to solve a community problem," says Cohen, secretary-treasurer of the Nevada Food and Beverage Association. Although common sense would seem to indicate stiffer penalties might deter drunken drivers, Cohen contends the best studies available show otherwise.

For example, he says that of the 14 states which authorized more than one year of confinement for drunken driving convictions, only four had fewer traffic fatalities than Nevada during 1979. New Hampshire, which had deleted all penalties from their drunken driving laws, it.

had only 171 traffic fatalities from all causes in that year, according to Cohen. At the same time, Massachusetts, which had a two-year maximum jail sentence, had almost three times as many fatalities, he added.

Cohen also refers extensively to a letter from Carson City resident Jim Garrett, printed in the Feb. 8 edition of the Nevada Appeal, which concluded there is no firm evidence that stiffer penalties actually deter drunken drivers.

Instead, Cohen will propose that the state fund locally controlled programs to employ off-duty police or sheriff's deputies to "drive the drunk home." He says such a program will provide meaningful opportunities for dedicated but underpaid officers and significantly reduce fatalities.

His problem will be to convince the Legislature, where there appears to be widespread sentiment to increase drunken driving penalties. The bill being heard before the Senate Transportation Committee today is sponsored by 18 of the Senate's 20 members.

Cohen does not appear overly optimistic but still says he is right. "Realistically, if they are interested in solving the problem they will kill the bill," he said recently. "If they are only interested in votes, they will pass it or some form of it."

NO DRUNK DRIVERS IN SAN SALVADOR

How do they handle the problem of the drinking driver in other countries? Read on:

Australia--The names of drivers are sent to the local newspapers and are printed under the heading, **THE'S DRUNK AND IN JAIL.**

Malaya--The driver is jailed; if he's married, his wife goes to jail too.

Finland, England and Sweden--Drunk drivers receive an automatic jail term of approximately one year.

South Africa--The drunk driver is given a ten-year prison sentence, a fine of \$10,000 or both.

Turkey--Drunk drivers are taken 20 miles from town by police and forced to walk back . . . under escort.

Hungary--A second operating-under-the-influence conviction is your last, because the sentence for a second offense is execution.

San Salvador--Drunk drivers are executed by firing squads.

Drinking drivers should pay for tests, NIIIP spokesman says

Appeal Legislative Bureau

People who drink and get out on the highways should have to pay for the blood alcohol tests they submit to when arrested on suspicion of drunken driving, the Assembly Judiciary Committee was told Friday.

Gary Wolff, speaking for the Nevada Highway Patrol, appeared before the committee to express support for AB227, which would require that persons pay for BA tests given them if the tests reveal their to a sufficient amount of alcohol in the system to raise a presumption of intoxication.

The measure, introduced by Assemblyman Robert Husk, of Reno, also provides for the payment by a person for tests administered to show the presence of a controlled substance in the system.

Under the terms of the bill, the state or local government at whose expense the tests were undertaken would have a lien against the personal property of the person on whom the test was performed.

Wolff said a blood alcohol costs in Southern Nevada costs the NIIIP \$16, and a drug screen for controlled substance use costs \$40. He said the tests cost \$18.25 and \$50 respectively in Reno.

"I feel if a people are going to go out and be drunk on the highways and cause people to die, injure people," they should have to pay for tests given them after their arrests, said Wolff.

Assemblyman Lonie Chaney, D-Las Vegas, argued, however, that he didn't think the public should have to pay for the "instruments the police are using to catch us." He added that the taxpayers already pay for guns policemen use. He said he also didn't think the provision for a lien on a person's property was fair, noting that if someone didn't have the money to pay for a test, authorities could seize his or her car.

A spokesman for the Washoe County Sheriff's Office crime lab said the NIIIP pays \$4,000 a year in arrests made in the Washoe Valley area alone in blood alcohol tests, not including what it pays out for drug testing in that area.

He said California lacks \$38 for a test on in addition to whatever fine its courts levy in driving under the influence sentences and suggested that would be a better system than attaching a person's property for payment.

Federal drunken driving bill

Gannett News Service

WASHINGTON - Enraged by victims of accidents involving drunken drivers, nine members of Congress introduced legislation Monday to withhold federal funds from states that fail to adopt strict penalties against those convicted of drunken driving.

"Nearly 70 Americans will be killed in drunk driving accidents today," said Rep. Michael Barnes, D-Md., a chief sponsor. "More than a quarter of

a million Americans have been killed in drunk driving incidents over the past decade, averaging more than 26,000 lives and more than 1 million crippling and other serious injuries each year."

The bill would require states to impose a mandatory 10 day jail sentence and a minimum one-year suspension of driving privileges for anyone convicted more than once of drunken driving. It would also require expanded public information programs to discourage drunken driving.

New Evening Gazette

Tuesday, March 10, 1981--7

States that failed to meet the requirements would lose their allotment of federal highway safety funds.

Under a bill being considered by Nevada's Senate Committee on Transportation, first-time drunken driving offenders would face a 90-day loss of their drivers' licenses, while second- and third-time offenders would face mandatory jail sentences and fines in addition to suspended licenses.

"The economic hardship created by drunk drivers in the United States . . . surpasses an astounding \$5 billion,"

asked Barnes. "Clearly, every American is threatened by drunk drivers every day."

In fact, the other prime sponsor of the bill, Sen. Carlborne Pell, D-I., has twice in recent years been touched personally by drunken driving accidents.

"Like most people, I gave little thought to this problem originally," he said. "Then, in the space of just 18 months, two members of my staff were killed in separate accidents due to the actions of drunken drivers."

OFFICE OF THE CITY ATTORNEY

LOUIS S. TEST
City Attorney

CITY HALL
P. O. BOX 1900
RENO, NEVADA 89505

March 12, 1981

Senator Blakemore
Chairman, Committee on Transportation
Nevada State Legislature
Carson City, Nevada

Dear Senator Blakemore and Joint Committee Members:

Thank you for allowing me to speak on behalf of the Reno Municipal Court, the Reno City Attorney's Office and the Sparks City Attorney's office in support of SB83.

As requested, I have summarized my remarks which were generally in regards to specific line items contained in the bill for your review or for potential technical changes which would enhance the overall effect and enforcement of this much needed legislation.

Page 2, line 7 -

I raised the issue of when the first time conviction would start. Both for in-state and particularly out-of-state drivers, we would need certified copies of any prior convictions to know whether or not the Municipal Court has jurisdiction. Furthermore, I represented to you the fact that the Courts have held that you cannot enhance the punishment of a defendant because of things he did in the past unless he was represented by an attorney at the time of his prosecution. That would mean that each defendant must either have an attorney or that a public defender be appointed.

In the City of Reno, a first time offender receives a fine of at least \$300 and is almost always assigned to a certified Department of Motor Vehicle School for alcohol or drug abuse, i.e. Community Counseling Services, which costs the defendant \$120.

Page 2, line 8 -

"The Court shall sentence. . ." The language and penalties are set forth in such a manner that the Court may be precluded from imposing a fine. I suggested that a monetary fine, keeping in mind the monetary limit of a municipal court, should be included. At the present time that limit is \$500. However, a bill has been introduced to raise that limit to \$750, and I have included some legal research to support that increase.

Senator Blakemore
March 12, 1981
Page 2

Page 2, line 8 -

The work program is probably unconstitutional as both involuntary servitude or cruel and unusual punishment. However, even if it were legal, it would be an administrative nightmare to supervise and enforce and would probably cost the city more money to administer than it receives in fines.

Page 2, line 11 -

We agree and encourage the mandatory school concept by schools approved or certified by the Department of Motor Vehicles.

In Reno we have two schools, the Community Counseling Services and a Traffic Survival School. Which school to attend may be a matter over which the Judge should have some discretion.

Page 2, line 12(a) -

The Court cannot direct the Department of Motor Vehicles to suspend a license. The Department can do so, however, when required by law after a notice of conviction has been forwarded to them by the Court.

Page 2, line 20, 4(a) -

A gross misdemeanor. We fully support the sponsors' conceptual punishment scheme of misdemeanor, gross misdemeanor and felony. However, if a second DUI is made into a gross misdemeanor the case would have to be heard in the District Courts and quite simply, the DUI case load would inundate the District Courts with jury trials.

I cannot stress enough the possible ramifications of the single word "gross." If it were removed, i.e., a second DUI would still be a misdemeanor, then all of the penalties you have set forth could be heard and dealt with in our present Municipal and Justice Courts.

I would also be remiss in not indicating the significant loss of revenue and the burden and cost of sending municipal police officers to the District Court. Furthermore, county jail facilities are already over-burdened in many counties, while municipal facilities should be the proper place for these defendants.

Page 2, line 17(b) -

We are suggesting thirty (30) days in either a municipal or county jail if you agree with our suggestion to change the second DUI to a misdemeanor.

Senator Blakemore
March 12, 1981
Page 3

Page 2, line 23 - 4(a) -

Again, a municipal or county jail for fifteen (15) days.
In Reno, a second DUI conviction is almost always sentenced to at least \$400 and ten (10) or more days in jail.

Page 2, line 23 -

Loss of license for six months -

The Nevada Implied Consent Law needs to be stiffened to at least one (1) year or fewer people will take any test knowing that they are facing a ninety(90) day or six (6) month suspension upon conviction. I understand that a bill to effect this change has been introduced. In regard to this bill, you may want to consider denying a work permit for at least ninety (90) days or more if the person has refused to take the test.

Page 2, line 28 - 4(b) -

Thirty (30) days in municipal or county jail. We agree that there are aggravating circumstances when a driver does not have a valid license.

In the City of Reno, driving on a suspended or revoked license is virtually a mandatory jail sentence of ten (10) days or more.

Paragraph 5 -

This section poses a significant problem with regard to out-of-state drivers. We often have reports from California or the FBI's NCIC computer listing prior convictions. An out-of-state driver would most certainly raise a constitutional equal protection problem as a defense.

Page 2, line 32 -

The requirement for a Certified Physician should also include psychologists and substance abuse counselors. Furthermore, none of the above would certify individuals as requested for liability reasons. More likely, they would indicate that the individual is no longer a danger to themselves or to others because of his use of alcohol or drugs.

Page 2, line 34 -

States that the individual elect treatment. The election of treatment is inconsistent with the intent of the paragraph.

Page 2, line 35 -

Again the Court cannot direct the Department of Motor Vehicles. Rather, the Department should suspend until a certification is received.

Senator Blakemore
March 12, 1981
Page 4

Paragraph 6 -

If you change not "less than one (1) year" to six (6) months the municipal and justice courts would have jurisdiction. We certainly do not oppose a maximum fine of \$500 (or \$750 if our jurisdiction is raised) and a six (6) month jail sentence for a second offense.

Paragraphs 5 and 6 -

These sections are interwoven with the current 458 program of alcohol and drug counseling currently taking place in Reno. SJR 18 would grant lesser courts the authority for probation and would therefore allow the court to take a guilty plea before a person enters a rehabilitation program.

In Reno, a person under the 458 program will almost always incur counseling costs far in excess of the court's limit to a fine of \$500. Furthermore, the individual may be required to attend a rehabilitation center in Fallon for two weeks at a cost of approximately \$900 to the defendant. Counseling usually lasts at least nine (9) months and the court retains jurisdiction over the individual for three (3) years. Sometimes short jail sentences are part of the counseling requirement.

Section 5 -

The drug abuse program as outlined in the bill would appear to be at public expense. The 458 program mentioned above is paid for by the individual defendant.

Page 3, line 2 -

In addition to requiring probable cause, I would also allow plea bargaining if in the prosecutor's opinion or based on evidentiary facts or problems, the case cannot be proved at the time for trial.

Page 3, Section 2, line 14 -

Absolute and total support that a third charge of driving under the influence be tried as a felony.

Page 3, line 33 -

As above, again adding that the case cannot be proved at the time for trial.

Senator Blakemore
March 12, 1981
Page 5

Again, I would like to point out the fact that our District Courts are not equipped to handle the second DUI offender and the fact that appeals would be made to the Supreme Court. That fact and the City's participation in the enforcement and incarceration of offenders understates the need for serious consideration before moving revenue penalties from local jurisdictions who bear the enforcement burden and attendant costs to the state via the District Courts.

Thank you again for the opportunity to present these items to you for your consideration. If you have any further questions, please contact us.

Respectfully,

LOUIS S. TEST
CITY ATTORNEY

BY: Donald E. Gladstone
Donald E. Gladstone
Assistant City Attorney

DEG:iw

Enclosures

STEPHEN H. DOLLINGER
Judge

MICHAEL V. ROTH
Judge

GAYL B. DODGE
Court Administrator



P.O. BOX 1900
RENO, NEVADA 89505

March 6, 1981

RENO MUNICIPAL COURT DRIVING UNDER THE INFLUENCE STATISTICS
CALENDAR YEAR 1980

January 1, 1980 - December 31, 1980:

Beginning Inventory:	350 cases
New cases filed:	1,514
Cases Terminated:	1,185

Normal sentences:

1. First time D.U.I. violation - \$300.00 plus Community Counseling Services - Certified by Department of Motor Vehicles. Tuition for CCS is \$120.00.
2. Second D.U.I. violation: \$400.00 - \$500.00 plus 30 to 60 days Reno City Jail.
3. Third (or more) D.U.I.: \$500.00 plus 60 days to 180 days Reno City Jail.

Driving on a suspended or revoked license carries a mandatory 10 days sentence in the Reno City Jail.


Gayl B. Dodge
Court Administrator

CITY OF RENO

Inter-Office Memo

March 9, 1981

To: DON E. GLADSTONE, Assistant City Attorney

From: JOHN R. PETTY, Assistant City Attorney

Subject: Right to trial by jury in petty offenses.

Two constitutional provisions unequivocally state a criminal defendant's right to trial by jury. Article III, Section 2 of the Constitution provides that the trial of all crimes, except cases of impeachment, shall be by jury. The Sixth Amendment further states that in all criminal prosecution, the accused shall enjoy the right to a speedy and public trial by an impartial jury. Nevertheless, the Supreme Court has interpreted these provisions as incorporating the common-law exception for petty offenses, for which non-jury disposition is permissible. See Frank vs. United States, 395 U.S. 147 (1969); District of Columbia v. Clawans, 300 U.S. 617 (1937); Callon v. Wilson, 127 U.S. 540 (1888).

In deciding whether an offense is petty, a Court should properly focus on "objective criteria, chiefly the existing laws and practices in the Nation." Duncan v. Louisiana, 391 U.S. 145, 161 (1968). The authorized penalties for various crimes are such "objective criteria," and are particularly important because they indicate the legislative determination of the crimes' seriousness. See Frank v. United States, supra, 395 U.S. at 148-149 (1969); Duncan vs. Louisiana, supra, 391 U.S. at 159-161.

The usual criminal penalties are fine and imprisonment. As to imprisonment the Supreme Court has drawn the line at six months, in part because 18 U.S.C. §1(3) establishes this maximum period of incarceration as an objective criterion of a "petty offense." See Duncan v. Louisiana, supra; Frank v. United States, supra.

However, in Muniz v. Hoffman, 422 U.S. 454 (1975), the Court declined to adopt 18 U.S.C. §1(3)'s \$500.00 maximum as invariable criterion of an offense triable without a jury. Specifically, the Court said:

"[W]e cannot accept the proposition that a contempt must be considered a serious crime under all circumstances where the punishment is a fine of more than \$500, unaccompanied by imprisonment. It is one thing to hold that deprivation of an individual's liberty beyond a six-month term should not be imposed without the protections of a jury trial, but it is quite another to suggest that, regardless of the circumstances, a jury is required where any fine greater than \$500 is contemplated. From the standpoint of determining the seriousness of the risk and the extent of the possible deprivation faced by a contemnor, imprisonment and fines are intrinsically different."

Muniz v. Hoffman, supra, 422 U.S. at 477.

The above-quoted language would seem to suggest that the fine amount could be placed, within reason, higher than the current \$500 maximum for petty offenses without triggering a right to a jury trial. However, subsequent to the Muniz case at least three Federal Circuit Courts have questioned the extent of the Muniz decision. See: United States v. McAlister, 630 F.2d 772, 772-775 (10th Cir. 1980); United States v. Hamdan, 552 F.2d 276, 279-280 (9th Cir. 1977); and Douglass v. National Realty Corp., 543 F.2d 894, 902 (D.C. Cir. 1976). The Court in McAlister said in part:

"Despite the suggestive language, we do not believe that Muniz applies in a criminal action against an individual. The Court was clearly discounting the risk of relatively small fines to a large corporation or labor union. 422 U.S. at 477, 95 S.Ct. at 2191 (emphasis added.) Although Muniz apparently authorizes a court to consider the financial impact of a fine on a large organization in determining entitlement to jury trial, requiring a district court to take into account the financial status of an individual defendant would raise exceedingly troublesome issues. A court should not

Memo
Page 3.

condition constitutional rights on individual wealth.
See United States v. Hamdan, 552 F.2d 276, 279 (9th
Cir. 1977).

United States v. McAlister, supra, 630 F.2d at 774.

The position taken by the Circuit Courts named-above is that until the Supreme Court speaks further, the \$500 definition of "petty offense" in 18 U.S.C. §1(3) will serve as the determinant of an individual's right to jury trial.

In the final analysis, the \$500 maximum definition of petty offense although still in use, has been accorded no talismanic significance. It is not invariable. However, it does provide an "objective criteria" in determining whether a crime is or is not a "petty offense." If the amount is raised by the legislature it would apparently not be in conflict with any existing Supreme Court decision. However, I would anticipate litigation on the issue. As it stand now it is an open question.


JOHN R. PETTY

JRP:iw

F

IN FAVOR OF S.B. 83

4-8-81

NAME	TELE NO	ADDR
1. Dennis Stalder	853-5620	
2. Carolyn Stalder	853-5620	
3. Derry Bailey		1462 EUNICE WAY, CC
4. JoAnn Wessel	323 3733	1600 Foster Dr, Reno
5. Russell-Kate Perry	849-2952	3610 White Pine Dr, CC
6. Kathleen Bailey	849-0291	1350 Dunbar Cir, Washoe Valley
7. Doug Bailey	"	"
8. SANDRA OLSEN	849 1931	
9. AUDREY ELEE HURTSMAN	849 2860	15485 CAHILLAN BL. RENO
10. PEARL WALKER	852 0149	1330 GEIGER BL. RENO
11. RONDA MARTIN	849-0353	335 Sparrow Wy. - CARSON CITY
12. FORMICOLA, NOLA	849-0676	1462 Eunice Wy - CARSON CITY
13. MARTIN, JOHN	335	335 Sparrow Wy. CARSON CITY
14. ELAINE DANLEY	849-0188	FOS BRENDA WY., NEW WASHOE CITY
15. RITA HOLLoman	849 0530	20800 Cook Dr. RENO, NV.
16. SHERRY FARNSWORTH	849-0572	243 Theobald Wy., Reno
17. Christopher & Dawn Hanson	258 4287	
18. Julie Holloman	786-4981	

(Cont)



Nevada Bell

TELEPHONE MESSAGE CENTER

1336

CONT

19. TRACY NIELSON

358-1904

20. MARY ANN STEVENS

786-6132

21. KATHLEEN PRUITT

22. PAM HOLT

849-1928

23.

24.

25.