MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON JUDICIARY

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE

February 11, 1981

The Senate Committee on Judiciary was called to order by Chairman Melvin D. Close at 9:00 a.m., Wednesday, February 11, 1981, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is a copy of the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Melvin D. Close, Chairman
Senator Keith Ashworth, Vice Chairman
Senator Don Ashworth
Senator Jean Ford
Senator William Hernstadt
Senator Sue Wagner

COMMITTEE MEMBERS ABSENT:

Senator William J. Raggio (Excused)

GUEST LEGISLATORS:

Senator Joe Neal

STAFF MEMBERS PRESENT:

Iris Parraguirre, Committee Secretary

SENATE BILL NO. 140

Changes membership of sanity commission.

Mr. Ken Sharigian, Deputy Administrator of the Division of Mental Hygiene and Mental Retardation, the state agency which requested the drafting of S. B. No. 140, stated that essentially the bill makes amendments to NRS 178.455 and NRS 178 is that part of the statute relating to persons who, because of their mental status, are deemed not competent to stand trial. They are unable to assist their counsel in their own defense, they are unable to understand the nature of the charges against them and they are

unable to understand courtroom procedures. S. B. No 140 amends the process by which people who have been determined incompetent to stand trial are evaluated after treatment as being competent.

Mr. Sharigian explained that the various District Courts in Nevada upon expert testimony can determine a person not competent to stand trial. When that happens, almost invariably they are sent to Lake's Crossing Center, the State Mental Health Facility in Sparks for the mentally disordered offender. It has 32 beds, it is a secure facility and at any one time between 50 and 60 percent of the population is deemed incompetent to stand trial. It is a facility of the Division of Mental Hygiene. Mr. Sharigian stated that many of those people stay for 80 to 90 days of treatment and the goal of treatment is to provide services that will return them to a competent to stand trial basis. When the mental hygiene staff feels the people are ready to return to trial, the state notifies the commiting District Court of that fact and the commiting court then appoints a Sanity Commission composed presently of three independent physicians, people not employed by the state, to evaluate the person who has been deemed incompetent to stand trial and to see what their mental status is.

Mr. Sharigian stated S. B. No. 140 would amend the composition of the Sanity Commission, specifying that the M. D.'s on the commission are psychiatrists, which is just a word change since almost always the court appoints a physician with a specialty in phychiatry. He felt that more importantly the bill would allow for one state employee, a member of the Division, either a psychiatrist or licensed psychologist, to be one of three members of the Sanity Commission. The reasons set forth by Mr. Sharigian for that are since the staff that has been treating the mentally incompetent people have between 80 and 90 days of experience with their treatment, their diagnosis and their evaluation, he felt it would be reasonable for the Division staff to have some input to the court about the competence to stand trial of the people they have been treating. He stated it was important for the court to understand what would be necessary to maintain the gains that had been achieved while that person was at the facility, such as continuing the person on medication, what type of environment they have to go back to etc. otherwise they may go back and regress, becoming incompetent to stand trial again. He stated the second rational for the bill and the change in composition is that at the present time, although the District Court appoints the three members of the Sanity Commission, it is totally a cost upon the state which is about $30,000. If an employee who has been treating

the individual is allowed to be one of those three members, the cost to the state can be reduced by one-third.

Senator Wagner stated that obviously, when this legislation first became enacted, for some reason people felt very strongly that a member of the Mental Hygiene and Retardation staff should not be on the Commission. Senator Wagner asked Mr. Sharigian if he knew why it was so specifically stated.

Mr. Sharigian speculated it had to do with the fact they make the recommendation that the treatment has had its effect and the court may desire an independent review. However, he stated the majority on the Sanity Commission would still be independent evaluators.

Senator Wagner asked Mr. Sharigian if the court always appoints three psychiatrists. He said to the best of his knowledge, they always appoint psychiatrists, but the changes they propose would not have to specify that in the bill.

In response to Senator Ford's question regarding how many people were involved and how many people had been found competent to stand trial, Mr. Sharigian stated Lake's crossing last year had 102 admissions and 90 plus percent were found competent. He said that rarely are the recommendations of the staff overturned by the independent evaluator.

Chairman Close stated if the staff member is always going to be prepared to support the staff's recommendation because he makes it then rather than having three independent members on the Commission, there would only be two because one has a predisposed idea when he comes to the hearing.

Mr. Sharigian replied that the purpose of having an employee of the Division is because that person has a great deal more experience than some of the other independent evaluators with that individual, having been the treating phychiatrist or psychologist. He stated there is no formal mechanism at this time for that information to be conveyed to the court.

Chairman Close stated that on independent boards, there could not be sheriffs acting as judges.

Mr. Sharigian stated it would be acceptable to the Division if all the information is conveyed to the court and the court make the final decision. What they are looking to do is to make sure the information which the staff has gets clearly communicated to the court.

Senator Wagner stated that, after being involved in the Divisions budget of last session, the $30,000 referred to by Mr. Sharigian is not all that much and she would not agree that this is a cost-saving bill. She felt that maintaining the independent nature of the Commission would be worth the $30,000.

Senator Ford stated some language could be put in the bill that evidence was to be received from the staff of the Mental Hygiene and Retardation Division and asked Mr. Sharigian what language they would want to guarantee that their opinions are heard.

Mr. Sharigian replied that the Division could provide the information and perhaps a written report that would have to be reviewed by the Sanity Commission and then passed on to the judge would be acceptable.

SENATE BILL NO. 185

Requires notaries public to maintain record of official acts.

Mr. William Swackhamer, Secretary of State, said he seriously believes the notary act should be strengthened in the State of Nevada. What S. B. No. 185 would do is require every notary to keep a journal of his notarial acts, which would be a complete departure from the practice in Nevada now.

Mr. Swackhamer said he also would like to bring to the attention of the committee the conflict in the law that is causing a lot of unnecessary confusion. In 1965 the law was amended to say that the stamp of a notary public should read: "Notary Public State of Nevada." In 1975, the law was further amended to say that a notary can practice or notarize documents in any portion of the state of Nevada but under the fee schedule, 240.030, it says that the notary before he starts his duty must enter into a bond to the state of Nevada in the sum of $2,000 to be approved by the clerk of the county for which the notary public was appointed. He stated that seems to be causing unnecessary confusion and he suggested amending NRS 240.030 to read: "Enter into a bond in the state of Nevada in the sum of $2,000 to be approved by the clerk of the county of his residence." They would then know where the bond was but would allow operating in the whole state of Nevada.

Senator Wagner asked what was so wrong with expecting notary publics to maintain records of their actions.

Chairman Close explained that the bill was in effect for many years in Nevada prior to its being amended. He stated that notaries did not keep books indicating each of their notarial acts and it was a trap for notaries because if they failed to do it, there would be a penalty. It was also felt that it didn't make any difference whether they put it in the book or not because the question was whether or not they actually notarized the document. Keeping records in a book did not add any significance to the notarial act and for that reason, it was taken out of the law.

Senator Don Ashworth added that working in a law office, the notary stamp is used numerous times during the day on documents and having to keep records would really become an onerous burden.

Chairman Close further explained that if for some reason the document is stamped but inadvertently not recorded, it jeapordizes the notarial act, under the law before it was amended.

Mr. Swackhamer stated in other states, the person signs the document and then signs his name in a journal so the two signatures can be compared in the event someone later says they did not sign a document. Even though fees for notarial duties must be entered in a book, very few notaries charge fees.

Mr. Swackhamer asked if the committee would take care of amending NRS 240.030.

Mr. Larry Ketzenberger with the Metropolitan Police Department pointed out that S. B. No. 185 would require police officials to notarize every document, including all traffic citation and misdemeanor citations. They estimate that in excess of 100,000 notary acts per year are handled by the Police Department in Las Vegas alone, and this would greatly impact the time of the supervisors in performing their other required duties. He suggested that if a law is passed, law enforcement agencies be exempt.

SENATE BILL NO. 170

Limits special provisions for public officers relating to justifiable homicide.

Senator Joe Neal, Senator from District 4 in Las Vegas, stated he is in favor of S. B. No. 170. He indicated that some years ago, they appeared before the committee and attempted to tighten up this particular statute by inserting the word "necessary" and they find now that this is not working and is so loose that it is causing, in his opinion, selective execution of some citizens

of the State of Nevada. He stated there is no clear standard that is written into the law pertaining to justifiable homicides committed by a police officer that a cororner's jury or any type of jury could look at in determining whether or not an act was justifiable or not. He said what they are attempting to do in this particular statute is to set a standard whereby the victim must have had the ability or the opportunity and placed the officer's life in jeopardy before the officer could kill him. These particular standards are not foreign to policemen or any public officer who has been trained. Most Police Departments, especially those in Southern Nevada, are trained in these particular aspects of the law, but they are not being followed. Senator Neal discussed several incidents which had occurred in Las Vegas where citizens were shot by police officers. He stated what they are attempting to do is to tighten the laws so the jury can look at it and make a determination as to whether or not there is justifiable homicide.

He stated the bill drafter deleted some sections of the bill which he would prefer to stay in. Line 9, "retaking an escaped or rescued prisoner.." he felt should have remained because they are talking about individuals who have already been convicted of a felony and who know the cost. The police officers should be allowed to use force in recapturing those individuals.

With regard to an individual who has committed a felony and is fleeing from justice, Senator Neal stated that should stay in the section but with a modification that the officer understand and have knowledge the individual is a felon fleeing from justice, which would not leave it to presumption.

Chairman Close asked if he wanted to take out lines 13, 14 and 15 and leave the balance of the bill. Senator Neal said that was his intention.

Senator Hernstadt asked Senator Neal if there was any reason, for instance when a riot gets out of hand, when the police officers should not be able to use weapons. Senator Neal replied he did not believe any police officer has the right to shoot any individual unless that individual has committed an act which would justify it, has placed someone else's life in jeopardy or attempted to commit a felony. He stated he thought lines 19 through 21 would apply in situations of rioting, which Senator Hernstadt was referring to, and take care of such acts.

Senator Wagner stated the language is quite clear; however, Senator Neal said it does not say the officer should have knowledge or see the felony committed rather than presuming a felony had been committed if he sees someone running and it is justifiable homicide if he shoots that individual.

Chairman Close asked how the police officers can be expected to carry out their duties if they demand that an individual stop but the individual keeps going. Senator Neal stated he has done a lot of research and has not seen any instance where it would be permissible for an officer to commit justifiable homicide under such circumstances. Chairman Close pointed out that police officers have been shot while stopping persons for traffic violations when the person has a gun in the car.

Senator Hernstadt asked whether this has been abused more in the District Senator Neal represents than in other parts of the state. Senator Neal felt they had more situations in Las Vegas than Reno where people had been killed for no particular reason.

Chairman Close pointed out that under S. B. No. 170, the victim need have only the "apparent ability" to inflict bodily harm upon the officer. He stated an officer cannot often wait until the other person actually draws a weapon or fires first before he can defend himself. He felt many police officers would lose their lives if they have to wait until they actually see a weapon.

Senator Neal discussed several incidents where persons who did not have weapons were killed because the police officer believed he was going to be shot or the individual did not halt when ordered to do so. He indicated that police officers are trained to learn how to handle the standards listed in S. B. No. 170 and requested the committee watch the training film which he had with him. He stated police officers are not following the training they are required to learn. Chairman Close stated they would view the film at approximately 11:45.

Senator Hernstadt asked if there were more incidents occuring in Senator Neal's district than in other locations.

Senator Neal stated the general feeling in his district is that if people are confronted by a police officer and if they make any type of suspicious move, they are subject to being killed, even without a weapon.

Senator Wagner asked if Senator Neal had any statistics to prove what he said is true. Senator Neal replied that out of the five most recent cases of justifiable homicide committed in Clark County, three of those individuals were black.

Mr. Bob Miller, District Attorney of Clark County, Nevada, stated the logical extension of this legislation is the "one free shot"

rule. He said that in Nevada, the actions of a police officer are reviewed and reviewed thoroughly by the local District Attorney and by different methods. In Clark County they have utilized a coroner's inquest. In the several incidents to which Senator Neal referred, hearings were held before a seven-panel jury, all of whom were randomly selected from the petit jury list.

Mr. Miller stated what is apparently being attempted with this legislation is to necessitate that the officer seize the gun before it is fired. This would place an even greater burden upon police officers in their momentary judgments, and it is all but physically impossible for them to shoot a gun out of someone else's hand or outrun fleeing individuals. He felt to suggest an officer has to physically observe a crime in order to utilize what force is necessary to apprehend the individual places too great a burden on the police officers.

Mr. Miller stated he totally disagrees with the legislation which, in his opinion, would allow "one free shot" at a police officer before he is able to utilize his weapon.

Chairman Close asked Mr. Miller if he had an opportunity to analyze existing law to see if there are any modifications that he would recommend to the committee. Mr. Miller stated he did not feel there was any modification necessary.

Senator Hernstadt stated that under this bill, if an individual reached into his pocket to fire a weapon but if the weapon was not visible, there would be nothing the police officer could do.

Senator Wagner asked Mr. Miller if any police officers have been charged since he has been District Attorney. Mr. Miller stated there have not been but there have been a number of coroner's inquests in which the police officers have been exhonorated after due process.

Chairman Close inquired whether an effort is made to have a multi-racial coroner's jury. Mr. Miller stated if they did that, it would have to be stacked, which would be obviating the random selection process and he does not agree with that. He said they go strictly from the petit jury list. He stated all of the cases commented upon by Senator Neal were brought before the coroner's jury, and the decisions were unanimous. In one instance, one of the jurors was a black minister.

Senator Hernstadt asked Mr. Miller if there was anything in S. B. No. 170 that he would recommend to clarify the rights and responsibilities of the police officers. Mr. Miller stated he feels the present law is a workable one.

Mr. Larry Ketzenberger of the Metropolitan Police Department, Las Vegas, stated he agreed with what the District Attorney said and much of the commentary he had to make had already been addressed. He said, in his opinion, eliminating sections (a), (b) and (c) from the present law would give all felons a green light to try to avoid arrest by fleeing from the officer when the statement, "you are under arrest" is made. The only recourse the officer would have would be to attempt to outrun the suspect and physically apprehend him, not knowing whether the suspect was armed or not. Mr. Ketzenberger discussed several instances in which persons were killed by escaped felons.

Mr. Ketzenber said he does not agree with the word "victim" in section (d), which distorts the word the way it is now commonly used and known to us. From the way the statute is written, he felt it was not only necessary that the suspect had the apparent ability and opportunity to kill or inflict great bodily harm upon a police officer but the officer must also place his life in jeopardy, which comes from the inclusion of the word "and" in that same sentence.

Mr. Ketzenberger stated in the period of time between 1961 and 1970, according to the Uniform Crime Report, there were 663 police officers killed in the line of duty. During the nine-year period from 1970 to 1979, 1143 police officers were killed. He said the vast majority were killed while attempting to effect an arrest on suspects. In 1979, there were 10,500 assaults on police officers committed with weapons. Seventy-one percent of the officers killed during the period 1970 to 1979 were killed with weapons that were capable of being concealed on the person. He felt the affect of this bill would be to place additional roadblocks and grey areas in the laws to prevent police officers from protecting themselves and doing the job for which they are paid.

Mr. Ketzenberger stated every police officer is aware of the legal processes and knows if he pulls the trigger and kills an individual, he is going to answer to others who will review his actions in the calm atmosphere of a courtroom - not under the conditions which he experienced at the time of the shooting. He stated there are a number of police officers killed with their own weapons, sometimes because of their hesitation to pull their weapon when they felt there was not a need to do so. He listed the names of a number of police officers in Las Vegas who have been killed in the line of duty and others who had been seriously injured.

Senator Hernstadt asked whether there are cases where an individual is phychologically disturbed and actually wants the police to shoot him. Mr. Ketzenberger stated there are a number of incidents documented where individuals have tried to use the police as an agent of their suicide.

Senator Hernstadt asked Mr. Ketzenberger whether the Department has written instructions on handling various situations that are part of the training program in Clark County. Mr. Ketzenberger said they are instructed in the Nevada Revised Statutes and also in departmental policy. See Exhibit C attached hereto.

Senator Ford stated she felt the guidelines that are being used by the Police Department for training should be in the law so the coroner's jury would have something to go by that is law. Senator Don Ashworth commented that all the various circumstances which the officers are confronted with cannot be put into the law, and he could see nothing wrong with the guidelines being more stringent than what is in the law.

District Attorney Miller agreed the Police Department's staff manual is more stringent than the law and he felt they were trying to suggest to police officers to be even more careful than the law provides; but if the police officer violates the department manual by firing at a felon who has committed a property crime, he is not going to subject himself to the same standard as if it were enacted in the codification.

Mr. Will Deiss, Vice President of the International Union of Police, stated they represent police officers in North Las Vegas, Las Vegas, Henderson and the Las Vegas Municipal Courts. He stated they would like to go on record as being opposed to S. B. No. 170 in whole or part, because they feel the legislation would not only be detrimental to the law enforcement profession but to the safety of the police officer himself.

Mr. Ernie Adler, Deputy Attorney General for the State of Nevada in the Criminal Division, felt it is crucial that the language allowing prisons to fire at escaping prisoners be maintained. He stated, to his knowledge, the prison has not had an escapee shot and he felt the reason for that was because of the language in the law. He stated even though a police officer is cleared of homicide by a coroner's jury, he can still be taken into court and sued civilly on the same set of facts. He felt the statute as it stands is quite effective and that the arrest statute, NRS 171.124, should be kept in mind also if NRS 240 is amended.

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Mr. Bud Campos of the Department of Parole and Probation stated officers are very aware of the civil liability of harming another person and if anything, the police officers of this state, as well as other states, are overly cautious rather than free to use their weapons. He stated there have been at least three instances in which he has taken an officer to task for not using more force and for putting his life in jeopardy.

Charles Wolff, Director of Parole and Probation stated his only concern is that the current language in the law be retained to permit his Department to continue handling escape or attempted escape procedures in the same manner.

Senator Neal stated that in one instance, the coroner's jury found an act committed by an officer was not justifiable homicide but that the District Attorney took it before the grand jury and had it dismissed. He reiterated that the bill only attempts to codify what the Police Department says their practices are in their manual and what their policies are. He said the rules and regulations presented by the Police Department at the hearing and read by Mr. Ketzenberger were rules and regulations which the black community forced the Sheriff's Department to adopt year before last. He stated that under the present law, the coroner's jury is left looking at the fact pattern and they do not have rules and regulations for the jury to consider.

There being no further business, the meeting was adjourned at 10:40 a.m.

Respectfully submitted by:

Iris Parraguirre

Iris Parraguirre, Secretary

APPROVED BY:

Senator Melvin D. Close, Chairman

Date: 2-12-81

SENATE AGENDA

EXHIBIT A

COMMITTEE MEETINGS

Committee on JUDICIARY, Room 213.

Day Wednesday, Date February 11, Time 9:00 a.m.

S. B. 140--Changes membership of sanity commission.

S. B. 170--Limits special provisions for public officers relating to justifiable homicide.

S. B. 185--Requires notaries public to maintain record of official acts.

ATTENDANCE ROSTER FORM — COMMITTEE MEETINGS

SENATE COMMITTEE ON JUDICIARY — EXHIBIT B

DATE: February 11, 1981

*PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT	PLEASE PRINT TELEPHONE
Charles Wolfe	Krisow	SB 170	885-5069
Larry Ketzenberger	Metro PD	SB 170	386-3486
Ken Sharigian	M H/M R	SB 170	885-5943
Bob Chapman CHIEF	Parole & Probation	SB 170	885-5040
Barbara Durbin	✓	✓	✓
Bill Curran	Clerk Co. District Atty. Off.		385-4755
Bob Miller	" " "		386-4191
Will Dees	Las Vegas Police Dept		883-0400

5/202.60 **AUTHORIZATION FOR CARRYING FIREARMS** cont.

1. Probationary police officers who have not completed the academy.
2. Corrections Officers who have not completed the P.O.S.T. Program.
3. Non-commissioned personnel armed by the Department who have not completed firearms training and probation in the classification which created the need to be armed.
4. Commissioned Deputy Sheriffs who have not completed firearms training and probation.

5/202.61 **AUTHORIZATION FOR DISCHARGE OF FIREARMS**

PURPOSE

The purpose of this procedure is to identify those areas where an officer may or may not discharge firearms, and to provide direction in this decision making.

PROCEDURE

A. An officer with this Department has the authority and the duty, where great bodily harm is imminent to himself or another human being, to prevent a violent attack with a deadly weapon. The officer may utilize whatever force is necessary including the use of firearms as a last resort, or the use of firearms immediately, if clearly necessary.

An officer may elect to discharge his firearm after exhausting any other reasonable alternatives, for any of the following reasons:

1. To defend himself or other persons from serious injury or death.
2. In effecting an arrest when he believes (and can qualify) that such use of deadly force is immediately necessary to effect the arrest, and:
   a. he has probable cause (mere "suspicion" is not enough) to believe that at the moment he fires the person to be arrested has committed or attempted to commit, a felony involving the use, or threatened use, of violent, physical force against a person, or
   b. may otherwise endanger life or inflict other serious, physical injury unless arrested without delay.

AUTHORIZATION FOR DISCHARGE OF FIREARMS cont.

3. At a fleeing felon only if the officer has probable cause (mere "suspicion" is not enough) to believe at the moment he fires, that the fleeing suspect has committed, or attempted to commit, a felonious crime of violence (felony crimes against the person - - not crimes against property) such as murder, rape, robbery, kidnap, AWDW, mayhem, attempted murder, and assaults or battery with intent to commit a felony.

   However, an officer should fire only after other alternatives of apprehension and control have been exhausted.

4. When an attempt is made, through the use of a deadly weapon or an immediate threat of great bodily harm, to free a prisoner who is in the lawful custody of an officer.

B. The following considerations are provided to aid the officer in his decision in the use of deadly force against a felon:

1. The discharge of a firearm is an irreversible action and, if possible, an officer should evaluate the following prior to firing:

   a. Alternate methods of apprehension to effect the arrest,

   b. age of suspect and offense committed,

   c. direction in which the firearm is pointed prior to discharge in consideration of the impact area - - including innocent bystanders - - such as:

      (1) pedestrians
      (2) vehicular traffic
      (3) hotels, motels, residences
      (4) playgrounds, etc.

   d. whether the suspect is in plain view or whether the officer's vision is obscured by darkness or inclement weather conditions,

   e. the danger of firing while running or jumping -- due to the possibility that other persons or property may be struck by the projectiles.

2. If possible, and if time and conditions permit, an officer should assume a Department-approved position (for which he has been trained) prior to the discharge of his firearm.

5/202.61 AUTHORIZATION FOR DISCHARGE OF FIREARMS cont.

3. An officer should not shoot at, or from, a moving vehicle unless:

   a. the occupant(s) of the vehicle or the suspect(s) represents a direct threat to the life and/or safety of the officer or other persons, or

   b. where a felonious crime of violence has been committed and the immediate apprehension of the suspect(s) is necessary, and then only as a last resort.

4. An officer should resolve any doubt in his mind against the use of firearms prior to shooting.

C. Officers are not authorized to discharge their firearms in the following instances:

1. To effect the arrest of a person(s) who is suspected of a crime less than a felony;

2. When it appears likely that an innocent person(s) will be hit and sustain injury;

3. At anyone he believes may be a juvenile, unless the actions of the juvenile suspect represent a direct threat to the life of the officer or other person(s) and then only as a last resort;

4. At a crowd;

5. As a warning shot or signal.

D. Officers are to exercise reasonable care and caution in the safe handling of a weapon. A firearm can be considered "accidentally discharged" for the following reasons only:

1. mechanical failure

2. faulty ammunition.

5/202.62 HOMICIDE BY OFFICER(S) IN THE PERFORMANCE OF DUTY

PURPOSE

The purpose of this procedure is to prescribe the responsibilities of an officer when, on or off duty, he kills another person.

5/202.62
cont.

PROCEDURE

When an officer, on or off duty, kills a person, a thorough and objective investigation of the facts and circumstances will be initiated by the Detective Bureau. The officer responsible for the homicide shall be relieved of duty by his commanding officer, without loss of pay or benefits, pending the results of an investigation.

1. The officer shall be available at all times for official interviews and statements regarding the case, and shall be subject to recall to duty at any time. He shall notify the Department Head prior to leaving this city.

2. The officer shall not discuss the case with anyone except authorized Department personnel, the District Attorney or his own attorney.

When a decision has been made by the District Attorney or the Grand Jury relative to the homicide, the Department Head will:

1. Suspend the officer, without pay, if the District Attorney files criminal charges or the Grand Jury returns a "true bill", or

2. Reinstate the officer to active duty if the District Attorney determines the homicide to be justifiable or the Grand Jury returns a "no bill", except in those situations where pending Department charges require the officer to be under suspension.

5/202.65

TOWING RELEASE REPORT

PURPOSE

The purpose of this procedure is to establish a new method concerning the disposition of vehicles when the driver of the vehicle is arrested.

PROCEDURE

The arresting officer has the option of asking the arrestee whether he wishes to park his vehicle or have it towed, if the following conditions exist:

1. Arrestee is 18 years or older.
2. Arrestee is not under the influence of intoxicating liquors or drugs.
3. Arrestee is in lawful possession of the vehicle.
4. The vehicle is not needed for evidence.