

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Fourth Session  
February 19, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:33 a.m., on Monday, February 19, 2007, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Bernie Anderson, Chairman  
Assemblyman William Horne, Vice Chair  
Assemblywoman Francis Allen  
Assemblyman John C. Carpenter  
Assemblyman Ty Cobb  
Assemblyman Marcus Conklin  
Assemblywoman Susan Gerhardt  
Assemblyman Ed Goedhart  
Assemblyman Garn Mabey  
Assemblyman Mark Manendo  
Assemblyman Harry Mortenson  
Assemblyman John Ocegüera  
Assemblyman James Ohrenschall  
Assemblyman Tick Segerblom

**STAFF MEMBERS PRESENT:**

Jennifer M. Chisel, Committee Policy Analyst  
Risa Lang, Committee Counsel  
Danielle Mayabb, Committee Secretary



Matt Mowbray, Committee Assistant

**OTHERS PRESENT:**

Frank Adams, Executive Director, Nevada Sheriffs and Chiefs Association  
Robert Roshak, Sergeant, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department  
Ray Flynn, Las Vegas Metropolitan Police  
David Schumann, Nevada Committee for Full Statehood  
Warren Russell, Elko County Commissioner  
John Wagner, representing The Burke Consortium  
Philip K. O'Neill, Chief, Records and Technology Division, Nevada Department of Public Safety  
James L. Rhodes, President, Stillwater Firearms Association, Fallon, Nevada  
Sam McGuire, State Carry Concealed Weapon (CCW) Instructor  
R. Scott Meyer, Nevada Western Firearms  
Kelly Connolly, State CCW Instructor  
Nicholas Anthony, Legislative Relations Program Manager, City of Reno  
Kristin L. Erickson, Chief Deputy District Attorney, Washoe County, representing the Nevada District Attorneys Association  
Cotter Conway, representing the Washoe County Public Defender's Office  
Jason Frierson, Attorney, Clark County Public Defender's Office

**Chairman Anderson:**

[Meeting called to order. Roll called.] Before we turn our attention to the legislation of the day, the Records and Technology Division of the Department of Public Safety has asked for Bill Draft Request (BDR) 16-727 to be withdrawn. I have a letter dated February 20, 2007 from Captain P. K. O'Neill, the Division Chief, which reflects the formal request ([Exhibit C](#)). It is the Chair's intention to honor that request and make this announcement part of the public record.

Let us turn our attention to Assembly Bill 21.

**Assembly Bill 21: Revises certain provisions governing weapons. (BDR 15-326)**

Are any of the following people here today: Gino Di Simone, Arthur Dixon, Ron Lee, Frank Stewart, Kevin Marriott, Ken Moore, W. J. Eral, Douglas Bradley, Oscar Fuller, John Kerwin, Jill Nicholson, Janice Azbarea, Harold Roberts, Frank and Nancy Haynie, Richard B. Schallhorn, Elliott and Catherine Nelson, La Moyne Biss, John Vettel, William D. Tomany, Kristy Northon, Gregg Alan Gendiellee, L. Lyon, Rudy Grude, Dan Hickman, Eric Schneider, Ralph A. Lint, Wayne Hogue, David W. Gentry, James W. Lucey, R. K. Wofford, Jim Petell,

Thomas L. Nimsic, George Caras, Gary Bauer, or Greg Pierce? [None were present.]

We have received these emails over the last few weeks and these individuals request that their formal statements be read into the record in opposition to A.B. 21. Having read their names, those emails will be so submitted as part of the official record of the day ([Exhibit D](#)).

We will go to Mr. Frank Adams.

**Frank Adams, Executive Director, Nevada Sheriffs and Chiefs Association:**

We come before you this morning to present A.B. 21. [Read from prepared testimony ([Exhibit E](#)).]

We want to change the law to allow the carry concealed weapons (CCW) permit holders to continue their exemption, and because the renewal process and the application process have to be the same, we are asking for recovery of cost up to \$125.

**Robert Roshak, Sergeant, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:**

Currently, for Las Vegas Metro, it is costing us about \$72 to do a CCW permit. We are losing money on it. We believe that this is a special service that we are providing to a limited group of people. Law does allow us to charge to recoup what we need. This is what we are asking for.

We process about 3,014 CCW applications a year. We run about 1,930 renewals a year. We have a dedicated unit that is in place to accommodate the CCW personnel, and we have also expanded the operation so that those living in the Laughlin area can get the service from the substation there.

**Chairman Anderson:**

Do you do this for all of Clark County?

**Bob Roshak:**

Yes, that is correct. We also process out-of-state applicants who may come in looking for a CCW permit.

**Chairman Anderson:**

Do you ever take your show on the road to Nye County or other places?

**Frank Adams:**

Each sheriff's agency in the State provides this service to their county residents or out-of-state individuals wanting to apply for a CCW permit.

**Chairman Anderson:**

What happens if a sheriff can no longer afford to offer this? Would those folks have to travel into Clark County?

**Frank Adams:**

If you take no action on the bill, the individual sheriffs will continue to process the applications as they are now, although it costs more than what they are allowed to charge in many of the counties. The additional cost would be supplemented by taxpayer monies in those counties because we will not discontinue the issuance of the applications.

**Chairman Anderson:**

It is not their choice?

**Frank Adams:**

I do not believe it is. Also, the exemption from the Brady check would disappear. The application process would be the same.

**Chairman Anderson:**

So, this is not an opt-out provision?

**Frank Adams:**

No. The main emphasis for bringing this bill forward is to allow the CCW permit holders to continue the exemption from the Brady background check when they buy a weapon.

**Chairman Anderson:**

The heart of this bill revolves around the question of the actual cost. If I decided to take my Walther and get a CCW, what is the process I have to go through?

**Frank Adams:**

You would go to your county sheriff in Washoe County. You would fill out an application and submit a set of fingerprints. A background check would then be run. You would have to go out to a qualified instructor and take a training class on weapon safety. You would then have to go to the range and qualify with that weapon. The fingerprints are sent to the Nevada Criminal History Repository and the FBI to determine whether or not you have any type of

disqualifiers. A background check is being done through the National Instant Criminal Background Check (NICS). If you are a legal alien, it would be run through Immigration and Naturalization Services (INS). When that is done and there is no problem with your background, you would be issued a CCW permit good for five years for \$60.

**Chairman Anderson:**

The whole thing, background check and everything? But I would have to pay for the course.

**Frank Adams:**

The course is separate. Also, the fingerprint cost to the Repository and to the FBI is a separate fee, which is now \$45.

**Chairman Anderson:**

So, I am now in \$105—with \$60 to the sheriff for processing paperwork and \$45 to the Technology Division for their services.

**Frank Adams:**

That is correct.

**Chairman Anderson:**

How would that differ if I went and bought my Walther brand new? Would I be Brady-ed?

**Frank Adams:**

Yes. If you went down to the gun shop without a CCW permit and bought that weapon, you would then have to pay the \$25 that goes to the Criminal History Repository to have a Brady check. They do an instant check. If you have no disqualifiers, you would walk out with that gun that day.

**Chairman Anderson:**

Then I would come to you and pay you your \$60 again.

**Frank Adams:**

That is correct.

**Chairman Anderson:**

Would the Criminal History Repository still charge me \$45 for their services?

**Frank Adams:**

Yes, they would. The Brady check is only a name check—name and date of birth. When you apply for a CCW permit, you are submitting a set of full

fingerprints that is run through the Warrant Information Network (WIN) system and the Automated Fingerprint Identification System (AFIS). It is also sent to the FBI. Name and date of birth oftentimes do not match up with fingerprint and arrest history information.

**Chairman Anderson:**

That is the reason why we felt that people who got a CCW would not have to do a Brady check because we did a more extensive investigation?

**Frank Adams:**

That is correct. The one issue with the CCW permit is that it is good for five years. If anything happened in those five years—you are arrested or have any other type of issue—many times we would not know about that. Let us say you got an arrest for domestic violence in another state. That would disqualify you from purchasing a weapon. If you had a Nevada CCW permit and you went to a gun store while it was still a valid permit, you could buy that gun without having a background check done.

**Chairman Anderson:**

If I came to renewal, I would resubmit for a CCW, but my domestic violence in another state would still not show up?

**Frank Adams:**

It may not show up. When we do a renewal we do not resubmit a set of fingerprints, as it stands today.

Wait, I stand corrected. The fingerprints are resubmitted at the time of renewal.

**Assemblyman Carpenter:**

Where do the five years come in? Is the permit good for five years and then you have to do a renewal?

**Frank Adams:**

That is correct.

**Assemblyman Carpenter:**

So, what does the bill provide for, then?

**Frank Adams:**

It does not change that. It gives us the authority to, in addition to the fingerprint check, do the background checks—the NICS, the Brady check, mental health issues, and temporary restraining orders. Sometimes arrest information is not tied back to the fingerprints, and that is in there. It also

allows us to do the immigration check if you are a legal alien applying for a CCW permit. It brings us into line with the requirements for the Alcohol, Tobacco, and Firearms (ATF) section. It allows the exemption for you to go to a gun store, buy a gun, and not have a \$25 Brady check when you buy the weapon.

**Assemblyman Carpenter:**

So, then the permit will be good for five years?

**Frank Adams:**

That is correct.

**Assemblyman Horne:**

This seems a little confusing. I am a current CCW holder. When I come up for renewal, if we pass this, what am I going to do differently than I did at my last renewal?

**Bob Roshak:**

The renewal process, from the police department perspective, is identical. You come in and fill out the renewal paperwork, then we do all the initial checks that we did on you five years ago. This is to ensure that nothing has changed, there have been no out-of-state arrests, and you are still good to go with the permit. Consequently, under current law, we are only allowed to charge \$25 to complete a renewal when it is costing us as much as it does to do a new application. Part of the bill is allowing us to get "even money" for both. Once you go through the renewal process, you get another permit—like your driver's license—and it is good for five years.

**Assemblyman Horne:**

The difference with renewing my driver's license is that I do not usually have to hop in a car with a DMV teacher and retest. How I read this, I would have to sit in a class again like I did when I initially applied for my CCW. Is that correct?

**Bob Roshak:**

Yes, that is correct. We are only asking you to do that once every five years. As a law enforcement officer, I have to do that four times a year. I also have to sit through a safety class. It is good to stay sharp. Firearms laws change, so we feel it is a benefit to the holder. Once every five years does not appear to be that cumbersome on an individual's time.

**Assemblyman Horne:**

Inside this five years, I buy a new firearm. Today, I only have to show my blue card for the firearm and qualify for the firearm to be put on my CCW. If I am going to add a firearm in the interim of this five-year period, do I have to take the class again, or do I just have to qualify with the firearm? Do I have to pay all the fees again?

**Frank Adams:**

I believe the process would be the same now. If you get a new gun, you qualify with that, and it goes on your card. For every five years, all we are asking is for you to requalify with those weapons and have the safety training. We feel that to show your proficiency once every five years with that weapon and get up to date with current laws is not unreasonable.

**Assemblyman Horne:**

That is why I am asking. If, in year three, I put a new weapon on my card, then year five comes up and I have only had that weapon for two years. If I have two weapons on my card, I am going to have to qualify on both of them.

**Frank Adams:**

That is correct.

**Assemblyman Horne:**

If I just purchased the one weapon two years prior, before my card expired, I am going to have to qualify on it again?

**Frank Adams:**

I believe that is how it would apply.

**Assemblywoman Gerhardt:**

How many people fail to qualify when they go for a renewal?

**Frank Adams:**

I do not think we have those numbers. I can tell you that we have in excess of 25,000 CCW permits in the State of Nevada today. I cannot tell you how many of them fail.

Mr. Roshak just reminded me that the people who do the training and qualifying are private enterprises—approved by the local sheriff—but I do not have the number of how many failed.



**Assemblyman Cobb:**

I would like to refer you to the NICS participation map that you handed out. It is my understanding that the states that have the hash marks through them are allowed to have this Brady Bill exemption, is that correct?

**Frank Adams:**

Yes, that is correct.

**Assemblyman Cobb:**

So, Idaho, Arizona, Utah, and Nevada all have this Brady Bill exemption?

**Frank Adams:**

That is correct.

**Assemblyman Cobb:**

The National Rifle Association (NRA) sent us some information. In this information, they said that in Arizona, the application fee is \$43. In Utah, the fee is \$35. In Idaho, the fee is \$20. In Utah in particular, the actual cost of their process is \$27 even though they charge \$35. They are not losing any money. Can you explain why it is \$72—more than twice the cost of some of these other states—as opposed to Utah, which apparently has a more efficient process?

**Frank Adams:**

I am not familiar with how their processes work. I know that some of them are handled at a state level. This is handled by the individual counties. I do have some breakdowns of costs for the individual counties, if you are interested. I have about seven or eight of the counties that have told me what it costs them. It falls to the responsibility of the local sheriff. This is what we are dealing with here in Nevada.

**Assemblyman Cobb:**

Knowing this information, do you think it would be a good idea to examine their processes and see where you could possibly make your process more efficient, as opposed to charging higher fees to law-abiding citizens?

**Frank Adams:**

I would be happy to take a look at those states and review their processes. Right now, I am trying to work within the Nevada law established in 2003 that requires the sheriffs to do these backgrounds. Currently, it costs \$25 to send a set of fingerprints to the Criminal History Repository and \$21 to send it on to the FBI. There are also costs to the individual agencies. I am not sure if those states are supplementing their costs.

**Assemblyman Conklin:**

I am looking at these other states and, having grown up in California, am I to understand that the requirements to get a CCW are different? Is that correct?

**Frank Adams:**

Each one of the states has slightly different criteria. Most of them are bound by the Brady Law. In Nevada, we try to follow the standard of an individual not having a history of violence, problems with domestic violence, or arrests and conviction of felonies. One of the problems that we face is no nationwide standard for a CCW permit. We would love the federal government to come out with a CCW standard, but that has not happened.

**Assemblyman Conklin:**

If I live in California and I want a CCW permit, I must have a reason to need it. Not just every law-abiding citizen can go apply for one, from what I understand. Here, if you meet certain requirements, you can have a CCW. The way that we value our CCW in our State is different than the way it is valued in other states. Is that correct?

**Frank Adams:**

That is correct.

**Assemblyman Carpenter:**

This gets more confusing all the time. Right now, if I have a CCW permit, I have to renew it in five years?

**Frank Adams:**

Yes.

**Assemblyman Carpenter:**

What happens in the renewal? Right now do I have to be proficient with the firearm?

**Frank Adams:**

No. Under the current process, you are not required to go back at the end of five years and show proficiency with your weapon.

**Assemblyman Carpenter:**

So, that is different in this legislation?

**Frank Adams:**

That is correct.

**Assemblyman Carpenter:**

The answer you gave the Chairman earlier was, when he goes to get a permit the first time, he gives \$60 to the sheriff and \$45 for the fingerprints.

**Frank Adams:**

That is correct.

**Assemblyman Carpenter:**

You do not cover the fingerprints in that \$60?

**Frank Adams:**

No, we do not.

**Assemblyman Carpenter:**

The \$60 is just for what you do in your office?

**Frank Adams:**

That includes processing the fingerprints, processing the application, and running the background check through NCIC and local records files. It also takes an investigator to look at the application. If there are problems, he would make telephone calls or do interviews with the person to make sure any issue is cleared up. The \$45 then goes to the Repository—\$25 to the Nevada Repository and \$21 to the FBI.

**Assemblywoman Allen:**

I presume that you have heard the Governor has no intent on signing any fee increases. Should this bill pass both Houses of the Legislature, you might be concerned about a veto. Has there been any dialogue with the Governor's office?

**Frank Adams:**

No, there has not been. The main impetus of this bill was to extend the exemption for the CCW holders.

**Chairman Anderson:**

If the exemption goes away, does that put us under the Brady Bill? You would have to meet the federal requirement, in addition. If you are holding a CCW, when you come in for the renewal, you have to qualify again, do you not?

**Frank Adams:**

When you come in for the renewal, you submit a set of fingerprints and we do a criminal history check on you. You are not required to requalify with your weapon.

**Assemblyman Segerblom:**

Is it possible to have two types of CCWs—one where you have the right to buy a gun during the five-year period and one like it is now?

**Frank Adams:**

That sounds convoluted and complicated, but if that is the desire of the Committee, we will try to come back with something.

**Assemblyman Goedhart:**

You said that if you are applying for a new CCW permit, it would be \$45 for the fingerprints, is that correct?

**Frank Adams:**

That is correct.

**Assemblyman Goedhart:**

And then \$60 for the processing fee?

**Frank Adams:**

Yes.

**Assemblyman Goedhart:**

Under existing statute, how much is it for renewal?

**Frank Adams:**

It is \$25.

**Assemblyman Goedhart:**

Under the new proposal, the renewal could be as much as \$125. Is that correct?

**Frank Adams:**

That is correct, but it is actual cost.

**Assemblyman Goedhart:**

It could go up as much as \$125.

**Frank Adams:**

If there is a problem with that particular application and they have to spend extended time on it, that cost now is not being recovered. We are just asking to recover that.

**Assemblyman Goedhart:**

Under the proposal, you are looking at also getting the certification on that particular firearm as well as a new safety class. In addition to the time involved, how much would it cost to be recertified and go through a safety class? Do you have an estimate?

**Frank Adams:**

I am not sure what the cost on that is.

**Assemblyman Goedhart:**

Let us say it is \$200 and then your fee went up a \$100. You could buy a lot of weapons in five years at \$25 a weapon for a Brady check and still save money, even if the Brady exemption were lost.

**Frank Adams:**

That is correct.

**Chairman Anderson:**

Is there anyone else for the initial presentation of the bill?

**Ray Flynn, Las Vegas Metropolitan Police Department:**

The position of the Las Vegas Metropolitan Police Department is twofold. There has not been an increase in the fees since the law was enacted almost 12 years ago. If there is not an increase in renewal fees, then we will not be able to abide by the Brady exemption. CCW holders would have to pay for that Brady check.

**David Schumann, Nevada Committee for Full Statehood:**

I am here in opposition to A.B. 21. In December 2006 I renewed my CCW. I had to take the full qualifying test and I had no problem doing that; I thought that was reasonable. The Sheriff's deputy took my fingerprints, and at least in Douglas County, they can do this electronically. So, I only took about a half an hour of the deputy's time. I hope we are not paying these people \$250 an hour. I fully expect to reimburse the Douglas County Sheriff. The fingerprints were sent electronically to the FBI.

There is a professor from the University of Chicago, John Lott, who has established in his book, *More Guns, Less Crime*, that when states issue CCW

laws, their crime rate goes down because the criminals are uncertain if the person they are going after is armed. Florida's crime rate dropped drastically after they introduced CCWs to the people of Florida. It is a good thing for people to have guns.

I do not understand why, in section 2, subsection 3, it gives them 120 days for renewal. That is excessive.

Raising the cost is going to make it less accessible. Perhaps we should investigate what is going on in other states. I do not think that any county in this State should not have the capability to do this electronically, as Douglas County does.

**Chairman Anderson:**

What about the contention relative to the Brady Bill—that if we do not do this, we are going to put ourselves back under that provision? Do you think that would be a good thing?

**David Schumann:**

It is my understanding that my record was sent to the FBI, and they did a Brady check on me.

**Chairman Anderson:**

The Brady Bill is not part of the CCW as it currently is structured.

**Warren Russell, Elko County Commissioner:**

I am not officially representing the Commission here. I am a single-action cowboy shooter, and I compete on a regular basis in our State and in other states. I participate with the United States Practical Shooting Association (UPSA) in Elko County. I am qualified as a range officer in single-action shooting. I am a member of the NRA. I am a CCW holder and have recently gone through a renewal process.

I would advocate for any safety or training requirements that are placed upon CCW holders. These counties are inefficient and ineffective in processing permits and looking at backgrounds. You would reward them for their inefficiency by hurting people who have limited income: single mothers, single fathers, elderly people on fixed incomes, et cetera. If they see the fees, many people are not going to renew. You have people who do not review the laws, people who do not go through regular training, people who basically become criminals in the State of Nevada simply because they want to have a measure of safety and assurance.

We have also heard from the police departments, particularly in Clark County, who speak of the qualifications of their officers. I have been told that the average police officer or deputy will qualify not four or six times a year, but twice a year. To meet the qualification requirements they can put 200 rounds down the range twice a year on whatever weapons they choose. Many of the people who are getting CCWs are similar to me: competitive shooters as well as shooters in a variety of means. Just in preparation for cowboy single-action shooting, we are looking at 12,000–14,000 rounds in practice and competition over the next eight months. There is a big difference between that and the 200–400 rounds that the average policeman or sheriff's deputy fires.

To come back to the analogy of the driver's license: if I go for a driver's license, all I have to do is take a written test and they give me a renewal. There is no qualification. To say that those drivers are safer than those folks who stand beside me on the shooting range—who qualify in those classes that I have gone through to renew and initially qualify for weapons—is totally ridiculous. I am on the road every day. I see people with lethal weapons driving down the street, particularly when you come to a metropolitan area like Las Vegas. I am afraid all the time. And all they have to do to qualify is to take a written test and pay a fee.

I am opposed to raising the fees. I think it is like the Sullivan Laws where the Irish were prejudiced against, and they could not afford to pay the fees in New York. They are like the Jim Crow Laws when black people could not buy weapons because white people were afraid the blacks were going to use the weapons against them. The inefficiency of Clark County should not be a standard for the State of Nevada.

**Assemblyman Horne:**

This type of legislation is not primarily to address people like you, but to address those people who do not go to those extremes, is it not?

**Warren Russell:**

I have no problem with the additional training requirements. The cost should be reduced and the sheriffs' departments and police, instead of worrying about getting additional funds, should start programs for training people.

**John Wagner, representing The Burke Consortium:**

I have many questions. I do not have any qualms about paying what is due. Will this bill make the fee variable between the counties? I am against higher fees, but if it is costing the counties more, I do not have a big problem with that. It still takes 120 days to get the permit the first time around.

**Chairman Anderson:**

So, you are concerned about the 120 days, which is part of the existing law for the initial applicant? It could come back sooner than that, but you never know how long the paperwork will take.

**John Wagner:**

The 120 days is a shallow issue according to the way the law is now.

**Chairman Anderson:**

The reason I ask about that is that you were concerned about the existing law of 120 days.

**John Wagner:**

I do not have a problem with the 120 days to get the license back. Even on a renewal, I would not have a problem because I did it myself well within the 120 days. I would think a renewal would not take as long because they are only looking back five years.

**Chairman Anderson:**

I think it is a question of relying upon the circuitry of the paperwork. It has nothing to do with how long they are looking back.

**Assemblywoman Gerhardt:**

Since we are talking about the 120 days that it takes to get one of these renewals or permits, can we ask Mr. O'Neill if it does, in fact, take 120 days? Of all the checks that you do at the Central Repository, what priority are CCW permits?

**Philip K. O'Neill, Chief, Records and Technology Division, Nevada Department of Public Safety:**

At Records and Technology, we receive the fingerprints. We will process them, performing a NICS check, an Immigration and Customs Enforcement (ICE) check, if required, and then a check of the criminal records. One of the reasons for the 120 days is that we are at a 30-day process. The CCWs receive no more special preference than the other fingerprints submitted. There are certain statutes—such as the medical marijuana—that have to be processed within 15 days. The Division of Child and Family Services placement of children to foster parents or protective custody has a processing priority. The CCWs are processed along with the remainder of the teachers, medical licenses, and real estate licenses. Currently, we are at just under a 30-day processing time.

When we return back to the State, we may find a record of an individual that does not have a disposition. It is incumbent upon the agency to make that



determination of the disposition. It would be the same thing with the FBI. Someone may have an arrest from 1975 with no resolution. They have to contact that agency through their point-of-contact in that state and get that resolution cleared up. So, it could be a 120-day process.

**James L. Rhodes, President, Stillwater Firearms Association, Fallon, Nevada:**

I am in opposition to A.B. 21 as it is written. We want to keep the Brady exemption. The increase in the fee up to a maximum of \$125 seems exorbitant. We do not want this to become the realm of the wealthy, as the Elko County Commissioner stated.

I have the Utah Department of Public Safety cost analysis. As we noted earlier, surrounding states that issue CCWs range from \$56–\$65 or less for an initial application. In Nevada, it is \$105 when we count the \$60 to the sheriff and \$45 for the fingerprints. Why are we so much higher than other states that also have the Brady exemption? Utah claims it costs them \$31.44 to process an application. I agree with the others who have spoken in opposition to the cost increase. I would like to see the bill proceed amended to keep the costs as they are.

It is interesting to note that, in Nevada, it is completely legal to walk anywhere in the State—with the exception of some county and city ordinances in Clark County—carrying a firearm openly. There are no training requirements for that. I do support the eight-hour mandatory training class as it is currently written into law. If you are going about your business in an urban area, it is safe to say that the sensible way to carry that firearm is concealed—lawfully. It is wrong to raise the fees. I also oppose the make, model, and caliber requirement. We do not qualify on Chevys and Fords. Why can we not have a qualification on any revolver or any automatic loader?

**Chairman Anderson:**

The question about openly carrying firearms on your side was the option of the sheriff; he decided who got to carry and who did not. We did not want to take the right away from people. If you are going to carry a weapon when you are out hunting, you may sometimes carry a sidearm. In trying to set this all up—when we went to the CCWs—we did not want to take away the ability for a person to carry openly. I recognize the Second Amendment and I stand by it, but I do not think that conceal and carry is a Second Amendment right.

I want you to clearly understand that we have debated some of these issues. You, as a firearms instructor, are familiar with the various discharge methods for the shell casing that often present a different hazard. Just because you have learned to drive a Chevy, a Ford, a stick-shift, an automatic, or a tractor

does not necessarily qualify you for every unique vehicle. Firearms have enough differentiation with discharge alone.

That is the background. It was a tough fight initially and we do not want to go back to square one.

**Assemblyman Segerblom:**

You do not oppose this bill except with respect to the potential increase from \$60 to \$125? Could you also tell me how much it costs for your eight-hour class?

**James Rhodes:**

Yes, that is what I am saying. The cost of the class is \$80 to nonmembers and \$60 to members. Across the State, most of them run \$100–\$150, but we are a nonprofit organization.

**Assemblyman Segerblom:**

Currently you do not have to have the training to renew your license?

**James Rhodes:**

My understanding is that you do have to do the training.

**Sam McGuire, State CCW Instructor:**

You must reattend every five years if you are a resident, and if you are a nonresident, reapply for your permit every three years when your permit expires. You have to reattend the training and the full eight-hour class, including a live fire training range.

**R. Scott Meyer, Nevada Western Firearms:**

I feel that a Nevada CCW holder—and even a Nevada CCW applicant—represent the best of the law-abiding citizens of Nevada. They agree to be subject to the scrutiny of State and local background examinations, as well as FBI scrutiny. The Nevada CCW holder is an asset to Nevada and should not be penalized by additional costs in the licensing fee or by making the renewal process more ponderous than it already is. To be requalified, paying the fees again, and taking the course again are redundant.

**Chairman Anderson:**

We will go down south. Mr. Dixon, do you wish to testify? [He did not, but asked that his email to the Committee, ([Exhibit F](#)), be admitted to the record.]

**Kelly Connolly, State CCW Instructor:**

I have been a CCW instructor for ten years. The company I am with trains an average of 1,000 people per year. We charge \$80 for basic and \$50 for renewal. The Nevada Sheriffs and Chiefs Association set the standards for training—an eight-hour course, then a four-hour class for renewal. They do set a time-standard for renewal, and it includes specific items that have to be taught. The basic course has to include safety and handling, review of the laws, legal use of force, where you can and cannot carry, and a live fire shoot. The renewal does not include the basic safety. Fees can be in excess of \$300. For example, if somebody wants to come in and do a private class with our company, it is eight hours and costs \$200. Some people are willing to do that so they can print the same day, especially those out of state. All of the people we have trained so far have passed the background check.

I served on the Board of Directors for the Nevada State Rifle and Pistol Association, which is an NRA state association. The Nevada Department of Public Safety (DPS) asked to become the point of contact—a middle-man—in providing the NICS check. I am also a Federal Firearms License (FFL) dealer in the State of Nevada. Many states use a federal NICS system that is available for extended hours. For all the states who use the federal system, it is free. All the DPS is doing is calling the federal system, so we have duplicated government services...

[Chairman Anderson leaves the room.]

I want you to keep that in mind because this is a Nevada gun tax that the public needs to address. My question would be about how we get DPS out of that point of contact where the FFL dealers in Nevada can go ahead and call directly the federal system. That is more effective and has better regulation on destroying the records after 90 days. Prior to three years ago, I was receiving the last names and information of the people who did it on a ditto copy. Does anybody know how the point of contact can be removed? I understand it has to be done through a legal action at the state level.

**Vice Chair Horne:**

We can pose that question to Legal.

**Kelly Connolly:**

It is essential as a background for what we are talking about. Many people get their permits as collectors to purchase firearms. It is a savings for some people. Some people do not get it to carry; they do it so they have the background check in place and can save that \$25, which was raised from \$15 two years ago by the same process.

The CCW cost I need to clarify. The gentleman earlier said they wanted to raise the fee from \$60 to as much as \$125, but he is not including the \$45 the individual pays for the background check. The sheriffs' departments are not doing the background checks. That brings it to \$170 for basic and renewal. That would make it the single most expensive permit in the United States. We also have no reciprocity with other states. That is something that has not been brought to the Committee, but has been proposed.

**Vice Chair Horne:**

I thought that Mr. Adams said the \$45 was added into the \$125 and the separate fee was for the fingerprints.

**Frank Adams:**

The cost as we propose it is the processing fee, which would be up to \$125, then there is a \$21 fee to the Nevada Criminal History Repository and a \$24 fee to the FBI, which is in addition to the basic fee paid to the sheriffs.

[Chairman Anderson returns.]

**Assemblyman Conklin:**

The way the statute currently reads is that you can charge a fee up to \$60, but I do not see a controller in there for costs. What you seem to be implying is that if we do not allow for a higher fee with a cost-controller—in other words, you cannot charge more than cost—what will happen is that you will take out portions of what you currently pay for out of that \$60 and let the registrant pay for it on his own. Is that correct?

**Frank Adams:**

No. We are limited at this point to \$60 for a new application and \$25 for a renewal. We will continue to process those applications whether you give us the increase or not, understanding that if it costs the department more, then that fee is compensated by taxpayer money.

**Assemblyman Ohrenschall:**

Under the current law, when someone wants to renew their CCW, do they have to take the eight-hour class and go through a background check right now?

**Kelly Connolly:**

The Nevada Sheriffs and Chiefs Association (NSCA) regulates that. It is a four-hour requirement. Instructors can do more than that, if they want. And you get the full background check. You have to go in and give prints and pay the \$45, so it is \$70 for renewal.

**Frank Adams:**

I did misspeak earlier. They do require that renewal training and requalification. It would be the \$25 plus the \$45 for the fingerprints.

**Assemblyman Manendo:**

In what cases would it cost the department more money?

**Frank Adams:**

There are situations where we send in the fingerprints and get a hit back on some type of an arrest that would be a disqualifier. It goes back to the agency that submitted those fingerprints to contact the arresting agency, make sure there is a disposition, get a report, and sometimes reinterview the applicant to determine circumstances behind it and make sure they are or are not qualified. That is additional investigative time, and it does not happen in all circumstances.

**Kelly Connolly:**

The NSCA is not subject to the Open Meeting Law, and I think if the Committee looked at the process to do that, we would save more time in this Committee with citizens coming forward. We would be able to address issues with them directly. They did vote to allow the waiver for the NICS to expire a couple years ago. People lost that NICS exemption. We got less than a ten-day notice as FFL dealers. It was very frustrating.

**Chairman Anderson:**

I would note that private groups who convene together get to do so. Only public groups and governmental groups are subject to the Open Meeting Law.

With that, we are closing the hearing on A.B. 21. We will open the hearing on A.B. 81.

**Assembly Bill 81: Revises penalties for placing graffiti on or otherwise defacing public or private property. (BDR 15-843)**

**Assemblyman Cobb:**

Much has been said in the Committee about the cost of graffiti, so I have provided a graffiti fact sheet ([Exhibit G](#)). This is a sampling of the monetary costs of graffiti. You will notice that it is estimated that it costs \$15 billion nationwide for graffiti abatement. The residents of Clark County are estimated to have spent \$30 million last year on graffiti abatement, and the City of Reno spent \$1 million.

This problem is growing. Reports of graffiti have doubled, and in some cases tripled, in every single ward in the City of Reno last year. Beyond the monetary costs are the societal costs. Years ago, Dr. James Q. Wilson and Dr. George L. Kelling forwarded a theory called the "Broken Window Syndrome." This theory suggested that a lax societal attitude toward petty crimes, such as vandalism, graffiti, and littering—which cause blight to certain areas of a community—encourage lawlessness in those same areas. The way that it was explained was that people who are inclined toward antisocial behavior would congregate in areas that were noticeably blighted because they considered them to be safe areas in which to commit crimes. These individuals would quickly graduate from the petty crimes that attracted them to these areas to much more serious crimes such as rape and murder. As the doctors argued, it is important to nip this problem in the bud. One of the most famous students of the "Broken Window Syndrome" was the former New York mayor, Rudolph Giuliani. In his book, *Leadership*, Giuliani described the situation in New York when he took the helm. He recognized that in areas where abandoned buildings had broken windows, there tended to be more crime. This started with petty crimes and tended to increase in number and severity. His solution to this problem was to flood the city with compliance officers, which forced owners of abandoned buildings to police their property and fix broken windows within a week's time. The result was that the community was aesthetically nicer, but, more importantly, petty crimes decreased and, subsequently, more serious crimes decreased in these areas.

In our communities in Nevada, another issue to be nipped in the bud with tougher measures is gang activity related to graffiti. Regardless of the motivation for combating graffiti—societal or monetary costs—it is important that we take a serious approach to it.

In the second exhibit ([Exhibit H](#)), the Legislative Counsel Bureau (LCB) has prepared a description of the current law for graffiti. There are two ways for punishing graffiti at the Class E felony level: one is based on the type of property, such as a religious institution or an educational institution; the other is the total value of the damage caused, which is currently \$5,000. In accordance with *Nevada Revised Statutes* (NRS) 193.130, which is incorporated by reference into NRS 206.330, the jail time for such an offense is suspended so that offenders are immediately set free.

I would now like to turn to the current punishment for property-related crimes in Nevada ([Exhibit I](#)). As you can tell, the value thresholds for other property-related crimes in Nevada are substantially lower than our graffiti measures. For instance, it is \$25 for third-degree arson on up to \$250 for other statutes. This means that under current Nevada law, an offender must cause

20 times the damage for graffiti than they would for theft and damage to a vending machine, or even 200 times the damage necessary for third-degree arson.

Our graffiti laws must get tougher. There are two other points that I would like to highlight in the bill that I have presented: one is a mandatory loss of the license to drive for up to six months; there is also a community service requirement for every weekend for one year.

My final exhibit ([Exhibit J](#)) is a letter from former Sheriff Richard Kirkland of Washoe County. In this letter he describes how he came up with this particular type of community service requirement. It is geared toward the "hardcore offender" who is not dissuaded by jail time.

With that, I would like to allow Nick Anthony from the City of Reno to discuss the program further.

**Chairman Anderson:**

These documents will be submitted as part of the record for the day.

**Nicholas Anthony, Legislative Relations Program Manager, City of Reno:**

Graffiti is a problem in the City of Reno, and it is a problem statewide. It is an expensive problem and needs to be fixed. We appreciate this bill and will work with any changes that may be necessary.

**Kristin L. Erickson, Chief Deputy District Attorney, Washoe County, representing the Nevada District Attorneys Association:**

Graffiti is a serious and growing concern in all of our communities. As a result, the Nevada District Attorneys Association supports any attempt to strengthen our laws and combat this serious problem.

**Assemblyman Carpenter:**

Where it says the value of the loss is less than \$250, they are trying to say that it is not the value of trying to put the property back into its original condition. How are you going to get to these values unless you consider the amount of money that it takes to repaint it, et cetera?

**Kristin Erickson:**

You bring up a good point. The question of value is one that is subject to interpretation. As the prosecutor, we would bring up the cost to repair the property, the cost to repaint it, and any determinations of value of that nature. The defense attorneys would be making the opposite argument. It is a judgment call that is up to the judge as to what constitutes the loss of value.

**Assemblyman Carpenter:**

It seems to me that if we are not going to put the description of the value of the loss of the property to include repair costs, then we are really not doing much, as I see it. We are going to be spinning our wheels in the same situation that we are now in which we cannot address the problem the way it should be.

**Assemblyman Cobb:**

It is my understanding that they do at least argue to the judge that the cost of repair is appropriate in terms of determining the damage level. They have to argue that beyond the threshold of a reasonable doubt.

**Kristin Erickson:**

Perhaps we should look at some amending language in order to make sure that that is taken into account.

**Chairman Anderson:**

Is there a time period expected in those community service Saturdays and Sundays for one year?

**Assemblyman Cobb:**

This bill was specifically written in a fashion to provide some discretion for the local entity. Washoe County encountered some problems if they brought a gang member out to clean graffiti; if other gang members saw them, they would become targets. In the last line it says, "except when the entity supervising the community service excuses the person for good cause." That is meant to provide discretion to determine the kind and amount of graffiti abatement community service to be performed and also how much. I do not want to overburden the localities with an unfunded mandate if they do not choose to have people working every single weekend. If you think that it would be more appropriate to require a certain amount of time for the weekends that they are working, I would be amenable to that.

**Chairman Anderson:**

I am trying to figure out what you had intended here. If they put in an hour on each day for a year, they are going to be serving over 108 hours.

**Assemblyman Cobb:**

This is a very serious problem that we are encountering across the State. To address it, individuals such as Mr. Kirkland put in place provisions they believed were going toward the "hardcore offenders." These are people who do not like to lose their drivers' licenses and their weekends. It is meant to accomplish a



couple of things: to provide a form of community service for a certain number of hours and to punish the offenders where it hurts them.

**Chairman Anderson:**

It has to be relevant to graffiti.

**Assemblyman Cobb:**

Yes. It says, "perform supervised community service every Saturday and Sunday related to..."

**Chairman Anderson:**

I stand corrected.

**Assemblyman Horne:**

If you are an adult, you are only at risk of losing your driver's license for six months, whereas a child could lose it for two years for the same conduct. In your description between larceny and felony, you make no allowances for a gross misdemeanor. Are there not provisions in statute that provide for gross misdemeanor penalties and monetary losses?

**Assemblyman Cobb:**

The driver's license issue is discretionary to the judge. It is a minimum of six months that the child would lose the license. We are looking at ways in which we nip this in the bud and affect those individuals on a personal level. A driver's license is a very important thing to a young person. That is an important step to take when we are encountering such an incredible cost to our society.

We may need an amendment dealing with gross misdemeanors. I was mainly concerned about the people who are committing so many of these crimes that the level of crime is reaching a felony level.

**Assemblywoman Gerhardt:**

I am concerned about a couple things. I am reminded of a tragic accident that happened a few years ago where we had some young people who were out on the highway picking up trash and lost their lives. I am concerned about where we are going to be sending these people. Are they going to be out on the highway cleaning up this graffiti off of bridges and so forth? How many people are we going to need to supervise this every Saturday and Sunday? What are we getting ourselves into in terms of exposure to liability?

**Assemblyman Cobb:**

The issue of supervised community service has already been handled on the local level. It is already in the law right now. It is required of people who commit these crimes that they must perform a form of community service. The local entities must have already handled the liability issue. There is discretion written into this bill to make sure that we are not forcing localities to do something that they think is either unsafe or a waste of their money.

**Assemblywoman Gerhardt:**

But are we greatly expanding this program if we are requiring people to be there every Saturday and Sunday for a year? That is going to require more officers out there supervising this.

**Assemblyman Cobb:**

No local entity is speaking out against this. They do not think this is going to cause a great deal of cost to them. Former Sheriff Kirkland saw some great results from the program. Again, there is discretion written into this.

**Assemblyman Segerblom:**

Do you have any idea how many people we are talking about, for example, in Washoe County?

**Assemblyman Cobb:**

There is a number on the fact sheet I provided about how many people were arrested, how many received citations, and how many were juveniles, et cetera.

**Assemblyman Segerblom:**

On the second page, it says that in Reno there were 80 arrests in 2006?

**Assemblyman Cobb:**

That is what was provided to us by the Reno Police Department. The total amount of arrests and citations is 113.

**Chairman Anderson:**

Let me ask Mr. Conway and Mr. Frierson to come forward.

**Cotter Conway, representing the Washoe County Public Defender's Office:**

I do agree with Assemblyman Cobb that there are certain things that affect people who do graffiti more than jail time or treatment as felons. I agree that restricting a driver's license is an appropriate thing to do, so I am not opposed to the mandatory suspension. However, I do want to make sure that the individual who has the suspension can access the restricted license requirements. That is not clear in the statutes. I think some of the statutes

even say, if you have a suspended license, you cannot get a restricted license. When we consider the fines and penalties, the ability to work and get to school should allow the restricted license. When considering the mandatory suspension, I would ask that you also consider making sure that a restricted license is available.

With regard to the community service, I do not see the same discretion that Mr. Cobb sees in the bill. I think that there needs to be consideration if the person is working full time—that would certainly keep them off the streets. In other words, what are the "good causes"? I want to be careful that it is not limited in that regard. I do not want to set people up for failure.

**Jason Frierson, Attorney, Clark County Public Defender's Office:**

We are also in support of measures to deal with graffiti. With respect to some of the components of this bill, the \$1,000 threshold is a concern that the Public Defender's Office has. That number is just too low. An offender will reach that relatively quickly, and this is not the offender that the spirit of addressing graffiti is targeting. The individuals who commit multiple offenses throughout the community are those whose attention we are trying to get. It is not only to punish, but also to decrease graffiti. I do not know that this measure serves this end. We are always concerned about addressing felony level offenses because all it takes, for example, is a defendant to forget to give his probation officer his new address when his family moves, and that could be grounds for violation of the conditions of supervision and revocation. It is our concern that we send these types of offenders to prison based on that revocation and mix those with the hardened criminals. We do not know that this would be something that would rehabilitate these individuals, and we do not know that it would help the prison population problem either. We agreed with some of the other entities in some of the other bills to address that issue by making mandatory the language that is currently permissive for \$5,000 aggregate charges. With some of the other measures, we have agreed to treat \$5,000 cases as being required to aggregate damages to reach that amount. We believe that is something that will target those heavy offenders.

It is true that some of the threshold levels for other crimes differ. It is the Public Defender's position that it differs for a reason. The theft- and larceny-related offenses oftentimes involve encounters with individuals that increase that level of harm. In particular, arson clearly increases that level of harm because of the chance for someone to get injured. With these graffiti offenses, one of the reasons law enforcement has a hard time catching these individuals is because they act alone and away from the general public. We are in support of this in theory, but the Clark County Public Defender's Office opposes those specific provisions.

**Assemblyman Ohrenschall:**

Can a minor access a hardship license as easily as someone who has reached the majority?

**Cotter Conway:**

Outside of the focus of the graffiti laws, yes, they can make hardship applications. However, in reading through A.B. 14 and A.B. 23, they were not allowed to apply for a restricted license. We have been working with Nick Anthony for some amendments to propose regarding that issue.

**Assemblyman Cobb:**

There was some testimony in the last hearing that we had on graffiti that restricted licenses were available through the Department of Motor Vehicles. I specifically spoke with some of the localities and asked them if they thought there was enough discretion, and they thought there was. I do not want to hamstring people, so if there are problems, I would like the localities to come talk to me.

Regarding the prison time, I want to reiterate the fact that this is an E felony. The individual who is found guilty and punished for this immediately receives a suspended sentence and does not serve a day in jail unless they reoffend.

**Chairman Anderson:**

Are there any other questions? [There were none.] I am closing the hearing on A.B. 81. Meeting adjourned [at 10:55 a.m.].

RESPECTFULLY SUBMITTED:

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Danielle Mayabb  
Committee Secretary

APPROVED BY:

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Assemblyman Bernie Anderson, Chairman

DATE: \_\_\_\_\_

## EXHIBITS

**Committee Name:** Committee on Judiciary

**Date:** February 19, 2007

**Time of Meeting:** 8:30 a.m.

Bill	Exhibit	Witness / Agency	Description
	A	*****	Agenda
	B	*****	Attendance Roster
	C	Philip K.O'Neil, Nevada Department of Public Safety	Letter
AB 21	D	Chairman Anderson	Emails in opposition to AB 21
AB 21	E	Frank Adams, Nevada Sheriffs and Chiefs Association	Testimony on AB 21
AB 21	F	Art Dixon, Nevada State Rifle and Pistol Association	Email to the Committee
AB 81	G	Ty Cobb, Assemblyman, District 26	Graffiti fact sheet
AB 81	H	Ty Cobb, Assemblyman, District 26	Criminal Penalties for Graffiti Offenses
AB 81	I	Ty Cobb, Assemblyman, District 26	Value Threshold for Property Crimes
AB 81	J	Ty Cobb, Assemblyman, District 26	Letter from Richard Kirkland