MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-fourth Session
April 19, 2007

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:21 a.m. on Thursday, April 19, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Maurice E. Washington, Vice Chair
Senator Mike McGinness
Senator Dennis Nolan
Senator Valerie Wiener
Senator Terry Care
Senator Steven A. Horsford

GUEST LEGISLATORS PRESENT:

Assemblyman Bernie Anderson, Assembly District No. 31
Assemblywoman Bonnie Parnell, Assembly District No. 40
Assemblywoman Valerie E. Weber, Assembly District No. 5

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Barbara Moss, Committee Secretary

OTHERS PRESENT:

Nancy Hart, Nevada Network Against Domestic Violence
John Tatro, Justice and Municipal Court Judge, Justice Court II, Carson City
Vic Schulze, Office of the Attorney General

Michael Pomi, Director, Washoe County Juvenile Services; President, Nevada Association of Juvenile Justice Administrators
Cheryln K. Townsend, Director, Juvenile Justice Services, Clark County
Don L. Means, Captain, Forensic Science Division, Washoe County Sheriff's Office
Linda Krueger, Director, Forensic Laboratory, Las Vegas Metropolitan Police Department
Renee L. Romero, Supervising Criminalist, Washoe County Sheriff's Office
Kristin L. Erickson, Nevada District Attorneys Association
Joseph A. Turco, American Civil Liberties Union of Nevada
P. K. O'Neill, Chief, Records and Technology Division, Central Repository for Nevada Records of Criminal History, Department of Public Safety
Robert Bony, Senior Deputy Attorney General, Fraud Control Unit for Industrial Insurance, Office of the Attorney General
Jason M. Frierson, Clark County Public Defender's Office

CHAIR AMODEI:
The hearing is opened on Assembly Bill (A.B.) 112.

ASSEMBLY BILL 112: Makes various changes to provisions governing protective orders. (BDR 3-48)

ASSEMBLYWOMAN BONNIE PARNELL (Assembly District No. 40):
I am here to introduce A.B. 112 and give a brief history of the issue in order to put the bill into some context. In the 2001 Legislative Session, Senator Amodei and I cosponsored and passed A.B. No. 377 of the 71st Session, which added violators of temporary protective orders (TPO) to the 12-hour cooldown already in statute at the time for other violations.

Assembly Bill No. 377 of the 71st Session was a response to a murder in Carson City. Shortly after arrest, an individual was released from jail on violation of a TPO. He immediately drove to the victim's home and murdered him. A year ago last fall, the same fate befell a mother of two in Carson City who had a stalking order against her former boyfriend. That situation involved being under the influence of methamphetamine (meth). This has been a big problem all along, but we now have a huge issue to contend with—people with TPOs who are using meth.

Shortly after the death of the lady in Carson City, I began to consider the issue of officer discretion in determining who should be held after such a violation. The original language of A.B. No. 377 of the 71st Session left a 12-hour hold to the discretion of the arresting officer unless there was a direct or indirect threat of harm.

Assembly Bill 112 further eliminates discretion of the officer if: when the violator is arrested he or she is under the influence of alcohol or a controlled substance; or he or she has previously violated a TPO or extended order for protection. This bill extends the same exceptions for individuals with a TPO or extended order for protection against stalking, aggravated stalking or harassment.

This will not end the tragedies we read about and by which we are often personally touched. It makes common sense that if someone is under the influence of a controlled substance or a repeat violator, the likelihood of a tragic outcome is increased.

A couple friendly amendments have been proposed. An amendment from the Office of the Attorney General contains a definition of under the influence, which is needed. Section 1, subsection 5, paragraphs (a), (b) and (c) of A.B. 112 add two new stipulations: paragraph (a) the person is under the influence of alcohol or a controlled substance and paragraph (b) the person has previously violated a temporary or extended order for protection. Paragraph (c), the arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm, exists in the original law. Many individuals believe paragraph (c) should become paragraph (a) and I agree. Legally, paragraphs (a), (b) and (c) have the same weight, but I have no objection to making paragraph (c) paragraph (a) and dropping paragraphs (a) and (b) down.

NANCY HART (Nevada Network Against Domestic Violence):
I will read my prepared testimony (Exhibit C). The proposed friendly amendment (Exhibit D) makes clear the list of conditions that trigger the 12-hour hold should in no way be seen as prioritized or suggest that only those under the influence or who previously violated the order constitute a direct or indirect threat of harm. Even though the list says "or," we are concerned that listing new conditions first, ahead of the existing condition, may suggest prioritization. The priority should always be on indirect or direct threat of harm. We recommend placing paragraphs (a) and (b) after current paragraph (c). It actually appears

six times in the bill in six different sections. The amendment lists the various pages and line numbers where the change would be made.

SENATOR CARE:
When I read "under the influence of alcohol or a controlled substance," I thought to myself, one beer can set a person off. When dealing with driving under the influence of alcohol (DUI) cases, there is a presumptive alcohol level of 0.08; however, under the influence of alcohol could be less than the 0.08 level. Is that the intent of the bill? There can be DUI convictions when a person is not at that level. Sometimes, under the influence of alcohol may be at a lower level when agitation and inclination to violence is present.

MS. HART:
The intent of A.B. 112 is to ensure people who are predisposed to recommit an offense will be detained for 12 hours. Descriptive testimony will define it.

JOHN TATRO (Justice and Municipal Court Judge, Justice Court II, Carson City):
I am present on my own behalf because A.B. 112 is somewhat personal to me. People do not think judges react personally to cases; however, we are affected by terrible acts of violence, particularly cases in which we are involved. Meth and alcohol are two reasons people violate TPOs. Meth causes a propensity to violence. People who would never be violent become so when addicted to meth.

A good example was the murdered woman in Carson City. The man who killed her was a successful individual, had been a correctional officer and was involved with juvenile probation. He became addicted to meth at a later stage in life, but it affects all spectrums. I read about this particular case in the newspaper wherein I was accused in a letter to the editor of letting the murderer out of jail without any restrictions. In my defense, I did not have an opportunity to either let him out or keep him in jail. He came to jail, bailed out using his credit card and killed the woman.

Another case involved a protective order hearing with an offender. I told everyone in the room, "This is the kind of guy we are going to read about." He frightened me. He refused to leave a woman alone, and his conduct would not stop. He violated a protective order twice, went to jail, got out and within two hours he murdered a man who was my friend. I went to his funeral. These situations affect everyone. There was no way I could have intervened due to the structure of the law in that event. The offender had the right to bail.

Even with the structure in A.B. 112, the murder still might have happened; however, it would have given everybody involved—victims, potential victims and family members—the ability to take action and be secure. That did not happen and two people are dead.

The language on a protective order says offenders shall not have contact with the protected party in person, in writing, by telephone, through a friend, relative, an agent or by e-mail. If offenders violate the order, they are arrested and sent to jail. When offenders receive a protective order, officers inform them of these strictures. If an offender violates a protective order a second time after that, the system needs to take measures. Assembly Bill 112 does just that, and I support it.

CHAIR AMODEI:
The hearing is closed on A.B. 112 and opened on A.B. 92.

ASSEMBLY BILL 92: Revises provisions governing genetic marker testing of certain convicted persons. (BDR 14-805)

ASSEMBLYMAN BERNIE ANDERSON (Assembly District No. 31):
I will read my prepared testimony (Exhibit E) and submit a map entitled "All Convicted Felons" which shows as of February, 44 states have enacted laws to require deoxyribonucleic acid (DNA) from all convicted felons (Exhibit F).

CHAIR AMODEI:
Assembly Bill 92 would provide the genetic marker data for any felony as opposed to just Categories A, B and C.

ASSEMBLYMAN ANDERSON:
That is correct.

SENATOR WASHINGTON:
Are sexual offenses, abuse, neglect, stalking and conspiracy to commit already listed in Categories A, B and C or does A.B. 92 enumerate them?

BRAD WILKINSON (Chief Deputy Legislative Counsel):
There is some overlap in the listing of some specific felony offenses. Sexual offenses would already be included. Assembly Bill 92 adds Categories D, E and nonviolent Category C felonies, inclusive of Categories A, B and C.

ASSEMBLYMAN ANDERSON:
We took care of everybody in Categories A and B, and the Category C felonies that fall into the sex offender and other violent criminal categories. It expands the Category C level down to gross misdemeanor if they are in certain categories of sex offenders. It allows a potential hit on somebody who is in the system.

ASSEMBLYWOMAN VALERIE E. WEBER (Assembly District No. 5):
I support A.B. 92, which is enhancement legislation for DNA in Nevada and long overdue. The map in Exhibit F shows Nevada as one of six states that have not done this. Seven states are on the next generation of this type of testing and collect DNA at arrest.

I personally sponsored two pieces of legislation the past two biennia on this topic. I am a scientist by background and own a copy of *The Structure of DNA* by James D. Watson and F. H. C. Crick regarding findings about DNA. Little did they know at that time their findings would become a tool for law enforcement.

Assembly Bill 92 protects the innocent, convicts the guilty, does not racial profile, solves crime faster, closes cold cases, is minimally invasive and a great tool for law enforcement. It needs to be funded. There is a 25-percent backlog in the state. Collecting DNA from felons is one thing; however, they need to be tested. It needs to go into the Combined DNA Indexing System (CODIS) to help solve crime.

Recently, a 13-year-old girl was raped and sexually assaulted in Las Vegas. The DNA was collected on both she and the perpetrator, who was found to be an individual from California. If California had not been diligent in their testing and database, the crime would not have been solved.

CHAIR AMODEI:
The hearing is closed on A.B. 92 and reopened on A.B. 112.

ASSEMBLY BILL 112: Makes various changes to provisions governing protective orders. (BDR 3-48)

VIC SCHULZE (Office of the Attorney General):
We were asked to provide technical assistance to A.B. 112 to define with more specificity the concept of being under the influence of alcohol or a prohibited

substance. In the six portions of the bill that relate to the new language, I suggested amendatory language (Exhibit G). Essentially, I lifted the driving under the influence (DUI) language and placed it in A.B. 112 for your consideration.

SENATOR CARE:
Existing law says the arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm. Even if the amendment were adopted to include the 0.08 alcohol level language, would the arresting officer still have the discretion to say, "The alcohol level is not 0.08, it is only 0.06, but I perceive this to be a direct or indirect threat of harm, and you are not going anywhere."?

MR. SCHULZE:
I was focused on creating a tighter definition for the DUI and prohibitive substance aspect of the bill. I did not give consideration to the overlap to which you refer. I was interested in reducing any claims in the judicial proceeding that allowed too much discretion to the officer at the scene in regard to DUI. If the Committee does not like the 0.08 alcohol level, the number can be anywhere you want to put it. The current system in the DUI context is set up to reflect the language taken from the DUI statute.

MICHAEL POMI (Director, Washoe County Juvenile Services; President, Nevada Association of Juvenile Justice Administrators):
We are working on Senate Bill (S.B.) 294 which considers discretion to move children out of secure detention if respite is available. Assembly Bill 212 is much different. There is no impact regarding testing on the juvenile side or clarifying blood alcohol levels.

SENATE BILL 294 (1st Reprint): Revises the provision concerning mandatory detention of a child who commits a battery that constitutes domestic violence. (BDR 5-958)

CHERYLN K. TOWNSEND (Director, Juvenile Justice Services, Clark County):
Assembly Bill 112 would not impact S.B. 294 because the last provision in that bill allows, in certain circumstances, holding a juvenile when there is imminent threat of harm and protective orders. There would be no conflict.

ASSEMBLYWOMAN PARNELL:
Most important in A.B. 112 is the primary offense of a violator of a TPO. The propensity will be greater if the violator is under the influence of a prohibited substance or a repeat violator. Testimony strengthened the argument that paragraph (c), subsection 5, section 1 of S.B. 112 needs to become paragraph (a), which puts it into better perspective.

I leave the decision whether to go with the amendment in Exhibit G recommended by the Attorney General's Office with the Committee. I see both sides of the issue, and I trust the judgment of the Committee in that respect.

CHAIR AMODEI:
To clarify, Assemblywoman Parnell is satisfied with Ms. Hart's proposed amendment. For work session purposes, we will set out the suggested amendment by the Attorney General's Office.

MS. HART:
I agree with Senator Care that the catchall provision of determining a direct or indirect threat of harm would allow an officer to detain a person who was not at 0.08 alcohol level.

CHAIR AMODEI:
The hearing is closed on A.B. 112 and reopened on A.B. 92.

ASSEMBLY BILL 92: Revises provisions governing genetic marker testing of certain convicted persons. (BDR 14-805)

DON L. MEANS (Captain, Forensic Science Division, Washoe County Sheriff's Office):
I defer to Linda Krueger, the Senior Laboratory Director in Nevada.

LINDA KRUEGER (Director, Forensic Laboratory, Las Vegas Metropolitan Police Department):
I support A.B. 92 and will read my prepared testimony (Exhibit H).

SENATOR CARE:
There was a similar bill in the 2001 Legislative Session that resulted in the current Category A, B and C felonies. Please explain the rationale of needing the

DNA of a person convicted of writing a check with insufficient funds in excess of $250, which is a Category D felony.

MS. HART:
I do not know how many hits across the country are attributable to a Category D felony; many lower level nonviolent crimes for which DNA is collected have been hits across the country. A person whose DNA is collected for a narcotic conviction is not necessarily considered a homicide suspect without prior knowledge of the crime. However, those types of hits are valuable because violent crime offenders many times have a nonviolent history. Thus, adding them to the database earlier in their criminal career would help solve many crimes, not only in Nevada but elsewhere as well.

CAPTAIN MEANS:
We do many check offense cases through our laboratory, the vast majority of which are done by narcotics addicts. At least 70 percent are on meth; therefore, the potential for them to be violent is high. These individuals do check offenses constantly, and I see the same names again and again. For that reason, they should be in the database.

SENATOR CARE:
I used checks as an example of a nonviolent crime. We wrestled with this question six years ago which is the reason we did not go into DNA and why the legislation reads as it does today.

CAPTAIN MEANS:
My presentation will cover it insofar as percentages.

SENATOR HORSFORD:
Does A.B. 92 include all felonies?

CHAIR AMODEI:
Yes, page 2, line 23 of A.B. 92 says felony, which is any felony.

SENATOR HORSFORD:
Why is it that expansive rather than starting with the most violent crimes first?

CAPTAIN MEANS:
My presentation (Exhibit I) is about the CODIS database. I am a 29-year law enforcement officer with 20 years in violent crime; basically, an old homicide detective. My counterpart, Renee Romero, is a DNA expert and sits on the national boards for DNA procedures and DNA proficiency.

I am proud to say Washoe County and Las Vegas have been involved with this database since the early 1990s. We are one of ten states with pilot laboratories that developed the system. Currently, 44 states have all felon laws and 6 states do not; Nevada is one. We have gone from the forefront to bringing up the rear with DNA legislation.

The original DNA law was developed in the early 1990s, and from 1996 to 2001, we received 13 hits. With the help of Legislators, we added Categories A and B and some Category C felonies. In 2002, there were 4,296 felonies and the previous year 565. The number of hits increased 236 in the same period. All felonies would give us approximately 13,000 hits a year.

We have hit 19 homicides, 59 sexual assaults, 76 burglaries, 19 robberies and 2 larcenies. Forty-six percent of these hits were samples collected for theft, burglary, larceny or robbery. Ninety percent of homicide hits were collected for lower crimes. Of the sexual assault hits, 48 out of 59 or 80 percent were collected for lower crimes. Our unknown casework profiles in CODIS in Nevada contain 110 full DNA samples in unsolved homicides, 260 sexual assaults and 124 robberies.

We are asked what a DNA profile looks like. Basically, it is a series of numbers.

RENEE L. ROMERO (Supervising Criminalist, Washoe County Sheriff's Office):
A DNA profile demonstrates different areas of DNA, and they are documented by a series of numbers. It is easy to put the series of numbers into a DNA database. This is the only thing that goes into the DNA database. There is no identifying information in the DNA database as to a person's identity or medical information. There is no capability for making an assessment as to whether a person is predisposed to a particular disease. The areas tested are referred to as junk DNA.

CAPTAIN MEANS:
The database is highly regulated by the federal government with annual internal and external audits. The Office of Inspector General from the National Institute of Justice gives us audits. No medical information is obtained, and DNA from victims is not allowed in the database. The penalty for violating any of the regulations is ten years in prison and a $250,000 fine.

We do exclusions daily. We do not just identify the guilty; we also exclude the innocent on cases where detectives have developed enough information to obtain a seizure order and a DNA sample. Within a couple of days, the innocent person is excluded.

Currently, Nevada has 20,000 offender profiles and 14,000 forensic profiles. The national database has 3.9 million offender profiles and 160,000 unsolved forensic profiles. The envelope on which DNA is collected has a fingerprint of the convicted offender, and the subject is identified through that fingerprint. There are half-a-dozen cases where a sample taken from a person currently in prison and the perpetrator turned out to be somebody else.

Nevada has matches with 42 other states and one country. Sexual assaults have been solved in California, Iowa, Kentucky, New Jersey, Michigan, Nevada, Washington and Canada. Funding comes from federal grants, which have been impacted by the issues in the Middle East and Hurricane Katrina.

Alice Mosconi, an elderly woman who lived in Verdi, was found bludgeoned to death in her home June 8, 2001. It was a bloody scene. A DNA profile was identified on her pantyhose. On October 2004, Joaquin Hill's DNA profile was added to the California database due to a burglary conviction.

MS. ROMERO:
When we obtain a hit, as in the Mosconi case, investigators are provided with an investigated lead; a report is written to let them know there is a hit to this particular individual. We ask the investigators to provide us an evidentiary reference sample, which we test to confirm the hit. When the case is ready for court, the sample has been tested three times: once to go into the database, once more before the investigative lead report is written and once again for the evidentiary sample to confirm the hit.

After the evidentiary sample is tested, we assess the match to ascertain how frequently we would expect to see that DNA profile. When we have a full DNA profile, the frequencies end up being rarer than 1 in 500 million, and we can say this DNA came from that individual or his identical twin.

CAPTAIN MEANS:
The Mosconi case took place in Verdi, which is not heavily traveled, and this was one person coming through. Without the DNA database, we would never have convicted Joaquin Hill for first-degree murder in November 2006.

Lisa Marie Bonham, a seven-year-old girl, was kidnapped from Idlewild Park and killed. She went there with her brother to ride the kiddie land rides, left him to get some money from her parents and was never seen again. Her body was found three months later on Dog Valley Road.

MS. ROMERO:
When Lisa Marie Bonham's shirt was submitted in the 1970s, DNA technology was not around. Traditional enzyme testing was done on stains on the shirt which excluded certain individuals based on those tests. The shirt sat in the Reno evidence locker for about 13 years, after which time it was tested for DNA. We were successful in doing the first type of technology that went into the database, which was called Restriction Fragment Length Polymorphism. The database then changed to the new technology currently used. We cut around the periphery of each of the missing stains on the shirt and were able to develop a DNA profile from the seminal fluid left on it. That profile was put into the DNA database which brought a hit.

CAPTAIN MEANS:
In 1992, ten suspects in the Lisa Marie Bonham case were tested, and most of the samples were taken by a siege order because at that time, a liquid blood sample was required. Twenty-three suspects who submitted DNA samples were excluded until Stephen Smith was identified. His DNA matched the semen on Lisa Marie Bonham's shirt. He was arrested May 31, 2000, and on November 9, 2000, he was sentenced to life in prison without parole.

Mr. Smith's DNA was taken for the offense of annoying and molesting children. In my experience, most violent offenders are a one-time shot. The people we most worry about commit crime all the time. Burglary and rape or burglary and

murder are just a matter of confrontation. A vast majority of offenders who commit those crimes are looking for money to purchase drugs or are on drugs.

According to District Judge Brent T. Adams, Second Judicial District Court, 90 percent of his court calendar is due to drugs; 70 percent is due to meth. Meth is not a new crisis and has been around for 15 years. I investigated six murders of children under the age of three in 1994 that were directly related to meth.

To give this system a chance, low-level drug offenders should be DNA tested. I compare DNA to fingerprints. The people we are concerned with are not the people who will be in prison for the next 20 years; they are the people being released tomorrow or in 12 hours. Adding Category A, B, C, D and E felons is not asking too much, particularly when they are convicted. We are not asking to test all arrestees but upon conviction, having DNA is critical to the safety of the people of Nevada.

SENATOR HORSFORD:
I would like to see hard numbers. I know the numbers of individuals incarcerated for drug-related offenses, but I have a problem with saying a person on drugs will become a violent criminal. I did not hear anything in your presentation linking them together. How many low-level felons were ultimately DNA tested and convicted? How many states have implemented DNA testing for all felons?

CAPTAIN MEANS:
The criminal history database demonstrates most people arrested for murder were never before arrested for an offense of that caliber. Most only had drug convictions. One of our officers shot a person in drug court in a deadly confrontation. Those things happen on a weekly basis. I still visit crime scenes, and I assure you that many people committing violent crimes have not been arrested for a major crime or they would still be in prison.

CHAIR AMODEI:
Can you explain why Assembly Bill 92 has a significant fiscal note from Washoe County but not from Clark County?

SENATOR MCGINNESS:
Washoe County's fiscal note is $537,625 in fiscal year (FY) 2007-2008, $618,340 in FY 2008-2009 and $711,000 in future biennia. Clark County's

fiscal note is $1,700 in FY 2007-2008, the same in FY 2008-2009 and nothing noted in future biennia.

MS. ROMERO:
Las Vegas performs DNA testing for the three counties surrounding it and Washoe County performs DNA testing for the remainder of Nevada. Las Vegas has a larger population database. Working jointly with Las Vegas, we came up with an annual estimate of cost for 2007-2008 of just over $1 million with an expected increase in the out years. The numbers were developed jointly between Washoe County and the Las Vegas Metropolitan Police Department.

SENATOR MCGINNESS:
Those are combined figures.

MS. ROMERO:
That is correct.

MS. KRUEGER:
I am not sure of the source of those figures. Our figures were collected and presented to Washoe County in a joint effort since it is a state database. We perform DNA testing for Esmeralda and Nye Counties and Lincoln County in the south as well.

I have some figures from the state of Virginia's system and will provide them if you are interested. There is a list of drug and forgery offenders and the types of offenses to which they have been linked. Virginia's system is one of the more prominent and better DNA databases in the country.

CHAIR AMODEI:
Please provide that information to Ms. Eissmann and she will submit it to the Committee.

MS. KRUEGER:
I will do that.

SENATOR MCGINNESS:
Are those numbers included in the Washoe County budget?

MS. ROMERO:
There is no budget for DNA testing. Current law states $150 will be collected from the offender at the time of DNA testing. The $150 is collected by the courts, each court sets up a state fund and the money is funneled into the two respective crime laboratories. However, the money is not collected. There is a priority scale on who gets the money first and DNA testing is low on the scale; therefore, the system does not work for us. We receive approximately 14.7 percent of what we are due.

The program has been funded through federal grants, which are drying up. The funds have not supported long-term personnel, and people are needed to perform DNA testing. A proposal has been discussed that would change the way the money is collected. In current law, a compact case in which an offender is under the supervision of the Division of Parole and Probation, Department of Public Safety, the Division collects the money and we receive an average of $40 a person. It is not an end-all funding source, but it works better.

Our proposal would change the manner in which the money is collected. Rather than collected by the court, the money would be collected at the Department of Corrections or the Division of Parole and Probation where the individual continues under some sort of supervision. There would be incentive to pay the fee or be put on a monthly payment plan.

SENATOR MCGINNESS:
Clark County says the cost of $150 should be passed on to the person; however, there is a caveat—in a worse case scenario, last year there were 22,850 adult felonies. If half of the convicted persons are unable to pay, the fiscal impact could be as much as $1.7 million.

KRISTIN L. ERICKSON (Nevada District Attorneys Association):
The Nevada District Attorneys Association supports A.B. 92.

JOSEPH A. TURCO (American Civil Liberties Union of Nevada):
We oppose portions of A.B. 92. It is not unusual for the American Civil Liberties Union (ACLU) to be a David versus Goliath. It seems clear this law is on the train and that train has departed the station. We objected to A.B. 92 in the Assembly, and those objections are on record (Exhibit J).

The DNA includes many personal details of a person's life, that of their family and anyone else in their bloodline, which is a concern to privacy advocates. The tradition of fiercely protecting privacy in Nevada every so often gets trumped by the more modern tradition of law and order, which is probably the case here.

Amendments in Exhibit J, prepared by our office, are reasonable, and I urge the Committee to consider them. Assembly Bill 92 does not include meaningful safeguards. Who is in control of the database, and what are the protocols or limits?

There are three areas in the proposed amendments. First, DNA information cannot be shared inappropriately; nobody will disagree with that.

Second, the bill does not include purging for those exonerated on appeal or granted a new trial on appeal and subsequently acquitted. Under no circumstances should the DNA of the innocent be maintained by government. It is the second area of the amendment we strongly urge you to consider.

Third, if government may use DNA to convict a person, everyone should be able to use DNA to exonerate themselves. At the present time, only those on death row may use DNA to exonerate themselves. Let us be fair about it and, if justice is the goal, everyone should have access to the DNA database to exonerate themselves. Surely that makes sense to everyone in this room.

The details of these three points for the amendments are in Exhibit J.

CHAIR AMODEI:
Miss Eissmann, please be sure the proposed amendments are included in the work session document on A.B. 92.

The hearing is closed on A.B. 92 and opened on A.B 30.

ASSEMBLY BILL 30: Revises certain provisions governing the distribution of proceeds from certain administrative assessments. (BDR 14-558)

CHAIR AMODEI:
Is there anything you would like to say to talk us out of moving A.B. 30 at this time?

P. K. O'NEILL (Chief, Records and Technology Division, Central Repository for Nevada Records of Criminal History, Nevada Department of Public Safety):
No.

CHAIR AMODEI:
What is the pleasure of the Committee on A.B. 30?

SENATOR WASHINGTON MOVED TO DO PASS A.B. 30.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CARE AND HORSFORD WERE ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
The hearing is opened on A.B. 482.

ASSEMBLY BILL 482: Makes various changes to provisions relating to criminal procedure. (BDR 14-516)

ROBERT BONY (Senior Deputy Attorney General, Fraud Control Unit for Industrial Insurance, Office of the Attorney General):
I will read my prepared testimony (Exhibit K).

JASON M. FRIERSON (Clark County Public Defender's Office):
The Clark County Public Defender's Office is neutral with concerns regarding A.B. 482. I am unfamiliar with the federal requirements that appear to be mirrored in this bill. If it is a federal requirement and the only way we can have access to those programs, we are neutral; however, we are concerned about the inability of prosecutors to make it an option.

We understand the goal behind not making it a requirement but curious whether or not the option is also part of the federal requirements to have access to whatever programs exist. I did some research and found information that suggested what they are requesting may be part of the federal program. If that is the case, we are still concerned regarding an investigative tool; making it an

option will limit the ability to fully investigate cases. It is a policy determination based on availability of those federal programs.

CHAIR AMODEI:
Mr. Bony, please provide Mr. Frierson with the citation to the 2005 USA Patriot Improvement and Reauthorization Act, which I presume would contain the information in Exhibit K.

MR. BONY:
I will do that.

NANCY HART (Nevada Network Against Domestic Violence):
Assembly Bill 482 will bring Nevada into line with federal requirements so we may continue to receive these critical funds. I reiterate, these are federal requirements, and there is no leeway. The requirement is that a victim of sexual assault not be required to undergo a lie detector test in order to proceed with prosecution. This bill simply reflects those federal requirements.

As well as guaranteeing continued funding, these requirements make sense on a practical level. In conversations with prosecutors around the state, we heard many times they would never consider putting a victim through a polygraph; therefore, this prohibition merely codifies that practice. Also, informing defendants of the consequences of their conviction is already a regular part of the criminal justice system.

Letting someone know a conviction for domestic violence will affect their ability to own or possess ammunition or firearms is being codified to comply with federal requirements. We urge a do pass on A.B. 482.

MR. TURCO:
The ACLU is in favor of A.B. 482 which protects the victim. Let it not be said the ACLU does not favor protecting victims.

CHAIR AMODEI:
Mr. Wilkinson, please coordinate with Mr. Bony to pin down the citation to the USA Patriot Improvement and Reauthorization Act. I have no objection to moving A.B. 482 at this time if it is the pleasure of the Committee.

SENATOR WIENER MOVED TO DO PASS A.B. 482.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CARE AND HORSFORD WERE ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
Mr. Pomi and Ms. Townsend, please provide the Committee your input on juvenile justice as it pertains to the Justice Reinvestment Initiative from the Council of State Governments' Justice Center.

CHERYLN K. TOWNSEND (Director, Juvenile Justice Services, Clark County):
At a Committee hearing earlier this week, you received a report from the Justice Center and the issue came up as to whether juvenile figures were included. At that time, Dr. Austin said they were not. Members of this Committee requested the numbers, and they have been provided (Exhibit L). This documentation shows the impact of the Community Corrections Block Grant, which is state funding provided to counties over the last ten years. During a time when we have seen a 47-percent increase in the juvenile population, up until last year we have seen a 30-percent reduction in commitments to state juvenile facilities. Next year we will have a 12-percent reduction in our Community Corrections Block Grant funding.

Exhibit L shows the investment in community alternatives can reduce the state's need for an investment in capital and construction as well as operational cost of state facilities. That is the crisis you are looking at on the adult system.

We provided Policy Options for Nevada's Juvenile Justice System (Exhibit M) on increasing the percentage of juveniles on both juvenile probation and parole that successfully complete certain programs, and those who fail to meet the conditions of supervision who are either committed to state custody or to prison by 30 percent. The impact is cost avoidance for taxpayers. The average daily cost of commitment to state juvenile correction facilities is $167. The average length of stay is six months. If we achieve the policy option by reducing commitments by 30 percent, it is cost avoidance of $6 million a year.

We learned in the past ten years that community corrections alternatives can be effective and produce positive results. They need to become more evidence based, based on the science to reduce recidivism and future risk to public safety, as well as focus upon family interventions that not only impact today's juvenile but tomorrow's future person. We want to see graduation rates of high school and vocational training rather than graduation rates into the adult criminal justice system.

In regard to some evidence-based programs, science tells us they can produce up to a 38-percent reduction in felony recidivism rates. That is the kind of policy option we hope you would support in the future.

CHAIR AMODEI:
Do you have specific recommendations in terms of changes in existing statute?

MS. TOWNSEND:
Policy changes are more certain when they are statutory. We recommend two amendments: first, the state's investment in alternatives should be in evidence-based programs; second, a proportional investment in juvenile programs should be to those in adult community corrections.

CHAIR AMODEI:
Is the existing operational statutory structure adequate for you to achieve the goals you just briefed?

MS. TOWNSEND:
Yes, sir.

SENATOR WASHINGTON:
It seems like déjà vu when we first started down the road dealing with juvenile justice. Senator Wiener and I traveled to Boulder City where they had the alternative diversionary programs for juveniles. We took a look at that program and instituted some programs, policies and procedures. We had a long working interim committee that dealt with juvenile justice, which was chaired by the late Assemblywoman Jan Evans. We took a look at competence statewide—in both Clark County and Washoe County. We implemented some procedures with Assemblywoman Jan Evans and the justice center, looked at state policies and enhanced Spring Mountain Youth Camp as well as the Nevada Youth Training Center in Elko.

We tried to develop good public policy to ensure we dealt with the 4 percent of hard-core juveniles heading down the adult offender path of major sex offenders, predators and those with violent tendencies. We are again looking at this issue and attempting to add resources on the front end to prevent juveniles from entering into the juvenile justice system on the back end. Perhaps we can look back and say we did something constructive and positive that aided and assisted the state in addressing these problems.

SENATOR WIENER:
My colleague and I have shared this issue for the ten years I have been in the Senate. I was one of the Senators who met with our responsive juvenile justice professionals yesterday. After looking at the policy options, is there anything we need to address in terms of policy that needs fine-tuning or tweaking? Does evidence-based need to be statutorily driven? Would statute help you accomplish what you are setting out to do?

MICHAEL POMI (Director, Washoe County Juvenile Services; President, Nevada Association of Juvenile Justice Administrators):
Statute could drive changes in the evidence-based program of the National Institute for Corrections currently implemented in the Nevada Youth Training Center in Elko and the 16 counties that serve Aurora Pines Girls Facility and, China Springs Youth Camp. The facility is going to have evidence-based practice, and the state could, by policy, set forth from this Committee that evidence-based practices will be implemented because they are already in those facilities across the state.

In answer to Senator Wiener's question, policy and statute could drive the changes necessary to affect our policy options. If the Chair, through Senator Wiener, felt it appropriate to have evidence-based practice part of statute, we would agree with it. Through our initiative, through Nevada, through juvenile detention alternative initiative, we are all looking at evidence-based practice as the only way to intervene with families. Research, outcomes, saving money for the taxpayers and making Nevada safe is behind it. Paramount to everything we do is the safety of the communities in which we work.

MS. TOWNSEND:
We appreciate the support of the Committee to look comprehensively at the juvenile and adult criminal justice systems.

CHAIR AMODEI:
What is the mix of your funding? How do you receive funding for operations in the areas in which you need more resources? Is it grants, local funding or state?

MS. TOWNSEND:
There are state grants through Community Corrections Block Grant funding. There is some federal funding. The vast majority of funding for these alternatives is provided by individual counties.

MR. POMI:
Washoe County receives approximately $131,000 through Community Corrections Block Grant money, which goes to intensive supervision of children to keep them out of institutional care at the Summit View Youth Correctional Center, Nevada Youth Training Center in Elko and Caliente Youth Center. Of a $14 million budget, the county provides about $13 million of funds available to us through state and federal government. Those resources are quickly drying up in an escalating juvenile population.

This body has always been responsive to being proactive rather than reactive. We are here today to be proactive. We have come to the table to get in front of juvenile crime and assist the state in reducing the amount of children who end up in the adult system. That is the goal of every juvenile justice department in Nevada.

MS. TOWNSEND:
The only other additional funding from the state is to the youth camps—Aurora Pines Girls Facility and China Springs Youth Camp in northern Nevada and Spring Mountain Youth Camp in southern Nevada.

SENATOR WASHINGTON:
There is a bill requesting creation of an ongoing statutory committee during the interim dealing with children, family and youth as well as juvenile justice issues. During the interim, the Legislative Committee on Health Care tried to deal with some of the children, family and juvenile welfare issues. It was overwhelming and too encompassing to attempt to tackle those issues. Due to the nature, increases, concerns and lack of resources, we still need to be ahead of the curve. We hope this interim ongoing statutory committee is approved. With your support, that committee would also address some of your resource, policy and statutory concerns.

CHAIR AMODEI:
There is a memorandum from JFA Associates (Exhibit N). I asked Major Wood to provide the Committee with a brief statement of their priorities and whether they need changes in statute to meet and respond to this issue.

Ms. Eissmann, please coordinate with the Department of Corrections and the Division of Parole and Probation to set up a date in which those individuals can attend a hearing to give us their recommendations and inform us what has transpired in the Assembly select committee.

LaToya McBean, please contact Ms. Eissmann and describe to her the communications you had with the Executive Branch to make certain everybody is on the same page. I would like to know communications have been robust and comprehensive because I do not want the Governor's staff to think the Legislature is proceeding without being communicative and collaborative.

There being no further business to come before the Committee, the hearing is adjourned at 10:56 a.m.

RESPECTFULLY SUBMITTED:

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Barbara Moss,
Committee Secretary

APPROVED BY:

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Senator Mark E. Amodei, Chair

DATE:_____