MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Fifth Session
March 11, 2009

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:14 a.m. on Wednesday, March 11, 2009, 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/75th2009/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; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Bernie Anderson, Chairman
Assemblyman Tick Segerblom, Vice Chair
Assemblyman John C. Carpenter
Assemblyman Ty Cobb
Assemblywoman Marilyn Dondero Loop
Assemblyman Don Gustavson
Assemblyman John Hambrick
Assemblyman William C. Horne
Assemblyman Ruben J. Kihuen
Assemblyman Mark A. Manendo
Assemblyman Richard McArthur
Assemblyman Harry Mortenson
Assemblyman James Ohrenschall
Assemblywoman Bonnie Parnell

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Kathy McClain, Clark County Assembly District No. 15

STAFF MEMBERS PRESENT:

Jennifer M. Chisel, Committee Policy Analyst
Amber Joiner, Senior Research Analyst
Nick Anthony, Committee Counsel
Katherine Malzahn-Bass, Committee Manager
Sean McDonald, Committee Secretary
Emilie Reafs, Committee Secretary

OTHERS PRESENT:

The Honorable Douglas W. Herndon, Judge, Eighth Judicial District Court; Member, Advisory Commission on the Administration of Justice
Ben Graham, representing the Administrative Office of the Courts, Carson City, Nevada
Rebecca Gasca, Public Advocate, American Civil Liberties Union of Nevada, Reno, Nevada
Dr. Richard Siegel, President, American Civil Liberties Union of Nevada, Reno, Nevada
Sam Bateman, Las Vegas, Nevada, representing the Nevada District Attorneys Association, Reno, Nevada
Nancy McLane, Director, Department of Social Service, Clark County, Las Vegas, Nevada
Kay Panelli, Chief, Elder Rights Unit, Aging Services Division, Department of Health and Human Services
Sally Ramm, Elder Rights Attorney, Aging Services Division, Department of Health and Human Services
P.K. O'Neill, Chief, Records and Technology Division, Department of Public Safety
Julie Butler, Records Bureau Manager, Records and Technology Division, Department of Public Safety
Terri Laird, representing Retired Public Employees of Nevada, Carson City, Nevada
David Kallas, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc., Las Vegas, Nevada
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association, Mesquite, Nevada
Tom Roberts, Lieutenant, Las Vegas Metropolitan Police Department, Las Vegas, Nevada

Chairman Anderson:
Let me open the hearing on Assembly Bill 168.

Assembly Bill 168: Revises sentencing provisions relating to certain convicted persons who provide substantial assistance in the investigation or prosecution of other persons involved in trafficking in controlled substances. (BDR 40-653)

The Honorable Douglas W. Herndon, Judge, Eighth Judicial District Court; Member, Advisory Commission on the Administration of Justice:
Pursuant to my membership on the Advisory Commission on the Administration of Justice, I was asked to chair a subcommittee looking at mandatory drug sentencing laws and, in particular, laws related to trafficking in a controlled substance, since those constitute the most mandatory sentencing issues that we deal with in the courts. We put together a subcommittee of about eight people that involved Assemblyman Carpenter and me and some prosecutors, both north and south, some defense attorneys, some corrections members, as well as law enforcement members. We tried to take an overall look at some of the trafficking in controlled substances issues.

The one thing we focused on, very early on and throughout, and which we had unanimity on in terms of a decision, was the substantial assistance aspect of the trafficking statutes. That is what Assembly Bill 168 is a product of. Essentially, the statute as it stands simply says that a trafficking offense, which carries mandatory prison time, is probationable only if a person provides substantial assistance. That was the first problem we came upon in that there is no illumination, clarification, or definition of what substantial assistance is. Therefore, it does not give much guidance to the judges of the state as to what we should be considering when we view substantial assistance.

The second aspect of the statute we thought was very limiting is the substantial assistance must be provided "in the identification, arrest or conviction of any of [the offender's] accomplices, accessories, coconspirators or principals or of any other person involved in trafficking in a controlled substance." We thought that was very limiting: providing substantial assistance of a particular type to law enforcement by an offender, whatever substantial assistance someone can provide is valuable to law enforcement, whether it is substantial assistance in the investigation of other trafficking or narcotics offenses or substantial assistance a narcotics offender can provide to help solve a string of residential burglaries, armed robberies, or even homicides. I do not think substantial assistance should be limited to simply whether an offender has information about other narcotics offenses. I think you are limiting law enforcement's ability to use good information when you do that.

We saw those two problems in the substantial assistance statute as it currently stands. To remedy those, we took a look at the Federal Sentencing Guidelines at §5K1.1, which is where the federal system talks about substantial assistance, and I believe there was a lot of wisdom in that. I think having a state statute that closely mirrors the federal statute, especially since narcotics offenses often occur in such a way that either jurisdiction could take jurisdiction and prosecute, would be a very good thing. The federal statute gives broader discretion to the courts and gives clarification and definition to the courts about what substantial assistance is, what we should be considering, and what type of offender we could be granting probation to.

We set about to create some changes to the statute. If I understand it correctly, Ben Graham had previously proposed an amendment to the bill, at lines 16-18 on page 2, by striking "other person involved" through "453.3395" and inserting "offense" (Exhibit C). Our intent was to make substantial assistance available to anybody who provides investigation or prosecution assistance regarding any offense, not just limited to trafficking in a controlled substance.

I can tell you, obviously, with our budget issues in this state as well as all over the country, looking at how many drug offenders are taking up bed space in the prisons was a big concern not only to the Advisory Commission but to our subcommittee as well. We took a look at how we were doing business down south as well as in the Second Judicial District, since those two districts put over 80 percent of the offenders into the prisons, and there was a real difference in how trafficking offenses are handled in those two jurisdictions, not to say one is right or one is wrong. But when we consider the gravity of putting people in prison for drug offenses for substantially long periods of time, and the court has some discretion to grant probation, the establishment of what all the courts should consider and the breadth of the courts' discretion was of great importance to us. That was essentially the theory behind the subcommittee's recommendations that resulted in this bill.

Assemblyman Horne:
I do not have any issues with the bill. I recommended something similar to this a couple of sessions ago. Would you have any problem with making this effective upon passage and approval instead of October 1, because no gear up is necessary for something like this?

Douglas Herndon:
I have no problem with that whatsoever; the sooner the better.

Assemblyman Carpenter:
I have a question on page 2, line 27 of the bill, where we are "taking into consideration the government's evaluation." When I think of the government, I think of the federal government rather than the state. I was wondering if that is really the right word to use given that this is a state issue.

Douglas Herndon:
That language mirrors what comes out of the Federal Sentencing Guidelines. I do not have any problem with changing the word from "government" to "state." The theory is that law enforcement is to be given some input before the motion is granted, and that is reflected at lines 18 and 19 about the arresting agency. The state would have the right to make recommendations to the court about their view of what substantial assistance was rendered. If that was changed to read, for instance, "the prosecutor's" or "the state's evaluation" I think that would be appropriate as well.

Chairman Anderson:
We will check with the bill drafters to see if a term such as "the arresting agency's" is appropriate.

Judge, I am confused about how the suggested amendment would apply. You contend that, by removing the language in the bill, you will open it to every kind of felon?

Douglas Herndon:
No, the intent of what we brought out of our subcommittee to the Advisory Commission was that we wanted to open it up so that with respect to an offender who is charged or convicted of trafficking and is seeking to provide substantial assistance, whatever substantial assistance he can provide in the investigation or prosecution of any offense should be able to be brought before the judge and considered as to whether it meets criteria and should be viewed as substantial assistance allowing for probation. We did not want to limit an offender to having to provide information about other trafficking offenses in order to apply for and be granted substantial assistance probation. We thought that was very limiting to the offender and did not give appropriate discretion to the court to consider what the offender may have done to assist law enforcement.

Chairman Anderson:
One of the criticisms that we have heard about this issue in the past revolved around the fact that it ended up treating low-level offenders more harshly than those who may be more substantially involved. By removing this language, are you saying something like, if a person is arrested for trafficking, and he has

substantial information that may lead to an arrest on some other kind of an issue—home burglary or even murder or some other crime—not related to anything that the person has done, that could be used by or should be presented to a judge in order to take that information into consideration as substantial assistance?

Douglas Herndon:
Absolutely. There are a lot of low-level offenders. I am aware that the American Civil Liberties Union (ACLU) is proposing a different type of amendment that actually is more limiting than is currently on the books, to be quite honest. Nonetheless, the way you recited it is exactly right. If a low-level offender bought a trafficking amount of controlled substance from somebody and may not be able to provide a name, an address, and identification of the supplier, so that law enforcement cannot really do anything about that, but may have information about home burglaries, about somebody who has talked about complicity in a homicide, or anything else, to the extent he provides assistance to law enforcement by disclosing what he knows about some other crimes that are non-drug related, I think that information should be allowed to be brought to the court for determination as to whether he should be granted probation for his trafficking offense.

The theory of substantial assistance from 1983, when these trafficking laws first came about, was to utilize it as a manner of assisting law enforcement primarily in fighting the war on drugs. Law enforcement is interested in whatever information they can get to help them solve crimes.

Ben Graham, representing the Administrative Office of the Courts, Carson City, Nevada:
We are very much in support of what Judge Herndon is proposing. We feel that, even though there may be some well-intentioned other amendments, today would be a good day to pass the bill as urged by Judge Herndon. Those other issues can be left for a later discussion.

Rebecca Gasca, Public Advocate, American Civil Liberties Union of Nevada, Reno, Nevada:
We are here in support of A.B. 168. We have written concerns which have been submitted (Exhibit D). We are very enthusiastic about having something that addresses some of the concerns. We have felt that the substantial assistance law as currently written has disproportionately affected those lower-level offenders who may not have the ability to offer information to the law enforcement officers about their higher-ups. Definitely, from the Judge's remarks, I do admit that. His proposed amendments are a bit more expansive than ours, and we would certainly be open to that. What we have presented

for you today is just an idea, and we would certainly be happy to work toward making this law as expansive as possible so that those lower-level offenders do not get disproportionately affected.

Dr. Richard Siegel, President, American Civil Liberties Union of Nevada, Reno, Nevada:

I got to spend a couple of hundred unpaid hours over the last year and a half as a member of the Advisory Commission on the Administration of Justice. I enjoyed working with Judge Herndon and Chief Justice Hardesty. This is one of the issues that we talked about most on the Commission. We feel the bill that is before you covers about half of what we would like to see happen. It does give more flexibility to the whole process, it gives somewhat more discretion to judges, and it is in the interest of law enforcement to have a wider net in terms of the crimes about which they will get more information.

I want to turn to the memo on our amendment (Exhibit D). I want to focus on subsection 2 of our amendment and what we are trying to accomplish with it. Repeatedly at the Commission, Chief Justice Hardesty, the chairman of the Commission, said he did not want to see what he calls the mules be treated more harshly than the big guys in the drug conspiracies. That is the purpose of our amendment. The big guys know who is below them in the conspiracy. They will, as we were educated about consistently in the Commission, know who is below them. The mule is the low guy on the totem pole in the drug group. The example repeatedly used was, "Here is $100. Drive from Sacramento to Reno. We are putting something in your car." It is over the weight for trafficking, and that is all that can trigger trafficking. The thing that Justice Hardesty and others emphasized repeatedly to our Commission was that the mule does not know anybody except the guy who gave him $100 on the other side, who is probably going to be in California not in Nevada.

Judge Herndon made a comment that it is good to be consistent with federal statute. Our amendment is in federal statute and in the statutes of many states. The concern is that we do not disproportionately hit the little guy. He has not committed an act of violence; he is not an organizer, leader, manager, or supervisor. He is a little nothing within the structure of the organization. He does not have any information to give, and nobody can suggest that he has any information to give. We want to give that person, at the discretion of the judge, as is in federal law and the laws of five or six other states, the same opportunities as the big guy who has substantial assistance to give regarding drug trafficking. The logic of it is: just because you are at the bottom of the totem pole, and you have no information, does not mean you should be the one who should get the mandatory sentence. You do get a trafficking charge, but you get the flexibility. It is a serious business: you are going to get the

trafficking charge, but, if you have no information, you will get the flexibility to not get the mandatory penalties. That is the heart of subsection 2.

Rebecca Gasca:
I have not had an opportunity to review the text of Judge Herndon's proposal, but it sounds like we would certainly be amenable to his suggestion, in lieu of our second amendment, set out as subsection 3. I do believe that the Judge was correct that subsection 3 of our proposed amendment would be more limiting than what he has proposed.

Chairman Anderson:
By adding subsection 3, is it your belief that you will have included the opportunities that Dr. Siegel had alluded to in terms of trying to reach these low-level offenders?

Richard Siegel:
We believe that the full subsection 2 of our amendment is necessary to clarify who would be newly eligible for this consideration: people without any information. It also clarifies that they are very low-level people. It clarifies what they have not done and who they are not, and we would hope that subsection 2 is included.

Chairman Anderson:
It seems to me that in subsection 2, "the defendant did not use violence or the threat of violence," you might be taking a large group of people whom the police deal with on a regular basis. The use of violence is not unusual. I guess it is the degree of violence that you would be talking about. Obviously, if it is murder or something with a weapon, you can fit that into one category.

Richard Siegel:
The idea was to impress everybody in this room with the point that we are looking for people who are most deserving of lenient treatment. We have no objection if you want to take subsection 2 of our amendment out, but we are taking it from the federal statute and saying that paragraphs 1 through 4 define to whom we are giving lenient treatment. I understand from Ben Graham's comment that he is looking for a smooth and direct route for passage of the original bill, but we are looking to broaden to whom it would apply.

Chairman Anderson:
I got it.

Sam Bateman, Las Vegas, Nevada, representing the Nevada District Attorneys Association, Reno, Nevada:
We are in support of the existing bill with Mr. Graham's amendment. We were at the table of the subcommittee of the Hardesty commission. Chief Deputy Tom Carroll in our office was on the subcommittee with Judge Herndon and other members of the defense bar. The bill before you I think is a consensus bill that we can support. It provides more specific definitions of what substantial assistance is. I wanted to rise in opposition to the ACLU's amendment and briefly go through why it is impractical in its use in the State of Nevada.

We talked a little bit about the mule problem, the people that take $100 and drive into Nevada with hundreds of pounds of drugs. Judge Herndon might be in a better position to answer the question, but the subcommittee did review the numbers of traffickers that are in prison, and I think the numbers really do not bear out that we have a lot of mules in prison in Nevada. I wanted to make that point, and I know he has the numbers with him, so he might be a better person to speak with on that issue.

Subsection 2 that the ACLU has provided would not really work in Nevada. Regarding paragraph 1, most traffickers that are convicted in Nevada do not have prior trafficking convictions. It is not very often that a defendant who has a prior trafficking conviction is convicted of trafficking. That would really open it up to a lot of people. Regarding paragraph 2, trafficking by its very nature is a nonviolent, possession-type charge. It is very rare that you have a trafficking charge coupled with violence charges arising out of the same offense. That does not narrow anybody. That would be pretty much across the board with most traffickers. Paragraph 3 does not involve violence. You do not often have a trafficking charge that also involves murder or some sort of a violent charge that results in substantial bodily harm. Essentially, these factors are meaningless as they relate to the practical reality of prosecuting drug offenders who are charged with trafficking in Nevada.

Considering paragraphs 4 and 5, I have some serious concerns about paragraph 5. First, it is very often difficult to find out whether someone has provided truthful information or all of the information that he might have. Second, it almost requires a defendant to give up his Fifth Amendment right to remain silent in order to receive probation. The prospect for post-conviction litigation for someone who says, "I was forced into making these statements in order to garner probation," I think, is very problematic.

As to subsection 3, Ben Graham's amendment encompasses more situations than what the ACLU has proposed. The problem with trying to make sure that we are not going down the line instead of up the chain is it is not practical in

light of Mr. Graham's amendment. Trafficking charges and a murder charge are not similar, so I do not know how you would decide whether you were going up or down the chain. One is more serious than the other when you are talking about crimes across the board rather than just specifically trafficking charges. I just want to make sure the Committee is aware of the impractical aspects of the ACLU's proposal for prosecution in the State of Nevada. We would be opposed to their amendment, but we would support the bill and Ben Graham's amendment.

Chairman Anderson:
I will close the hearing on Assembly Bill 168.

I suggest we take a look at this a little while longer. I will feel more comfortable with the bill drafter making sure that the language does not conflict and that we are okay if we are going to move with it. It will go on a future work session, not tomorrow.

Let us turn our attention to Assembly Bill 8.

Assembly Bill 8: Establishes the Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons. (BDR 38-98)

Assemblywoman Kathy McClain, Clark County Assembly District No. 15:
Assembly Bill 8 is a product of an interim study committee we had during the Interim. I chaired the Legislative Commission's Subcommittee to Study Issues Relating to Senior Citizens and Veterans. Assembly Bill 8 is one of the five bill drafts that came out of that subcommittee.

We met six times, and in February we devoted an entire meeting to studying topics relating to the abuse, neglect, isolation, and exploitation of senior citizens. At that meeting, we heard extensive testimony about the many devastating ways seniors are victimized. Statistics from the Aging Services Division last year show that statewide over 4,700 people age 60 or older were victims of abuse. You need to understand that is the numbers that were reported. In national statistics, about 1 in 15 are reported. Over 1,100 of those cases were substantiated, whether or not they went to court.

It was brought to our attention that one way crimes against seniors can be prevented is to have more information available about the people who apply for jobs to work around seniors. We decided that a central registry of substantiated cases of elder abuse, such as the one provided by A.B. 8, would be a useful

tool to ensure that anyone who has committed a crime against a senior in the past does not have easy access to his next victim.

It may also be important to note that the central registry in this bill is modeled after the registry we already have in statute which collects information concerning the abuse or neglect of a child, so we know this model works.

Briefly, I will go through the bill and explain what it does.

Sections 1 through 9 clarify the definitions of various terms. The registry will contain information about crimes against "older persons," which is defined as anyone who is 60 years of age or older. The terms "abuse," "exploitation," and "neglect" are already in statute. Some examples of these crimes include: the infliction of pain, injury, or mental anguish; deprivation of food, shelter, clothing, or services; obtaining control of a person's property or money by deception; or isolating a person by intentionally preventing him from receiving mail, calls, or visitors. Another is called maltreatment because people have not put a label on it yet. I went to a couple of different elder abuse conferences last summer, and one of the emerging issues is the use of medications on seniors, either to keep them subdued or to withhold their medicine and make their lives more painful and more miserable than it needs to be. That is some of the kinds of abuses that happen in homes and nursing homes.

Section 10 is the main section that establishes the statewide central registry for the collection of information concerning the abuse, neglect, exploitation, or isolation of older persons. The registry will be maintained by the Aging Services Division in the Department of Health and Human Services.

The registry will contain information that is collected using the reporting procedures already in statute. In addition to cases in which people voluntarily report alleged crimes, there is a list of mandatory reporters who must report suspected cases of abuse, neglect, exploitation, or isolation to a local office of the Aging Services Division, police department, or county office for protective services. When an investigation of one of these reports results in the belief that an older person has indeed been abused, neglected, exploited, or isolated, that case will be included in the registry. The registry will also keep statistical information about the protective services provided in Nevada.

Assembly Bill 8 authorizes the Aging Services Division to release information from the registry to an employer or prospective employer if the person who is the subject of the background investigation could have regular or substantial contact with older persons or regular and substantial contact with children.

Sections 10 through 12 provide some safeguards in the system, including the provision that only certain employees will have access to the information in the database and that a record will be kept of who requests information from the database. The measure also provides that information will be deleted no later than 10 years after the date on which it was entered into the registry.

During our study of issues concerning seniors during the last Interim, it became very clear to those of us in the room that something needs to be done to help further protect seniors from criminals. We believe that this database will help identify people who should not be allowed to work around seniors because of their past conduct of abusing, neglecting, exploiting, or isolating seniors.

I picked up a brochure at one of those conferences I was talking about, and it lists some different things you might hear from a senior that really constitute an abusive situation. What stuck out to me was the one that said, "My home health care helper tells me I am old and stupid and lucky that she bothers with me. I need her help, I do not want to make waves, but it makes me cry at times."

Elder abuse is a crime. We all recognize that fact, but I do not think people understand what a horrendous crime it is. In the past, our seniors have really not been at the forefront of any issues. We had that whole generation of seniors who did not want to bother anybody, but when you start looking at the population and how it is changing, we have a whole, huge generation of baby boomers who are going to be seniors. Part of the reason we need to start focusing on this now is, for one thing, they are going to be very vocal, they are not going to put up with stuff, but they are still going to have the 80- and 90-year-old parents who are in these situations. I think it would behoove all of us to be ahead of the curve and do everything we can to stifle the growing problem of elder abuse.

Chairman Anderson:
Ms. McClain, you and I have had several dialogues on this particular topic over time. When I reflect on the more difficult points in my life, I think of the time when my brother and I had to make decisions for our parents. Probably the most difficult aspect is the role reversal that takes place when the child has to take care of the parents in a respectful manner, recognizing that they are not capable of managing their health needs and other needs, while still giving them the level of independence that is necessary. When you turn that responsibility over to an institution, you feel that they should be very carefully watched. My feeling was that I was hoping that I was giving as much care and observation to my parents as they had given to me as a child. I was very carefully supervised and allowed to do things that probably were going to get me in trouble, but they

allowed me to make those kinds of choices. It becomes a very difficult situation, so I admire the hard work that you put into this.

Assemblywoman McClain:
Think of the differing lifestyles from, say, the Great Generation, where you were expected to marry, have children, and live to a ripe old age. The baby boomers came along, and there are lots of people who never married or had children; they may not have very many siblings or have lost their siblings and their parents. We have the baby boomer group who were keeping their handicapped children at home instead of institutionalizing them. So you have a whole new segment of older persons who have no other resource but to be in an alternative living environment rather than in their homes. And even if they get to stay in their homes, they will have to have people come in and help them. We are trying to catch these people who are believed to have abused older persons before they are employed by personal care assistance facilities, nursing homes, or group homes to make sure we are not aiding and abetting elder abuse by employees.

Assemblyman Carpenter:
I have a couple of questions. It seems to me that we are trying to get at those people who were reported by someone who thought that abuse was going on, but then we are asking those people who were reported to give written authorization for the registry to release this information. I do not know if many of them are going to give that kind of authorization, and, if they do not, are we just going to scare them off?

Assemblywoman McClain:
I guess we probably have to shake that out as a functional problem, but we are talking about substantiated cases. To me, if it scares them off, that is fine. We are not talking about an elder abuse report that somebody filed which was determined to be unfounded by protective services or the police. We are talking about the ones that are actually substantiated, but they are yet to be processed through the courts. In my mind, if it works to scare them off, fine. But I think, for the liability issues for the state, it is just semantics.

Assemblyman Carpenter:
I understand, and I want to get to these people, but I do not know whether the language really enables us to get to the people that we want to. If they have been convicted, certainly they are going to show up in another registry; if they are not convicted, I do not know whether we are going to be able to do much about it or not. I would like to figure out something that we could really...

Assemblywoman McCain:
Actually, this is a piece of the elder abuse package I am trying to put together. This is the first bill that came out. This bill was not the real nuts and bolts of what I really want to do, but this one came out of the interim study, and I think people felt more secure with easing into it. Personally, I do not want to ease into it. I have another bill draft request (BDR) that has not come out yet. It is zero tolerance on elder abuse. It will include a lot of issues. This bill would provide support to it but is not the final big push.

Chairman Anderson:
I think, Mr. Carpenter, the primary issue here is going to be the Central Repository: developing the mechanism for getting information both in and out and utilizing the Central Repository, not that the other issues will not be dealt with. Elder abuse is a problem we have been trying to deal with for at least the last three sessions.

Assemblyman Gustavson:
We all know elder abuse is a serious crime, but my concern is about the same as Mr. Carpenter's. The way that I am reading this bill, if a report is filed, which has to be filed by any of the people on this list, that someone suspects someone of elder abuse, the suspect's name is going to be put into this registry without his being charged or convicted of anything, and he will have a tough time getting a job because of that. That is my concern.

Assemblywoman McClain:
I understand. It is not that definitive. It is a registry of substantiated cases. It will allow an employer or a prospective employer to call the Division for Aging Services, or whoever is the keeper of this registry, and find out if there have been any cases filed or any reports on a particular person. If there have been then the registry can give the employers the background on the case or report. It may be something very minor that can all be worked out and understood by talking to the prospective employee. It is a method to get a feel for a person. I would guess the majority of employee prospects would not ever be in the registry. However, there have been some cases where people move from one employer to another; as soon as their background checks catch up with them, they move on to somewhere else, abusing as they go all of this time. So there has to be some sort of upfront screening mechanism.

Assemblyman Gustavson:
I understand that, and I would like to see something done in this area. But, to me, from reading this bill, what can or cannot be put into this report is not stated. If it is an unfounded report, I would hate to see somebody be turned

away from a job, especially right now when it is hard to get jobs, because of some accusation. I would like to see that clarified, if we could, in the bill.

Assemblywoman McClain:
I do not know if that is something that could be done through regulations, but I know this particular piece of legislation was patterned after the registry for child abuse and neglect. That is the way the language reads. If you have a suggestion to tighten it up, I would be happy to consider it.

Chairman Anderson:
To focus, your concern is with the language in section 10 of the bill, at line 31 "in the belief."

Assemblyman Gustavson:
"In the belief," correct.

Amber Joiner, Senior Research Analyst, Legislative Counsel Bureau:
As a member of the Legislative Counsel Bureau (LCB), I do not support or oppose any legislation. I am completely nonpartisan.

I understand that the concern is section 10, the word "belief." However, the key would be in section 2, where it says "the information concerning each report submitted and an investigation conducted pursuant to NRS 200.5093," that indicates that it will only be substantiated cases. I believe in her opening remarks Ms. McClain said that there were 4,700 reported cases; however, only 1,100 were substantiated. It is only those 1,100 that would end up in the registry. So it is not all suspected cases; it is only those substantiated after investigation.

Assemblyman Gustavson:
Could you repeat where that was, *Nevada Revised Statutes* (NRS) 200.5093?

Amber Joiner:
That is correct.

Chairman Anderson:
The cross reference is right above it in the bill, at line 30 on page 2.

Assemblyman Gustavson:
I see that. I read the current NRS, and I did not see the clarification in there, so that is why I was concerned about it. I will look at it again.

Assemblywoman Dondero Loop:
While I appreciate my colleague's concern with that, I happen to have had a personal experience with elder abuse with a grandmother who lived to be almost 105. I took care of her along with my mother for many years because my mother's siblings were not alive. She was abused, and the facility swept it under the carpet because they dismissed the person. I reported it, it was not in this state, but I will tell you that is the problem: you can report it, and they can say, "Oh, we let that person go because it is too much paperwork; it is too much trouble." They do not want that on their record. In my opinion, although I appreciate that someone can be accused and be innocent, I think if there is substantiation, which I had with pictures and bruises, you cannot let that conduct be excluded from a person's record just because it is easier not to file the papers. I stand with you, Ms. McClain.

Chairman Anderson:
There are a couple of groups that have submitted amendments. Have you had an opportunity to see those, particularly the one put forward by the Central Repository?

Assemblywoman McClain:
Yes, I have.

Chairman Anderson:
Do you have any problems with any of those?

Assemblywoman McClain:
No, as long as it does not kill my bill—at least the policy portion of it. I understand there is a fiscal note on it and that the bill will go to the appropriations committee.

Chairman Anderson:
Have any other amendments been shared with you that you feel are necessary for us to...?

Assemblywoman McClain:
I think it was just the one from the Central Repository.

Chairman Anderson:
Ms. McClain, is there anybody else that you wanted specifically to speak in support of the legislation who wants to get on the record?

Assemblywoman McClain:
Yes, Nancy McLane, who is Director of Clark County Social Service.

Nancy McLane, Director, Department of Social Service, Clark County, Las Vegas, Nevada:
In Clark County, we have a senior citizens protective unit, which is operated by the county, and we partner with the Division for Aging Services for individuals who are covered by Medicaid. The division investigates those cases. We strongly support a registry for substantiated cases of elder abuse. We have cases in our files that remain active for years because of repeated instances of abuse and neglect, exploitation, and isolation that fly under the radar. Many of our cases are what might be termed low-level in terms of law enforcement. They are not criminally prosecuted and do not involve law enforcement. However, there is often systematic abuse, financial exploitation of seniors, which occurs every day in all of our communities. Something needs to be done to manage these offenders beforehand so that they do not abuse another person.

One of the things that is really valuable about a registry is that it allows for civil findings of substantiation, which does not then require a criminal prosecution to occur, but allows for the tracking of offenders, and the tracking of patterns of abuse, and, most importantly, allows employers to verify whether a potential employee has been found to have substantiated instances of abuse of elders.

I believe that, in terms of having to approve the release of information, if an individual is pursuing employment not related to elders, they probably would not want to authorize the release of any information regarding a substantiated case. That would be fine. If an individual, however, is seeking employment in the elder network of care or in banking where they could be working with the finances of older people, we would strongly support mandatory checks of any registry of offenders in those instances.

And, for the record, our substantiation rate in Clark County is about 90 percent.

Chairman Anderson:
Ninety percent?

Nancy McLane:
Yes. When people call in, they mean it. When we receive reports of elder abuse and neglect, they are often very serious cases or cases in which systematic abuse has occurred.

Assemblyman Hambrick:
Do you have any idea if those accused might be licensed professionals, and if so, would you not also have another hammer to be brought to bear by reporting back to the professional organization that governs those licensees?

Nancy McLane:
Absolutely.

Chairman Anderson:
Do you frequently move against an institution or a licensed caregiver by bringing it to the attention of the state so the state can revoke the license?

Nancy McLane:
In the case of anyone who is covered by Medicaid, those cases are handled by the Division for Aging Services. But yes, we do report cases which occur in a setting that is not a home setting. Many of our cases occur in the community and often with family members.

Chairman Anderson:
So many of them do not hold professional licenses where we would be able to track that particular part of the issue?

Nancy McLane:
True. In the case where they are licensed, we would certainly report any abuse.

Assemblyman Manendo:
How long does it take, once somebody actually calls in to your office, for an investigator to come out? And then, if it is determined that there is some type of abuse or neglect, how long does the next process take? I ask specifically because when a former colleague of this body—actually my predecessor—was put into a facility, he was being neglected. His daughter called and said they had some abuse situations and were not getting anywhere. They got nowhere. So they called me, and then I called it in. It took a while for somebody to even come out to look, and that was at my request. Could you walk us through that process?

Nancy McLane:
In the case of institutional settings, those are normally handled by the state. I would tell you that they have a gross shortage of staff. They have three investigators to cover four counties in southern Nevada. In our unit, we have six investigators to cover just Clark County proper, and we need twice as many as we have. Our caseloads are more than 150 per person, which is not effective by any means.

Our policy is to initiate an investigation in an emergency within 24 hours; if it is a nonemergency, within three days. We normally do respond within one day. Our investigators go out, meet with the individual who lodged the complaint, who remains anonymous, and meet with the alleged abuser and the alleged

victim to try to gather information. Sometimes these situations are extremely difficult in that often the abuser is a loved one and the person who is being abused does not want to have that person be in trouble or may fear that their caregiver may be taken away, and he will be all alone. Some of these cases are extremely difficult to investigate. Sometimes they take a long time to resolve because of that. There is not, that I am aware of, an average time for closing a case. Some of our cases go on a very long time because of the nature of that work. In an institutional setting, the state staffing levels contribute highly to untimely investigations. It is an untenable situation that Aging Services is in relative to elder protective services.

Assemblyman Carpenter:
Do you find that law enforcement and the prosecutors are reluctant to take on these cases?

Nancy McLane:
We have, I believe, a very good relationship with the abuse and neglect units of law enforcement. They also are overwhelmed because they are the same units that often investigate child abuse and neglect. When a case does not rise to the level of criminal prosecution, they are not going to take it. Often, there are dollar limits which are the threshold for prosecuting financial exploitation, fraud, and so forth, and if these cases do not reach that threshold they will not involve themselves because they cannot prosecute it. When we have very serious cases, they do prosecute, as they should. Often, the reports that come into our office come from law enforcement because they have been contacted with a report that they perhaps cannot act on. We also partner with them in the cases where a criminal prosecution will take place because they also need the intervention of our social workers.

Kay Panelli, Chief, Elder Rights Unit, Aging Services Division, Department of Health and Human Services:
[Spoke from written testimony (Exhibit E).]

Chairman Anderson:
Ms. Ramm, did you want to add anything specific into the record?

Sally Ramm, Elder Rights Attorney, Aging Services Division, Department of Health and Human Services:
No, I was just here in case there were questions.

Chairman Anderson:
There is an amendment coming forth from the Central Repository. Did you have an opportunity to review the potential amendment?

Sally Ramm:
We reviewed it just this morning. We received it when we got here today. I looked at it, and I do not see that the amendment affects the Division for Aging Services at all.

Assemblyman Carpenter:
I believe the witness from Clark County said that in some of these situations the person would not have to give written authorization to release information. For example, an employer could call up and it would be mandatory that you gave the information out. Do you think there is any value in that?

Sally Ramm:
I believe the way the bill is written is that written authorization would be required to be produced by the employer before we could give out any information from the registry. I agree with Assemblywoman McClain that that might be something we would have to take another look at.

P.K. O'Neill, Chief, Records and Technology Division, Department of Public Safety:
With me today is Julie Butler, Chief of the Division's Records Bureau. We are here today to propose an amendment to A.B. 8. We conferred with Ms. McClain prior to drafting the amendment, we are doing this with her recommendation and acceptance, and we feel that it adds value to A.B. 8. We have talked today about employees who are abusing their clients. We are going to propose an amendment to A.B. 8 that strengthens it by looking at people before they become employees and assessing them to determine whether they are qualified for that type of work. I will now turn it over to Ms. Butler who will present and go through our amendment, and then we will be available for any questions.

Julie Butler, Records Bureau Manager, Records and Technology Division, Department of Public Safety:
[Spoke from prepared testimony (Exhibit F). Proposed amendment (Exhibit G).]

Assemblyman Segerblom:
This may not necessarily relate to this bill, but once your name is in the registry, what process is available to have it removed.

Julie Butler:
That process is governed by NRS 179A.150, which allows an individual to challenge his or her criminal history record, and there is also a set of regulations in *Nevada Administrative Code* (NAC) Chapter 179A that specifies the procedure. Basically, the individual would fill out a form and submit fingerprints

to our agency and the Federal Bureau of Investigation (FBI) to challenge his record, and he would provide whatever documentation—a disposition, a police report, or so forth—to clear up his or her record. Then, we could go ahead and correct that information.

Assemblyman Segerblom:
Specifically, who makes that decision? Is there a procedure? Can that be appealed?

Julie Butler:
As far as the determination to hire or not to hire?

Assemblyman Segerblom:
No, if my name is in your registry and I challenge it, you say send me this stuff, and I send it to you. You then say, sorry, we do not agree with you. What can I do at that point?

Julie Butler:
Our regulations say that the director of our department will make the final determination if the individual challenges his record and he does not feel we have given him the proper relief.

Chairman Anderson:
You have answered Mr. Segerblom's question. I believe that Captain O'Neill answered this in one of our other committees the other day when we were dealing with the Central Repository.

Captain, your decisions are appealable?

P.K. O'Neill:
Yes, sir.

Assemblyman Segerblom:
My concern is that once you get into these registries, it is like a lifetime thing. I think we need, at some point, to develop a procedure for people to get out of the registry so they are not prohibited from working for the rest of their lives.

Chairman Anderson:
We need to make sure that the Aging Services Division is asked how they will utilize that opportunity.

Sally Ramm:
The bill, as it is written, says that the information could be kept for only ten years. In addition to that, the regulations that would be written would include a due process appeals process so that the person could appeal. There will be a whole appeals process, just as there is with the Child Abuse Registry.

Julie Butler:
I just want to clarify to make sure that everybody is aware that the criminal history process would be separate from the registry that the Aging Services Division would keep. Getting something out of the Central Repository is a separate process from whatever regulations the Aging Services Division would adopt.

Assemblyman Segerblom:
Which, again, raises my concern, but we cannot deal with it now. I think at some point we need to start focusing on how to get people out of these registries as opposed to how to get them into them.

Chairman Anderson:
I think we have to deal with both of them simultaneously.

Assemblyman Ohrenschall:
You said, referring to the question from my colleague from District 9, there is a procedure in NRS to have your name removed, but that is for a criminal conviction. Here in this registry…

Julie Butler:
That is for a challenge to your criminal history record, which is fingerprint based, not name based. There already are administrative procedures to challenge your record.

Assemblyman Ohrenschall:
In a hypothetical case, such as the following: if someone believed he was in the registry of substantiated cases of abuse erroneously, and there was no criminal conviction, but there was an investigation and a belief, would that section of NRS apply to aid him in court to get his name removed?

Julie Butler:
No, we are talking about two different registries. Under this proposed bill, Aging Services would keep a record of substantiated cases of abuse, whether or not there is a criminal complaint filed against the individual. What we keep in the Central Repository are arrest and conviction records. Although what we do

would support and flow with what they are trying to do, they are two different animals.

Terri Laird, representing Retired Public Employees of Nevada, Carson City, Nevada:
I am here to let you know that we have over 9,000 members of Retired Public Employees of Nevada (RPEN), many of whom are over 60, and, by virtue of that fact, we would like to go on record in support of A.B. 8.

Chairman Anderson:
I should disclose that I am a part of RPEN, an active member in it, although this bill does not affect me any more than other RPEN members, and therefore, with my disclosure, I do not need to abstain. I just wanted to acknowledge that I am a member.

Rebecca Gasca, Public Advocate, American Civil Liberties Union of Nevada, Reno, Nevada:
I want to clarify that the American Civil Liberties Union (ACLU) is not opposed to the idea of the creation of a registry, such as the one that is being put forward in this bill. We are, however, very concerned that the way that the reporting of elder abuse functions, according to this bill, would cause the database to include inaccurate information—someone else had suspected that a person committed some sort of abuse—that would violate the due process rights of those individuals. And not only that, the victim's privacy rights would definitely be violated. There is nothing in here that provides for the redaction of the identifying information about those who were abused. That would result in employers, vast numbers of employers, receiving information about these people who have been, perhaps, subject to abuse.

I do want to apologize to the Committee, and particularly Assemblywoman McClain, because this bill was brought to our attention recently. It was just in the last two days that we have been able to take a look at this bill and its provisions, and, unfortunately, it was not until very late yesterday that this testimony was fleshed out. I apologize to the Committee. I certainly do not mean to make your work, which is already at such a high level, any greater. And, certainly, I did not mean in any way to inconvenience those proponents of this bill.

[Written testimony (Exhibit H).] The proposed registry of abusers should be based on actual findings that a specific person caused abuse. Proponents of this bill have said it is parallel to the existing child welfare abuse registry and statutes. Unfortunately, through comparing the process in this bill versus the child welfare process, there are some discrepancies in the area of due process.

Particularly, the elder abuse registry as it is proposed raises acute concerns because those investigations do not actually provide due process. There is no mandatory notice to the person who is being investigated that agencies are looking into his conduct.

Chapter 200 of NRS outlines the scheme by which reports are to be made to the Aging Services Division. Some of those individuals who might make those reports are mandated to notify, but anyone else may not necessarily have to report. That reference is in footnote 1 of my written testimony.

Under this bill, an individual, alleged by someone to have committed abuse, would have his information entered into the registry, although the registry and the investigation process are not required to find that the person was a part of the abuse, only that abuse had taken place. *Nevada Revised Statutes* (NRS) 200.5093(8) says that if an investigation of a report results "in the belief that an older person is abused, neglected, or exploited," the Aging Services Division would be able to provide services to help protect that individual, but no exacting standards are provided to give guidance as to when a finding of abuse is made. This is particularly in contrast to the child welfare provisions which require specific factual findings of abuse or neglect and a determination of whether there is reasonable cause to believe that the child is being abused or neglected. That is found in NRS 432B.300.

Again, unlike the child welfare statutes, due process or basic notice is not provided to the alleged abuser. The child welfare provisions contain a mechanism requiring that, when an initial investigation of abuse results in a finding that no further investigation is warranted, all references to the original report and investigation are to be expunged from the agency records and not to be made a part of the corresponding database. In this case, that does not exist. There is no mechanism that allows for that. I believe Assemblyman Segerblom pointed that out.

There are no individualized findings as to the alleged abuser, only that abuse has taken place. As to the information about the person initially reporting abuse to the agencies, that information should not be available to any of the employers who are looking. In particular, section 10 of A.B. 8 limits the release to employers or potential employers "only to the extent necessary to inform the employer or prospective employer whether the person who is the subject of the background investigation is believed to have abused, neglected, exploited or isolated an older person." No individual findings as to the merits of the charges of abuse against the alleged abuser can possibly be made according to the way the statutes are written. This diverges from the parallel child welfare procedures which require that the findings be made.

Finally, one of the requirements for allowing disclosure under section 10(3)(b)(2) of the bill is that "the person who is subject to the background investigation could, in the course of his employment, have regular and substantial contact with older persons or regular and substantial contact with children." This we find is an overbroad application of the use of this database. Take, for example, the picture that was painted earlier of the woman who clearly abused the bank accounts of those older individuals with whom she worked. Under this proposed statute, if she were to apply to work with children, at Chuck E. Cheese's, she would fall under the purview of this database. She financially abused older victims, but she would be prohibited from getting a job working with children or in a children's clothing store, and so forth.

Finally, we believe there should be a mechanism that protects the identities of those who have been abused. Abuse for elderly people is awful, and they deserve to have their privacy protected.

Chairman Anderson:
Is there anyone else who would like to speak in opposition? [There were none.]

Is there anyone who would like to speak as neutral? [There were none.]

Assemblywoman McClain:
I was trying to figure out where the language about children came from; it is written in the bill. With your permission I would like to work with Legal and Research to find out why it mentions children at all.

Chairman Anderson:
I think they are trying to draw the parallel between reporting requirements, but we will leave the question open. I was going to suggest that to the Committee.

I will close the hearing on Assembly Bill 8. I will ask for Legal and Research to make sure that the confidentiality question is fairly addressed, as well as the other issues raised by the ACLU and others relative to the due process rights of the accused abusers. They should be parallel to those provided in the criminal registry. We would ask if common ground can be found between the Aging Services Division and the ACLU.

[The Committee stood in recess at 10 a.m. and was called back to order at 10:17 a.m.]

I will call the Committee back to order and open the hearing on Assembly Bill 230.

Assembly Bill 230: Revises the provisions governing the carrying of a concealed firearm. (BDR 15-200)

Assemblyman Tick Segerblom, Clark County Assembly District No. 9:
I brought this bill on behalf of David Kallas and the Las Vegas Police Protective Association. The bill provides for a process that allows for retired police officers to qualify so they could carry a concealed weapon. Under the Brady Bill, they are allowed to do so.

In bringing the bill forward, we had a meeting with Mr. Frank Adams of the Nevada Sheriffs' and Chiefs' Association, and he had a few concerns. They met yesterday and through the night to reach a compromise.

David Kallas, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc., Las Vegas, Nevada:
The reason for the bill was I had been approached by several of our retired officers from the Las Vegas Metropolitan Police Department, who, pursuant to the provisions of the federal statute *United States Code*, Title 18, Section 926C, did not have the opportunities they believe they needed to have in order to qualify and meet the requirements.

In 2005, then Speaker Richard Perkins, along with the Chairman and a few others, brought forward Assembly Bill No. 232 of the 73rd Session which codified the federal statute into state statute. Part of the federal statute mandated that the state be required to certify qualified retired law enforcement officers for the purpose of carrying concealed weapons in that state. The federal regulation made it permissive for the agencies of the retired officers to provide those officers with opportunities to qualify and receive their certification.

What this bill intended to do, now with the amendment (Exhibit I), is require law enforcement agencies in this state to provide two opportunities to obtain a certification to carry a concealed firearm per year for their officers, who have retired from their agencies and are qualified retired law enforcement officers under the federal guidelines.

Chairman Anderson:
If the sheriff of an agency chose to allow other retirees from other agencies who may be residing in his county to have access, would he be able to do so?

David Kallas:
I believe the sheriff would have that discretion because it authorizes the county to do the certification. The sheriff can either make the retired officers meet

their own agency's standards for qualification or require that they go to a private party and meet the private party's standards for qualification.

Chairman Anderson:
The private party qualification is currently available to anybody who wants to pay for it, right?

David Kallas:
I would defer to Mr. Adams as to how the sheriffs are currently handling these certifications.

Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association, Mesquite, Nevada:
When I first saw the bill, I advised Mr. Segerblom that we were going to be in opposition, but Mr. Kallas and I met and were able to work out acceptable language. The amendment puts the onus back on the agency from which the officer retired. As the bill was originally written, it would have required the sheriff of a county to qualify any retired law enforcement officer who now resided in that county, no matter from where he came.

Nevada is a retirement state, so we have thousands of retired peace officers from throughout the nation who qualify under the U.S. House Bill No. 218 (HR 218) (Law Enforcement Officers Safety Act of 2004) to get their cards from the sheriff. Mr. Kallas indicated that the legislation was brought forward by former Speaker Perkins, but it was the Sheriffs' and Chiefs' Association that talked to him and brought it forward. This set up a formal process of allowing our retired officers to qualify for their carry concealed weapons (CCW) permits under the federal statutes.

Chairman Anderson:
The only thing I am concerned about is that it not precludes a sheriff from allowing a retired officer from whatever jurisdiction to have access to their range. How many range spots do you have in Clark County since this seems to be a Clark County issue?

Frank Adams:
Every law enforcement agency in the state qualifies its officers at a number of different facilities, and each sheriff's office throughout the state has one, many of the police departments have one, and the state has its own—and those ranges are used. It does not preclude the sheriff from allowing a retired officer from any agency from coming, but it does mandate that an agency allow a retired officer to qualify twice in a year. I am not sure why this bill came forward because we do it now.

Mr. Kallas said he had some complaints about his officers not getting on the range, but I have not heard any complaints from our sheriffs or chiefs throughout the rest of the state. I did speak with Ron Dreher who represents Peace Officers Research Association of Nevada (PORAN), he is not able to be here, and he has not had a complaint about his retired officers being able to qualify on the range. We are happy to work with Mr. Kallas, and the amendment is something we can live with, but we are doing it now, we have done it in the past, and the sheriff, police chief, or any other law enforcement agency has the ability to qualify anyone that they so choose. I get my qualification once a year through the Department of Public Safety. I take that qualification and the paperwork under HR 218 to the county sheriff, and he gives me my HR 218 card.

Assemblyman McArthur:
I think my question was mostly answered. I am in favor of law enforcement officers getting the chance to get qualified, but I think they are all already getting qualified now, so why do we need this bill?

Most of us who are federal law enforcement retirees go to private places to get qualified, so how is this bill helping us out?

David Kallas:
This bill memorializes the permissive nature of the federal statute, which requires the agency in this state from which that officer retired to provide him that opportunity, rather than requiring that retired officer, who may have committed 20, 25, or 30 years to a community, to have to go to a private party and pay for it on his own. The sheriff or the head of the agency can still charge that officer for the ammunition pursuant to the requirements in the current statute for the certification and/or qualification. What we are saying is if I served 20 or 25 years at an agency, and I am qualified under the federal code, then I would expect my agency to provide me two opportunities a year to go to the range so I can meet the same standards that the law requires of the active officers for qualification. That is part of the federal statute that there has to be the same standard of training that the active officers have, and where better to get that same training than the same range where they train the active officers.

Assemblyman McArthur:
I guess this means you are trying to provide them a way to get qualified without having to pay for it. These ranges are available during different times of the year, are they not? Is there a problem with these people getting onto a range?

David Kallas:
First of all, I would not say we are trying to get their qualification and certification free because, certainly, the sheriff has the option, if he so chooses, to charge them. What we are trying to do is provide them with the opportunity. If you have a retired law enforcement officer from Las Vegas Metropolitan Police Department (Metro) who happens to be in Las Vegas for a vacation visiting his family and wants to go out to the range and qualify, based on the fact that there may be training for a current academy or they are doing requalifications, the opportunity may not exist. If he knows when that range is going to be available for retired law enforcement officers to meet the provisions of the federal statute, then he can make those arrangements ahead of time. It is not a matter of money; it is a matter of opportunity. It is also a matter of making it mandatory where the federal statute says it is permissive with regard to the agency providing the opportunity.

Assemblyman Carpenter:
This could not be interpreted that a police officer who retires from Metro and now lives in Elko would have to go back to Las Vegas, could it?

David Kallas:
No, he would not be required if he chose to or had the opportunity to get his qualification and certification in Elko. But, if he wanted to go back to Las Vegas, then he could.

Chairman Anderson:
If I understand this, you would be able to continue to get qualified as you currently can by going to a private range. If you have a relationship with the sheriff of Elko County, and he has a range that will be open on a certain day, since you know him and will be in the area, he may allow you to come up and utilize his range. So we are not requiring the local sheriff to allow any retired officer from anywhere in the state to come utilize his range at any time. What this bill does is require a special opportunity to qualify twice a year. If you are not from that agency, they will make sure you have an opportunity to get on the range.

David Kallas:
That is correct. It expands the opportunity; it does not limit it.

Chairman Anderson:
It mandates that the sheriff identify these days at least twice a year.

Frank Adams:
Mr. Kallas's amendment would not require it of just the sheriff but of any law enforcement agency.

Chairman Anderson:
I am sorry. Any law enforcement agency?

Frank Adams:
If you retired from Wildlife or the Department of Public Safety or the city police department, that agency would have to have two days a year set aside for their retirees to qualify.

Assemblyman Gustavson:
Under Rule 23, I should disclose that my daughter is a deputy sheriff in Washoe County. It will not affect her any more than anybody else.

Frank Adams:
I just want to make sure that this does not preclude our agencies from opening the range to these officers anytime they want. It just says that the minimum would be two days. Do I understand that correctly?

David Kallas:
That is correct.

Tom Roberts, Lieutenant, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:
I believe one of the questions related to the two days a year. I do not want us to get pigeonholed into designating two specific days a year. Under the current operation at our range, we fit people in who want to come and use our facility, including retired officers. It is flexible not only for them but also for the range facility. Our range was built in the 1980s, and we are in the process of expanding it. Our customer base is probably 300 percent of what it was when we built it, so we already have difficulty with getting people on the range, and we do not want to be tied to two specific days. Having that flexibility is something I believe Mr. Kallas was okay with.

Chairman Anderson:
Recognize that this is a suggested amendment and not the actual language we will see—that will depend on what comes out from the Legislative Counsel Bureau. You clearly understand that?

Frank Adams:
As the bill was introduced, the Nevada Sheriffs' and Chiefs' Association is opposed to it.

Chairman Anderson:
And Mr. Roberts would be opposed without the amendment, also?

Tom Roberts:
Yes, sir.

Chairman Anderson:
With the amendment, it would be acceptable to the Sheriffs' and Chiefs' Association?

Frank Adams:
Yes, sir, but I still question the need for the bill.

Tom Roberts:
With the amendment, we would be in support; without, we could not accommodate the flood of retirees that live in our valley.

Chairman Anderson:
How many stations at your range?

Tom Roberts:
As of right now, there are four ranges with probably 15 stations per range. Our range is utilized by 2,700 active police officers. Add to that our corrections officers and about 18 other agencies that utilize our range, with some units firing more frequently than others; it is really heavily used. We are in the process of expanding it to give us more opportunities, but money is tight.

Chairman Anderson:
Average length of time on the range?

Tom Roberts:
For local guys, it is probably 30 minutes or so.

Chairman Anderson:
There are other agencies that participate in the construction and maintenance of the range, correct?

Tom Roberts:
The FBI has donated a shoot house, and they are actually part of the planning stage to expand our range. They are providing some facilities, but we provide the lion's share of it.

Chairman Anderson:
Because you are the bigger user?

Tom Roberts:
Correct.

Chairman Anderson:
Mr. Segerblom, anything else you wanted to put in the record? With the amendment, it is an acceptable bill?

Assemblyman Segerblom:
Absolutely. I apologize for not having it in black and white. We will get it ready. It is a very simple handgun bill.

Chairman Anderson:
Let me close the hearing on Assembly Bill 230. The Chair will entertain an Amend and Do Pass.

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 230.

ASSEMBLYMAN GUSTAVSON SECONDED THE MOTION.

I do not think there is a problem with the amendment. We will have Legal take a look at it, and we will see it when it comes out. I will not have it mocked-up again, but we will make sure it conforms to the proper style.

THE MOTION PASSED UNANIMOUSLY.

[Discussed upcoming work session schedule.]

We are adjourned [at 10:46 a.m.].

RESPECTFULLY SUBMITTED:

_____
Sean McDonald
Committee Secretary

APPROVED BY:

_____
Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 11, 2009 Time of Meeting: 8:14 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda.
	B		Attendance roster.
A.B. 168	C	Ben Graham	Proposed amendment.
A.B. 168	D	Rebecca Gasca	Testimony and proposed amendment.
A.B. 8	E	Kay Panelli	Prepared testimony.
A.B. 8	F	P.K. O'Neill	Prepared testimony.
A.B. 8	G	P.K. O'Neill	Proposed amendment.
A.B. 8	H	Rebecca Gasca	Testimony and proposed amendment.
A.B. 230	I	David Kallas	Proposed amendment.