

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

**Seventy-Fifth Session  
March 13, 2009**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:10 a.m. on Friday, March 13, 2009, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was video conferenced 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/](http://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](mailto: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:**

Assemblyman John Ocegüera, Clark County Assembly District No. 16  
Assemblywoman Heidi S. Gansert, Washoe County Assembly  
District No. 25

**STAFF MEMBERS PRESENT:**

Nick Anthony, Committee Counsel  
Jennifer M. Chisel, Committee Policy Analyst  
Katherine Malzahn-Bass, Committee Manager  
Karyn Werner, Committee Secretary  
Steven Sisneros, Committee Assistant

**OTHERS PRESENT:**

Judy Stokey, Director, Governmental Affairs, NV Energy, Las Vegas,  
Nevada  
Randy J. Brown, Director, Regulatory & Legislative Affairs, AT&T  
Nevada, Reno, Nevada  
Josh Martinez, Police Officer, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department, Las Vegas, Nevada  
Brian McAnallen, Director Government Affairs, Embarq, Las Vegas,  
Nevada  
Matthew L. Frazer, Division Manager, PAR Electrical Contractors, Inc.,  
Reno, Nevada  
Karen L. Storms, City Clerk, City of North Las Vegas, North Las Vegas,  
Nevada  
Marlene Lockard, representing Subcontractors' Legislative Coalition and  
Sheet Metal Contractors, Reno, Nevada  
Clay R. Fitch, representing Nevada Rural Electric Association, Wells,  
Nevada  
Bob Gastonguay, representing State Cable Telecommunications  
Association, Reno, Nevada  
Les Lee Shell, Administrator, Departmental Administrative Services,  
Clark County, Las Vegas, Nevada  
John W. Griffin, representing Sprint Nextel, Reno, Nevada  
Matt Leck, representing Las Vegas Valley Water District, Carson City,  
Nevada  
Maureen Brower, representing Southern Nevada Home Builders  
Association, Las Vegas, Nevada  
Mark Stanton, Assistant Superintendent, Operations, Washoe County  
School District, Reno, Nevada

Sam Bateman, representing the Nevada District Attorneys Association,  
Las Vegas, Nevada

Terry K. Graves, representing the Scrap Metal Processors, Las Vegas,  
Nevada

Scott J. Stolberg, representing the Nevada Scrap Metal Processors  
Coalition, Las Vegas, Nevada

Robin Robinson, Compliance Director, SA Recycling, Anaheim, California

David Christensen, representing Abbie's Recycling Center, Las Vegas,  
Nevada

Steve Neiger, representing commercial land owners and certain  
contractors, Las Vegas, Nevada

Lauren Denison, Center Coordinator, Bring Bri Justice Foundation, Reno,  
Nevada

Tim Kuzanek, Captain, Washoe County Sheriff's Office, Reno, Nevada

Renee Romero, Lab Director, Forensic Science Division, Washoe County  
Sheriff's Office, Reno, Nevada

Chuck Callaway, representing the Las Vegas Metropolitan Police  
Department, Las Vegas, Nevada

Lee Rowland, Northern Coordinator, American Civil Liberties Union of  
Nevada, Reno, Nevada

Orrin Johnson, Deputy Public Defender, Washoe County Public  
Defender's Office, Reno, Nevada

Jason Frierson, Chief Deputy Public Defender, Clark County Public  
Defender's Office, Las Vegas, Nevada

John McCormick, representing the Administrative Office of the Courts,  
Carson City, Nevada

Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs'  
Association, Las Vegas, Nevada

Daphne DeLeon, Administrator, Division of State Library and Archives,  
Department of Cultural Affairs, Carson City, Nevada

Kristin Erickson, representing Nevada District Attorneys Association,  
Reno, Nevada

Scott Coffee, Deputy Public Defender, Clark County Public Defender's  
Office, and representing Nevada Attorneys for Criminal Justice,  
Las Vegas, Nevada

Keith G. Munro, Assistant Attorney General, Office of the Attorney  
General

Brett Kandt, Special Deputy Attorney General, Office of the Attorney  
General

**Chairman Anderson:**

[Roll called. The Chairman reminded Committee members, witnesses, and members of the audience of Committee rules and protocol.]

Let us start with Assemblyman Oceguera's bill, Assembly Bill 233.

Assembly Bill 233: Makes various changes concerning scrap metal.  
(BDR 54-53)

There are five documents being handed out that Mr. Oceguera shared with me and indicated that they might be helpful to you. These will become exhibits [([Exhibit C](#)), ([Exhibit D](#)), ([Exhibit E](#)), ([Exhibit F](#)), and ([Exhibit G](#))].

**Assemblyman John Oceguera, Clark County Assembly District No. 16:**

I am here today to present A.B. 233. I requested A.B. 233 in response to the escalating threat of scrap metal theft, especially the theft of copper. As a firefighter, I have been involved in fighting fires that are likely the result of someone stealing copper wire and pipe. For example, fire investigators believe the cause of a December house fire, resulting in about \$15,000 in damages, was someone using a torch to remove copper wire and pipe.

I would like to thank my colleagues Assemblywoman Koivisto, Assemblyman Ohrenschall, and Senator Cegavske, who have also taken on this important issue. I would like to thank those involved in fighting this crime and assisting in bringing this bill forward, in particular: law enforcement, public utilities, home builders, members of the business community, the district attorneys, and the scrap metal industry.

On their own, the industry has established a free service to assist in fighting the criminal activity. The Institute of Scrap Recycling Industries (ISRI) is a worldwide trade organization for metal recyclers that has created an Internet-based system to notify registered recyclers of recent thefts so they can be on the lookout for the stolen metal and possibly the perpetrators. The industry has made the system available to law enforcement and public utilities free of charge.

People who commit these crimes often try to sell stolen metal in smaller amounts to different recyclers or processors, often all in the same day, so it is critical for those businesses to work together and communicate effectively to help stop the criminal activity. I am impressed with their proactive approach and their commitment to fighting this dangerous crime.

This crime impacts all Nevadans: homeowners, state and local governments, tax payers, and public utilities. Thieves steal scrap metal and wiring from air conditioners, light poles, utilities, and homes. Phone and power outages and higher construction costs are just some of the immediate results of this crime. (See [Exhibit C.](#))

Before I go through the provisions of this bill, I would like to illustrate the serious threat caused by these crimes, not just financially, but also in public safety. In 2006, the Las Vegas Safety/Loss Office reimbursed the Las Vegas Public Works Department \$26,960 to cover the cost of stolen copper wire ([Exhibit D](#)). In 2007, that reimbursement was \$450,000. For several months, U.S. 95 in Las Vegas was without lights between Eastern Avenue and Sunset Road. Many neighborhoods had to be left dangerously in the dark as a result of these thefts. The cost of this replacement was over \$1 million. Just last week, the district attorney's office in Clark County filed a criminal complaint against the owner of a scrap metal recycling company, charging racketeering for allegedly running a criminal organization that dealt in stolen property, including scrap metal ([Exhibit E](#)). The charges against the owner included unlawful possession of two statues stolen from Opportunity Village and metal valves stolen from the Las Vegas Valley Water District. Law enforcement alleges this company bought the valves in April 2008 knowing that they were stolen. This left the valley's water system at risk of contamination and caused the water district to shut down service at 16 different locations.

This crime has grown so seriously nationwide that the Federal Bureau of Investigation (FBI) issued an intelligence assessment ([Exhibit F](#)) last September warning that, "Copper thieves are threatening United States (U.S.) critical infrastructure by targeting electrical sub-stations, cellular towers, telephone land lines, railroads, water wells, construction sites, and vacant homes for lucrative profits. The theft of copper from these targets disrupts the flow of electricity, telecommunications, transportation, water supply, heating, and security and emergency services and presents a risk to both public safety and national security." The report provides several examples from news stories. In April 2008, five tornado-warning sirens in Jackson, Mississippi, did not warn residents of an approaching tornado because the copper-wire thieves had stripped the sirens of copper wiring, rendering them inoperable. Nearly 4,000 residents in Polk County, Florida, were without power after copper wire was stripped from an active transformer at a local power facility. Monetary losses from that facility were \$500,000. In March 2007, farmers in Pinal County, Arizona, were experiencing a copper theft epidemic. Thieves stripped copper from their water irrigation wells and pumps resulting in the loss of crops and high replacement costs. The county infrastructure loss in that theft was \$10 million.

The reported reasons for the increase of these types of thefts are varied. As noted in the FBI assessment, the price of copper has increased by more than 500 percent from January 2001 to March 2008. The demand for copper grew dramatically during that period because of the tremendous increase in construction and development throughout the U.S. and China. Other reports note that these thefts are fueled by individuals addicted to drugs, particularly methamphetamine. Whatever the reason, it is clear that we need stronger laws and penalties to aggressively fight this threat to our financial and physical security.

States across the country, including Arizona, are passing legislation to address these crimes with stronger penalties for the perpetrators and more stringent requirements on scrap metal dealers to cut off the ability of the perpetrators to sell their stolen material. Arizona's legislation is provided here ([Exhibit G](#)).

As some of you will recall, Nevada passed legislation in 1999 to prohibit the burning of stolen metallic wire to remove insulation. The bill also placed stronger requirements on junk dealers to obtain identifying information before purchasing certain metallic wire and to retain the information for a minimum of three years. Currently, crimes involving the theft of copper wiring and scrap metal can be prosecuted under the larceny statutes, but Nevada, like other states, now needs to adopt stronger legislation specifically targeting this crime and providing the tools needed by law enforcement and prosecutors to fight this crime. I think this bill provides these tools and places stronger restrictions on the scrap metal industry that will help ensure the integrity and profitability of their operations.

I would like to go over the bill now. Sections 2 and 3 define the terms "scrap metal" and "scrap metal processor."

Section 4 prohibits a person from purchasing scrap metal unless the person has a valid business license and has obtained all of the required authorizations.

Section 5 requires scrap metal processors to maintain a book of permanent records with details on each purchase of scrap metal, including the price paid, a copy of the seller's valid driver's license or other identification card, a photograph of the seller, and the seller's fingerprint.

Section 6 allows peace officers or investigators to place a written hold on any property in the processor's possession that is related to criminal activity.

Section 7 requires the processor to pay the seller only by check or electronic transfer of money if the purchase has a value of \$150 or more. I think this provision will help law enforcement to track down those involved in illegal

activity. Section 7 also adds scrap metal processors to the existing crime of criminally receiving junk or scrap metal.

Section 12 creates a new crime of willfully removing, damaging or destroying any utility property, agricultural infrastructure, lights maintained by a government entity, construction site, or existing structure to obtain scrap metal. The penalties range from a misdemeanor to a category C felony depending on the amount involved and whether the activity causes an interruption of service provided by a utility company. Restitution may also be ordered.

Section 13 establishes penalties for intentionally stealing, and/or taking and carrying away any scrap metal. The penalties escalate from a misdemeanor to a class B felony depending on the amount involved, and you will note these threshold amounts are the same as those for the theft and larceny statutes.

In conclusion, I urge you to pass A.B. 233 to fight this costly crime that threatens the financial security and personal safety of Nevadans.

**Chairman Anderson:**

I want to be sure that the scrap metal operators understand how serious we are about this. I have shared my possible solution with you, and Mr. Graves will have some material, so you will have both potential amendments.

**Assemblyman Ocegueda:**

That should be an interesting discussion. I also forgot to mention that Senator Reid has appropriated \$400,000 for the City of Las Vegas for combating this crime. [No document was submitted to the Committee.] I feel that it is significant that the federal government recognizes the problem we have and is giving Las Vegas \$400,000 to work on the solution.

For the record, the core group—Ms. Cegavske, Mr. Brown, Mr. McAnallen, Mr. Roberts, Mr. Graves, some of the scrap metal dealers in Las Vegas, and I—has been working diligently on this issue for probably six to eight months. One other thing, we took Ms. Koivisto's bill, Assembly Bill 17, and inserted it into this bill.

**Assemblyman Carpenter:**

At my home in Elko, I put up a Christmas display. With all the objects that I have to light, I use a heavy copper wire. Last year and the year before, all the copper wire was stolen. Two years ago, I was able to catch them, so if this bill had been in effect, they could have been charged with a misdemeanor. I am glad to see you bring this forward.

**Judy Stokey, Director, Governmental Affairs, NV Energy, Las Vegas, Nevada:**

I am here today to support A.B. 233 and, as the Majority Leader has stated, we have been working on this problem for a very long time. It was a very long process, there was a lot of give and take, but we all had the same goal in mind. We want to keep Nevadans safe and we also want to make sure the legitimate scrap metal processors can have a thriving business.

NV Energy has dealt with copper thieves for a long time, but it has escalated over the last few years. We have spent millions of dollars in repairing our facilities, not just the small copper wire coming out of some of the lights, but some extensive damage to our facilities. That damage will equate to rising costs in utility bills as we repair things. We are looking for a way to stop the thieves and to get restitution for our customers.

**Randy J. Brown, Director, Regulatory & Legislative Affairs, AT&T Nevada, Reno, Nevada:**

As you heard, we support this bill wholeheartedly. I just want to say a few things that have not been mentioned. First, AT&T has been directly impacted by metal thieves in Nevada. Not only have we had material stolen from our supply yards, but actual working in-service copper has been stolen. That presents a public safety hazard when customers cannot use their telephones in an emergency. We believe that requires addressing.

I provided a report to you ([Exhibit H](#)) that was issued last month from the National Insurance Crime Bureau (NICB). They reviewed data from January 2006 through November 2008 and analyzed claim information. They looked for specific terms on insurance claims: "copper," "aluminum," "brass," or "bronze." Then they combined that query with the terms "stole," "theft," "took," "thief," "thieves," "steal," or "missing." The result during that time period was nearly 14,000 claims, of which the term "copper" was included in more than 13,000. Of those claims, about 65 percent were related to commercial policies, and about 62 percent of those were related to thefts from utilities, construction, or housing components. So I think this clearly demonstrates that this is a problem.

**Josh Martinez, Police Officer, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:**

We do not want to repeat all of the other comments that have been made, but we believe that this is an important issue that needs to be addressed. Just to give you an idea of how important this issue is to us, our construction theft detail dealt with roughly 567 metal theft cases in 2006. In 2007, that number jumped to 1,043. In 2008, we handled 1,424 cases: 831 were copper related, 66 were related to other metals. Total metal cases out of that 1,424—roughly



based on our estimates since it was being reported under grand larceny and larceny—were 897. In 2009 alone, we have seen 55 cases in January and 47 cases in February. Thirteen of the cases in January were copper, nine in February were copper, and the others were other metals that were related to the theft. As the Majority Leader pointed out in his testimony, we have seen the numbers jump. While the price is fluctuating today, we will see thefts continue to increase if the price rises again.

**Assemblyman Hambrick:**

Can you give us a sense of the types of people or groups—organized crime or gangs perhaps—who are involved?

**Josh Martinez:**

We are seeing it in all walks of life. There are individuals who may be down and out that are looking for money.

The unique thing about the scrap metal industry, and the reason we got involved with this issue, is that metal is not like other types of stolen items. If your car or car stereo is stolen, or a firearm is stolen from you, those are items that carry a serial number and are identifiable. Metal does not have identifying information. Thieves usually strip the sheeting off the material, which makes it even more impossible to identify.

In the State of Nevada, there really is no crime without a victim. The victim has to be able to say, during the court proceeding, that he is the actual victim. That is why we are bringing this legislation forward. We believe through tracking individuals who may have drug addictions, or even individuals who may be stealing and committing other crimes just to make a few dollars, the record keeping process will provide us with leads to catch them.

The majority of our thefts are drug related. In Lincoln County in 2008, for example, there were two individuals who were spotted and arrested by the security person at one of the mines. Lincoln County also had issues with theft from the railroad, which is a major concern as well. If track switching and other procedures are not in place to operate the trains, we could have an out-of-control train.

**Assemblyman Manendo:**

Are you seeing anything in the area of catalytic converter theft?

**Josh Martinez:**

In Nevada, we have seen some theft of catalytic converters, but we are not seeing a large amount of it. Our neighbors to the west have had a big issue with

that, and Arizona has experienced it as well. If they are experiencing it, it is just a matter of time before we experience it.

**Brian McAnallen, Director Government Affairs, Embarq, Las Vegas, Nevada:**

I quickly want to highlight section 12 of the bill, which refers to malicious destruction, removal, and damage of wires and utility facilities in the ground. I came to do a show-and-tell for you to highlight this. This is one of the utility trunks for Embarq that shows the copper wires. [He holds up a large piece of utility trunk.] It is hard to see, but there are very small wires. This is what would be stripped down, and the wires would be removed from there. Often running along side of that is our fiber optic cable, which is a lot lighter. [He holds up a second wire that is much smaller in diameter.] You can see from the black marking on the outside that a thief trying to pull something out of the ground would not be able to tell the difference. The copper wires are obviously what have the metal value and can be recycled. The fiber optics cannot. When the fiber optic cable is cut, there is no way to repair it. While you might be able to splice the copper wire and solve the problem in a short area, the utility wire is on a 3,000 to 5,000 foot spool, so you have to replace the entire piece. No one would be able to recoup money from it since it has no value, so you would not see it in a recycling yard. I wanted to highlight that section 12 of this bill really helps address some of the destruction that the utilities are seeing.

**Matthew L. Frazer, Division Manager, PAR Electrical Contractors, Inc., Reno, Nevada:**

We have had a hard time finishing some installations due to copper theft, particularly the dynamic message signs that you see alongside the freeway. These signs can be used for amber alerts, and alert the public to danger ahead, snowstorms, traffic incidents, et cetera. We feel this is critical to the public. We have had jobs where we could not finish the installation because the thieves were stealing the copper faster than we could put it in. We often thought that, if they could pass the drug test, we might hire them because they are hard working at night. We are in support of the bill; we think it is critical.

**Chairman Anderson:**

Is it because of the nature of the sign that they know it is going to be electrified with high-end materials? Do you think that is what brings the additional attention to the sign?

**Matthew L. Frazer:**

It is not only that, but the signs are right next to the road and very visible. Until we finish the installation, we are now taking measures to hide the material. These thieves are working at night closer to traffic than I am to you; they are brave. They put up a couple of cones, stretch some black plastic between them,

and work right behind it. They are only ten feet away from the traveling public, and they are not seen.

**Karen L. Storms, City Clerk, City of North Las Vegas, North Las Vegas, Nevada:**  
The City of North Las Vegas agrees with all of the previous testimony and would like to go on the record strongly supporting A.B. 233, as it is good public policy.

**Marlene Lockard, representing Subcontractors' Legislative Coalition and the Sheet Metal Contractors, Reno, Nevada:**  
Me too.

**Clay R. Fitch, representing Nevada Rural Electric Association, Wells, Nevada:**  
We are absolutely in favor of the bill.

**Bob Gastonguay, representing State Cable Telecommunications Association, Reno, Nevada:**  
Me too.

**Les Lee Shell, Administrator, Departmental Administrative Services, Clark County, Las Vegas, Nevada:**  
Me too.

**John W. Griffin, representing Sprint Nextel, Reno, Nevada:**  
Me too.

**Matt Leck, representing Las Vegas Valley Water District, Carson City, Nevada:**  
I want to go on the record in support of the bill, and me too.

**Maureen Brower, representing Southern Nevada Home Builders Association, Las Vegas, Nevada:**  
Me too.

**Mark Stanton, Assistant Superintendent, Operations, Washoe County School District, Reno, Nevada:**  
We too strongly support this bill.

**Sam Bateman, representing the Nevada District Attorneys Association, Las Vegas, Nevada:**  
I will try for a "me too," but I will be happy to answer any questions.

**Chairman Anderson:**

In terms of prosecuting this type of crime in the past, has the district attorney's office not been able to pursue it?

**Sam Bateman:**

Obviously, any prosecution requires law enforcement investigation and a submission to a district attorney's office. It is a two-fold problem in terms of the investigation. If the investigation cannot either get to the individual who stole the property or show that the individual who was found with the property should have known, or knew, that it was stolen, it makes it very difficult to be able to prosecute those crimes even when they have been submitted to us. I think the investigative side of this bill allows a slowing of the process so that the Las Vegas Metropolitan Police Department (Metro), or any law enforcement agency, can catch up to the perpetrator and bolster their investigation; therefore, when it comes to our office, we are in a position to actively prosecute it.

There is another portion of this bill that I think is important. A particular concern to some of the victims of this crime is that sometimes the property itself might have a small monetary value, say \$100, but the damage done to get to that property may range in the thousands. Any theft or malicious destruction of property that we can charge has a value element, and that value element decides the seriousness of the crime we charge. Important in this legislation, like other crimes, is that we include the cost of repair or damage done to the utility or other victim in that value element in order to enable us to reach the serious nature of the crimes that we need to charge.

**Chairman Anderson:**

We want to make sure there is a penalty for not following the law. Apparently, we have not made that clear in past legislation.

**Sam Bateman:**

I can speak for Clark County and all of the Nevada district attorneys: we do take this very seriously, and this will aid in our ability to take it seriously.

**Terry K. Graves, representing the Scrap Metal Processors, Las Vegas, Nevada:**

This is an association of eight licensed, regulated scrap metal processors largely located in Las Vegas, with one unit in Sparks, Nevada. I just want to assure the Committee that the legitimate, licensed, and regulated scrap metal processors are completely behind this bill and have worked with the stakeholders group.

Before I offer my amendment ([Exhibit I](#)), if it pleases you, one of the operators of the scrap metal processing, Mr. Scott Stolberg, is with me to testify. When he is finished, I will offer my amendment.

**Scott J. Stolberg, representing the Nevada Scrap Metal Processors Coalition, Las Vegas, Nevada:**

We are a 60-year-old family business with Nevada operations since 1992. I am appearing here today on behalf of the Nevada Scrap Metal Processors Coalition. We also would like to begin by thanking Assemblyman Ocegüera for bringing all of the stakeholders together, so everyone's interests were represented. We would like to thank the other stakeholders, law enforcement, the prosecutors, and the utility companies who have worked very hard with us to craft a law that gives each group what they need to combat this problem without undue burden on any one group. I think everybody involved will agree that the process has been very educational.

Our national trade association, the Institute of Scrap Recycling Industries (ISRI), represents 5,000 firms worldwide. We employ 85,000 people in the United States, and we are the originators of the "green" jobs. We are also responsible for providing 40 percent of all raw materials used in manufacturing. Recycling is a waste management tool. Without our industry, there would be no place for all of the scrap material to go to be processed and graded after it is diverted from landfills. The situation this legislation deals with is a nationwide problem, and ISRI and its members have formed cooperative groups among all of the stakeholders and have achieved dramatic results in lower scrap metal thefts with or without additional regulation. Nationally, ISRI has created a website, [www.scraptheftalert.com](http://www.scraptheftalert.com), which allows registered law enforcement agencies and utility companies to immediately provide notification about a theft via email to recyclers within a three hundred mile range. Our personnel can then be watching for the items and working with law enforcement to apprehend and prosecute the thieves. These programs have led to hundreds of arrests and prosecutions nationwide. There is no cost, and legitimate scrap metal processors who are not members of our association can register so that we have a central notification system for everyone.

Nevada scrap metal processors are working to put together a working group of all the stakeholders, law enforcement, prosecutors, utilities, construction companies, and others. The goal of this group is to educate each other and increase communication and cooperation. We, the scrap metal processors, need to verify where the scrap metal is coming from and document the transactions. Victims need to mark their property and take reasonable precautions to prevent theft. Law enforcement and prosecutors need to have the dedicated resources necessary to arrest and prosecute the offenders. If each of these three groups

successfully does its part, we should see a dramatic improvement in reducing these crimes.

**Assemblyman Carpenter:**

How about the rural areas? Have you made any attempt to organize those people? I know that, in Elko, there is a company that has just moved in and is purchasing large quantities of scrap metal. We have always had small dealers in all of the small communities, so I suppose many of them do not know that this bill is being heard today. What kind of effort is being made to contact them and make sure they get licensed? I do not know if the rural counties are even licensing them, but I doubt that they are.

**Scott J. Stolberg:**

We have made every attempt to find legitimate recyclers within the state through telephone books, trade association lists, et cetera. Part of the legislation also deals with what it takes to be a legitimate scrap recycler. If there is someone we have missed, we certainly need to get to him.

**Chairman Anderson:**

There are obviously people in both Clark and Washoe Counties within your organization, but do you have any idea how many may be in your association from the rural areas?

**Scott J. Stolberg:**

There are none in the group that I represent. In the ISRI membership directory, the only members that we have been able to find are in Clark or Washoe Counties.

**Terry K. Graves:**

One of the issues that was alluded to is that nonlegitimate operators are part of the problem. The licensed and regulated operators fully support anything that can be done, either by a local entity or via this bill, to prevent these illegitimate operators from operating. They are part of the problem. Mr. Oceguela referred to a case in Las Vegas that is currently going on: ABC Recyclers are illegitimate and unlicensed operators who were actually fencing stolen property.

**Assemblyman Carpenter:**

I do not think the recyclers in the rural areas are illegitimate; they have been operating for years. They probably just do not know about this law. The counties are not regulating them or selling them a business license, if the county even has business licenses. We need to make an effort to ensure these people understand that this bill is going to affect them, so they will not get caught in unintended consequences.

**Chairman Anderson:**

I think Mr. Ocegüera's intent here is an effective date of July 1, 2009. I see that the District Attorneys Association is here.

**Robin Robinson, Compliance Director, SA Recycling, Anaheim, California:**

We are the largest scrap metal processor in the southwest. To answer Mr. Carpenter's question, the scrap metal processor that you are talking about has to sell its scrap metal to somebody, and as the largest exporter of scrap in the western United States, we can identify those individuals and communicate their responsibilities to them.

**Assemblyman Carpenter:**

That would help because I see them out piling up huge amounts of scrap. You need to contact them and make sure they know what to do.

**Robin Robinson:**

One of the biggest problems is the bootleg operations that pop up overnight. Just two days ago, we had a company handing out business cards down the street from our company stating they would be buying scrap metal at the highest price payable. These are the bootleg operations that are causing the big problem; we want to eliminate them. If they have no place to sell their materials, the thieves will disappear. Also, with our network, since we are largely in California and Arizona, if they try to take the material out of state, our network can immediately catch them. The closest scrap yard to Clark County is our yard in Hesperia, California, and there were over 100 scrap-metal-theft arrests on that property last year.

**Chairman Anderson:**

I am concerned about ensuring that the tools are available to the district attorneys and law enforcement to make those who are not playing by the rules, do so. I believe we can close a small loophole in the bill with my proposed amendment ([Exhibit J](#)). I hope you have had an opportunity to review it, Mr. Graves, and to think about what the consequences might be.

**Terry K. Graves:**

We picked up the amendment, and I would like to comment on it, but do you want to first get the "me too," from Las Vegas?

**David Christensen, representing Abbie's Recycling Center, Las Vegas, Nevada:**

We have been in business for 15 years, and we own a recycling plant that has existed in Las Vegas for over 50 years. We are part of the group that Mr. Graves represents. We are absolutely in favor of the bill.

**Steve Neiger, representing commercial land owners and certain contractors, Las Vegas, Nevada:**

Two of my properties alone, shopping centers, have suffered over \$374,000 in damages from copper theft. My company and three other commercial real estate management companies, along with one electrical supply company, suffered over \$1.6 million worth of losses, mainly due to vandalism. These thieves destroy the plumbing, electrical, lighting, and heating, ventilating, and air conditioning (HVAC) systems in both vacant and occupied buildings. It takes weeks to order and replace parts for air conditioners, and in the summer months businesses cannot operate without them.

I have had to deal with significant business losses because of theft. Thus far, fortunately, the insurance companies have been very tolerant; they have paid out millions of dollars. My fear is that exclusions in the policies, or additional premiums, are inevitable if this bill is not passed this session. Exclusions would be devastating, as I have already experienced. An insurance policy may cover theft, but not vandalism, so the landlord would be out his deductible plus the rest of the cost to replace the entire unit. On a theft of a commercial air conditioning unit, for example, the actual copper would be worth anywhere from \$500 to \$1,000, but the cost to replace the unit could be \$20,000. So, I support the bill.

**Terry K. Graves:**

The issue that you have presented in the amendment ([Exhibit J](#)) was discussed in the group prior to today's hearing. I would certainly invite Metro and the district attorney representatives to either validate or contest the comments that I have. We understand that it is a misdemeanor if you do not keep good records per the bill as it is presented. Prior to coming into today's hearing, we did not think there was a need for further amendment of the bill for this issue. We have seen this amendment in another form earlier, but the recyclers rejected it. But I would be happy to listen if the district attorneys have other thoughts.

**Chairman Anderson:**

The first time someone gets caught is a misdemeanor, but I am concerned about the second and subsequent convictions. The first time he only gets slapped on the wrist and pays a low fine. There has to be an escalation since he has done this before. On a second violation, the fine should go up to \$1,000, and he has a potential six months in jail. A third time, he is a felon, even though it is a probational event. If you are doing the right thing, you will not get the first misdemeanor, much less becoming a repeat offender with a third incident. One of the things that troubles me is that for bad actors it becomes a business decision when the fine is less than what they can make stealing and selling the metal.



**Sam Bateman:**

I have just seen this this morning. Mr. Graves is correct in that currently it is a misdemeanor violation. I understand the Chair's concern about subsequent violations, so the District Attorneys Association would support something like this amendment. I think it is worth noting that the category E felony is mandatory probation, and that would be on the third offense within a five-year period.

**Terry K. Graves:**

We have our own amendment to present ([Exhibit I](#)). Under section 7 of the bill, on line 8, the sentence reads, "Only one transaction may take place between the same seller and scrap metal processor each day." That sentence should be deleted and in its place the following sentence should be included, "A Scrap Metal Processor shall conduct no more than one cash transaction of less than \$150 with the same seller in the same day." The reason for this amended sentence is that it brings into alignment what the stakeholders agreed to and comports with Metro's request on how to handle cash transactions.

The second part of our amendment, under section 10, line 38, "or scrap metal" should be added to the end of the sentence. That is to incorporate the two new definitions in this piece of legislation: one for "scrap metal" and the other for "scrap metal processor." This amendment seeks to incorporate those definitions into existing language.

**Chairman Anderson:**

Like any amendment, we will consider it subject to our bill drafter making sure that it conforms to what the definitions have to be.

Have you had an opportunity to show the amendment to the primary sponsor of the bill?

**Terry K. Graves:**

Yes. I believe all stakeholders have a copy.

**Chairman Anderson:**

Is Mr. Ocegüera in agreement? Yes, he is in agreement since he is nodding his head in the affirmative.

We will close the hearing on A.B. 233 and bring it back to Committee.

**Assemblyman Manendo:**

I would like to find out if catalytic converters fit into this.

**Chairman Anderson:**

Do you want to know if it fits into the definition of scrap metal? Mr. Graves, do you want to speak for the Association?

**Terry K. Graves:**

I have talked to my colleagues here; they would be agreeable to include catalytic converters in the bill.

**Assemblyman Ocegueda:**

I believe it would fit in the non-ferrous metal category. One says yes, and the other says no. I toured a couple of these facilities; transmissions, engine blocks, catalytic converters, and those types of things are part of their process.

**Chairman Anderson:**

Is there someone who is knowledgeable on this subject?

**Scott J. Stolberg:**

Actually, catalytic converters have precious metal in them: palladium, platinum, and rhodium. Although those are non-ferrous, they are considered precious metals, and that is why the value is so high. Our Association would not have any problem with including the words "catalytic converters" in the definition of scrap metal.

**Assemblyman Manendo:**

I appreciate that. If the sponsor of the bill does not object, I would love to see it. I think it would cover the issue that I addressed earlier.

**Chairman Anderson:**

I was going to entertain an amend and do pass motion; the amendments have been submitted. Do you have questions?

**Assemblyman Horne:**

If you are going to move it today, I will vote, but I reserve the right to change my vote.

**Chairman Anderson:**

The three amendments would be: the addition of catalytic converters to the definition of scrap metal in section 2 of the bill; the inclusion of the information submitted from the Scrap Metal Processors' Association as presented by Mr. Graves to section 7 and section 10 of the bill; and the escalation of the penalty for the crime in a new section of the bill.

The motion is to amend and do pass A.B. 233; the amendments are those previously stated in the motion which change section 2, section 7, and section 10, and a new section that would cause the renumbering of various sections of the bill.

ASSEMBLYMAN MANENDO MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 233.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY. (ASSEMBLYMAN HORNE  
RESERVED THE RIGHT TO CHANGE HIS VOTE ON THE FLOOR.)

[Recessed for two minutes.]

**Chairman Anderson:**

We have brought Ms. Gansert out of her Committee, so we will turn to her bill,  
Assembly Bill 234.

**Assembly Bill 234:** Requires the collection of biological specimens for genetic  
marker analysis from persons arrested for a felony. (BDR 14-993)

**Assemblywoman Heidi S. Gansert, Washoe County Assembly District No. 25:**

I am here today to present A.B. 234. Right now, Nevada requires deoxyribonucleic acid (DNA) testing of those convicted of felonies. Assembly Bill 234 would require testing of anyone arrested for a felony. My interest in this area was increased this last year as a result of a very tragic case. Last January, Brianna Denison was abducted and later brutally assaulted and murdered. Today I have with me representatives from the foundation that was created in her memory: her aunt, Lauren Denison, and her mother, Bridget Denison. I am going to present information about the bill and then let them speak to the bill.

If you open your bill, the first section states that the DNA sample would be taken upon arrest and a determination that probable cause exists for the arrest. That is in section 1, subsection 1, paragraph (b). It also talks about testing the DNA before the suspect is released from custody. So, it is not when they first come through the door. Section 1, subsection 3 says that the charge of up to \$150 would be against the arrestee, which is the current law. That is also restated in section 4 of this bill.

This bill is very important. If you turn to page 3 in your package ([Exhibit K](#)), I want to go over some studies that talk about DNA.

**Chairman Anderson:**

I want to stop for a minute and make sure we get these properly entered into the record. We will ask that "Drafter's Checklist for Arrestee DNA Legislation" ([Exhibit L](#)) and "The Official Family Site Dedicated to Brianna Zunino Denison" ([Exhibit K](#)) be officially entered into the record for today.

**Assemblywoman Gansert:**

On the third page is a study that was done in Chicago for its legislature in 2005. They studied eight individuals. If these individuals had been tested for DNA early upon a felony arrest, 22 murders and 30 rapes would not have happened. If we take the example of the first person, Andre Crawford, his first arrest for a felony was in March 1993. His first murder was September 1993. He murdered two other women between 1994 and 1995. He was arrested in 1995 for attempted sex abuse. He murdered another woman in 1997. He raped a woman in late 1997. He was arrested for felony drug possession in 1998 and murdered two more women between 1998 and 1999. Finally, he was arrested for a felony drug possession. His DNA was tied to all of those cases, and if he had been tested on the first arrest, none of that would have happened.

On page 4, there is another example, Geoffrey Griffin. He originally was arrested for possession of drugs in 1995. In 1998, he raped and killed a woman. Another four women were killed between 1998 and 2000, and so on.

There is a second study, on page 5, that was done in Maryland. "Maryland Study on Preventable Crimes" is a more recent study because the last cases in here are from 2007. These 3 individuals committed 20 different crimes that could have been prevented: rapes, robberies, batteries, assaults, the list goes on and on.

Some individuals may suggest that we should not be taking DNA samples upon felony arrests as opposed to convictions. But, you still have to have probable cause for the arrest. If you look at the second page, it talks about forensic DNA testing. It talks about how it can free the innocent. There are people who are locked up, and if they had their DNA tested, they could be freed. Forensic DNA testing helps solve crimes faster, reduces a lot of expenditures attached to investigations, helps prevent crime, and purges racial bias from the criminal justice system. It is minimally invasive and is not similar to the predictive genetic testing. Federal and state laws strictly prohibit it from being used for other purposes.

I also provided a second document ([Exhibit L](#)) in case you are worried about the DNA being misused. On the second page it talks about the penalties: "Federal law imposes a fine of \$250,000 or imprisonment of one year for each instance

of unauthorized disclosure, obtaining or use of DNA data collected for the database." Then it discusses how other states have different penalties.

This suggested law is not new in the United States. This is not the first time this legislation has been passed. I also included in your documents a map of 13 states that have already passed this legislation. As you can see, California, Arizona, New Mexico, Texas, and others have passed it. It has been spreading throughout this country. It is a good idea to test people early in the process when they are arrested.

Concerning Brianna's case, there was a backlog of about 3,000 cases, and after they went through the backlog, there were 30 hits on those DNA samples. "Hits" are identifications. You also have a copy of that information from the Washoe County Sheriff's Office. It talks about her murder and the sexual assault. The DNA that was stored in Washoe County, but had not been processed, had 30 hits alone on it.

Another question that people typically have is, how are we going to pay for this? I know that the Judiciary Chair has been working on a way to pay for this. I have been trying to brainstorm and figure out how we can pay for this. A member of the Governor's Office came to me this morning and said the Governor is willing to help and would approve a fine of up to \$5 on any tickets issued in the state. I asked what type of tickets, but we have not defined that yet. I do not want to make this an unfunded mandate to the counties. I want to make sure we find the funding vehicle.

This is critical legislation for our state and for our communities. Again, it has been proven that DNA is an extremely important tool for law enforcement. It has been proven to prevent future murders, sexual assaults, and all types of crimes. Catching the offenders early is critical, and this legislation will help us do that. We need to take action to make our communities safer, and that is what this bill will do. I encourage your support.

**Chairman Anderson:**

Ms. Gansert, are there arrests made without probable cause? You continue to use this phrase, and I am a little concerned when I hear it. I was under the impression that every arrest that an officer makes had probable cause, from the simplest of misdemeanors to the worst crimes. To get a warrant, they have to prove to a judge that there is probable cause. That is a common factor in every event, and we do not put anybody in jail without probable cause.

**Assemblywoman Gansert:**

Thank you for that clarification. I appreciate it.

**Chairman Anderson:**

Several times in the past, we have heard the issue of DNA testing for everyone. In fact, throughout the country children are encouraged to have a DNA sample taken to help with missing children. It is a growing phenomenon. This is not a new issue; we have tried several times to pass legislation, but the funding has continued to be the problem. I think we have several different pieces of legislation dealing with this issue.

**Assemblyman Cobb:**

To clarify, the intent of the bill is to take the specimen upon arrest and confirmation of probable cause by the court, and then transfer it to the lab and immediately start checking it against other samples that have been taken from crime scenes. Is that how this works?

**Assemblywoman Gansert:**

The idea is that you take the sample, it goes to the lab, and then it is eventually uploaded into the national database. I think Ms. Romero will be better able to answer that.

**Lauren Denison, Center Coordinator, Bring Bri Justice Foundation, Reno, Nevada:**

My niece, Brianna Denison, was born March 29, 1988. She was known for her million dollar smile, her sparkling blue eyes, and her tremendous outgoing nature and compassion. She was lovingly known to her mother as "Breezy" because she reminded her of a breath of fresh air.

My brother, Jeff Denison, and his wife, Bridget, believed their children, Brianna and Brighton, were the greatest gifts of their lives. Brianna graduated from Reno High School in 2006. She was a 19-year-old sophomore at Santa Barbara College, working toward her degree in child psychology. Brianna came home to Reno for Christmas break in December 2007, and on January 20, 2008, she was abducted and later assaulted and murdered. Last November, a suspect in Brianna's case was arrested. He was living and working in our community, as he had been for many years.

Brianna's family and friends have established an organization in her honor with the hope of preventing similar tragedies. The Bring Bri Justice Foundation is here to support A.B. 234. One of the missions of the Bring Bri Justice Foundation is to broaden DNA testing and eliminate DNA backlog. Assembly Bill 234 is critical legislation that will make Nevada a safer place. When Brianna was abducted, there was a backlog, as Ms. Gansert stated earlier, of 3,000 DNA samples. In an effort to quickly solve the case, many concerned people from our community worked with the Washoe County Sheriff's Office to raise money for processing

the backlogged DNA samples. Within a week, our community had raised \$300,000. The DNA lab worked tirelessly to complete the specimen processing. Elimination of the backlog contributed to 30 additional arrests and convictions.

Assemblywoman Gansert has provided studies that demonstrate the substantial impact made by DNA testing of felony arrestees. We support expanding DNA testing, now, as has been done in a growing number of states. The evidence is clear; we can help prevent future tragedies with the passage of this legislation. I ask each of you to think about the women and children who are important to you: your wives, children, mothers, and sisters. This legislation will help protect them, and I ask you to please support A.B. 234 to make our families and communities safer.

**Chairman Anderson:**

This particular issue is going to be more fully addressed with several different pieces of legislation. There are five pieces of legislation that in one way or another affect this particular area of the law. We are going to be dealing with all of these in this Committee, in Mr. Horne's committee, or in the money or taxation committees. They all have different elements that all have to be considered. It is a very serious question, and the tragedy of your niece's death brought a very sharp focus to this particular issue and the need for a solution, a solution that will make a difference for thousands of people.

**Assemblyman Horne:**

Ms. Gansert, I do not know if I misheard you, but in your testimony I thought you stated that a person would not be released until the results of the DNA test were back. But now I understand that they cannot be released until the sample has been taken. Is that correct?

**Assemblywoman Gansert:**

It just says that before a person is released from custody, he needs to have a sample taken. That is the way the bill is written.

**Assemblyman Horne:**

I just wanted to make sure. Also, regarding the \$150 fee, section 4, subsection 1, says, "... to the extent of his financial ability, to pay the sum of \$150 ...." This is upon arrest, so even if the charges are dismissed, this person has to pay \$150 for this test?

**Assemblywoman Gansert:**

Currently, our law is that they are supposed to pay \$150 when they get tested, so, yes. We are trying to find other funding mechanisms because some people

do not have the ability to pay, and collections are not what we hoped they would be. Yes, if the test is taken and it gets processed, there is a fee.

**Assemblyman Horne:**

Current law is to test all felony convictions, so those who are convicted of a felony have to pay for the test. If you have never been convicted on a felony arrest, as a first-time felon, you would not have a DNA test in the system. Under this bill, upon arrest, the person will have to pay \$150 even if the charges are dropped, or the district attorney decides not to proceed with the charges or files a complaint that is reduced to a gross misdemeanor?

**Assemblywoman Gansert:**

We are looking for different funding mechanisms. I completely understand your concerns, but it is vital that we work out the details so we can test all individuals who are arrested for felonies.

**Assemblyman Segerblom:**

Ms. Gansert, did I hear you correctly that you said the Governor has authorized a fine for this?

**Assemblywoman Gansert:**

His staff came in this morning and said that this legislation is also very important to the Governor and that he would be willing to assign a fine up to \$5 on tickets. Again, it is not refined or specified as to which tickets, but he is supportive of a fine to provide the necessary funding.

**Chairman Anderson:**

Has he checked with the Administrative Office of the Courts regarding the mechanism for transferring the assessment? The process has already become something of a contentious issue in and of itself.

**Assemblywoman Gansert:**

I do not believe it has been researched thoroughly.

**Chairman Anderson:**

That has been part of the problem in the past.

**Tim Kuzanek, Captain, Washoe County Sheriff's Office, Reno, Nevada:**

The reason I signed in as neutral on this bit of legislation is that the Washoe County Sheriff's Office finds the DNA processing to be an enormous investigative tool. Unfortunately, it is also very expensive. We support the expansion of the DNA database to include DNA from felon arrestees; however, at this particular time with the manpower and technology that we currently



have available to us, this work is just not within our ability. It is the funding that really creates the issue for us at this time.

As you mentioned a moment ago, and as I always do with issues that relate to DNA, I brought Lab Director Renee Romero with me this morning. These things always seem to get more technical than I have the ability to answer, and she is the expert. With that I will end my introduction and introduce Renee Romero.

**Chairman Anderson:**

Ms. Romero, as you know, this issue was initially brought up by your predecessor. He spent a long time trying to raise the Legislators' awareness of the changing boundaries of DNA and the remarkable progress that has been made in terms of technology, testing, and the accuracy of the testing.

**Renee Romero, Lab Director, Forensic Science Division, Washoe County Sheriff's Office, Reno, Nevada:**

[Ms. Romero read from a written statement ([Exhibit M](#)).]

**Chairman Anderson:**

I believe we have another bill on this subject which comes from the Sentencing Commission that will be coming in front of Mr. Horne's committee. Some of these same issues will be addressed in that bill, hopefully. We will appreciate your involvement.

**Assemblyman Horne:**

How would you envision the process working? After an arrest, I assume not just anybody would be able to take the sample? Or, since it is just a swab in the cheek, maybe all of the officers will have a kit? A person is arrested, cuffed, and then swabbed. The swab is put in a vial for evidence and then taken to the county jail, at which time the sample is transferred to you, Ms. Romero. You would then check to see if that person's DNA has been tested before and is in the system. If this person gets out on bail immediately and he is already in the system, you will have tested him for no reason. We do not want to spend money testing someone whom we have already tested. Is it going to be a readily available database that can be pulled up at the jail to notify law enforcement that a person can or cannot be released? Have you walked through the process yet?

**Tim Kuzanek:**

I think I can answer the first portion of that question. I would expect to see samples obtained in the intake process when the arrestee actually arrives at the jail, is searched, and has his personal items inventoried. It is a very controllable

environment. As far as the second portion of your question, I would leave that up to Ms. Romero.

**Renee Romero:**

The kits are two swabs, a swab box, and a fingerprint form in a letter size envelope. They are readily distributed, but the process of finding out if someone has already been sampled is not as clear cut as we would like it to be. The current law states that we are to notify the Central Repository for Nevada, Records of Criminal History if we have a sample of DNA. The Central Repository's check-the-box form states that a DNA sample has been collected, so that any law enforcement individual can pull the information and check it. However, the stumbling block has been that the Central Repository requires that the fingerprints, which are taken at the same time as the sample, be verified prior to notifying the Central Repository that the sample has been collected. In Washoe County, we are 10,000 samples behind on fingerprinting. We do not have staff to verify the prints, so there are 10,000 DNA samples that the Central Repository does not know we have.

What we have been doing to try to help the situation is create a list of whose DNA we have, and we supply it to the Department of Corrections and Parole and Probation. However, as you can imagine, this list is not in real time. We attempt to get it out monthly, but it turns out to be more like quarterly. We do not have a good central list right now of who has been collected. However, when a sample is received in the laboratory, we immediately check to see if we already have the sample. On the face of the envelope is identifying information about the person whose DNA has been collected consisting of: name, social security number, date of birth, and all of the other typical identifying information. We have one computer system that we log the sample into, and it will not let us log in the same social security number twice. We have blocks in the program so that we get a flag that confirms the sample is already there. We label it as a duplicate and give it back to the agency that provided it.

**Assemblyman Horne:**

Approximately how many felony arrests are made daily or monthly in Washoe and Clark Counties? Has anyone ever asked that question?

**Tim Kuzanek:**

I do not have a daily number for you. In 2007, the number of felony arrests in Nevada was just over 86,000.

**Assemblyman Carpenter:**

Do you know how many of the 86,000 felony arrests are actually convicted?

**Renee Romero:**

Yes. Our estimate is 13,000 felony convictions.

**Assemblyman Carpenter:**

Do you need any special training to take these swab samples?

**Renee Romero:**

No, it is very simple. Imagine holding a cotton tipped swab (Q-Tip) in your hand, swabbing the inside of your cheek, and placing it in a box. It is as simple as that.

**Assemblywoman Dondero Loop:**

How are other states handling this, and how is it being funded?

**Renee Romero:**

I do not know about all of the funding mechanisms in other states. I can research that and get back to you. Of the states presented to you earlier, seven of those states draw DNA on all felony arrestees, and seven others limit the type of felony. I do know that some have a particular fine associated with ticketing and an additional fine associated with record keeping.

**Chairman Anderson:**

All of us belong to the National Conference of State Legislatures. During our annual meetings, most of the chairmen of judiciary committees end up together discussing this issue. In researching the issue of funding, we found a wide variety of resources from state to state, but generally it comes from the general fund. Nevada is somewhat unique in using court filing fees for the funding of many programs which are handled in other states either exclusively by the county or exclusively through the state general fund. The answer is that it depends. Many states require DNA tests upon felony arrest as you saw from the map that Ms. Gansert presented.

**Assemblyman Mortenson:**

I was interested in your statement that one of the reasons that people want the ability to expunge is because they believe DNA can detect diseases and potential problems that insurance companies might try to benefit from. Can you make the unqualified statement that it cannot be done? Or is it debatable whether you can detect diseases or potential health problems from the DNA?

**Renee Romero:**

Certainly there are a variety of tests that can be performed on samples of DNA, but a forensic laboratory cannot perform them. They do not have the expertise or technical capability to determine any type of disease. There are other

agencies that would be able to do that type of testing, but I was speaking from a forensic point of view.

**Chairman Anderson:**

From listening very carefully to what she said, it depends whether the sample is the simple sample that was drawn off the cheek or a blood draw that might show other types of results, like we do at the drug courts and other places.

**Assemblyman Mortenson:**

In your lab, if you do not expunge the DNA samples, you would need a security system whereby the samples are kept safe and secure so they cannot be taken by other people. I like the idea that you do not expunge DNA.

**Renee Romero:**

Absolutely. The samples are stored in a secure facility and are not available to the general public. In addition, as previously mentioned, there are fines imposed on anybody who uses a sample for a purpose other than forensic testing. Revealing information from the profile that we develop to someone who is not from law enforcement is a misdemeanor, and there are fines, state and federal.

**Chairman Anderson:**

As a forensic laboratory, would you also have to maintain a chain of custody?

**Renee Romero:**

Actually, the convicted offender samples or the arrestee samples are not deemed evidence, so they do not have the same chain of custody as a piece of evidence does. They are maintained in a secure environment, but it is not the same as an evidentiary item.

**Chairman Anderson:**

Only if it is going to be used.

**Renee Romero:**

If it is going to be used. Upon getting a DNA hit from one of these samples, we notify law enforcement that we have an investigative lead. We then require them to get an evidentiary sample from the individual, and we retest the new sample. Upon confirming the hit, we write a statistical evaluation report.

**Assemblyman Cobb:**

Earlier it was suggested that I ask you my question about procedure. Is it the intent of the bill that the sample is taken, immediately tested, and checked against other samples on the database, or are we just taking it and holding it in case that person is convicted?

**Renee Romero:**

The intent is that they would be tested. We would develop a DNA profile and put it into the database as soon as possible.

**Assemblyman Cobb:**

Is it checked against other samples to help with other unsolved crimes?

**Renee Romero:**

Yes. The database is set up for routine checking, so as soon as the sample is put in, it is checked against the state database, and then it is routinely checked every Friday.

**Chuck Callaway, representing the Las Vegas Metropolitan Police Department,  
Las Vegas, Nevada:**

I would like to echo what my colleagues have said. We share the same sentiment. We fully support the spirit behind A.B. 234; however, it is the unfunded mandate that is the issue for us.

**Chairman Anderson:**

It is the right thing to do. If we had the money to do it, we would all be ready to go. This is the same type of response we heard when we first took up the issue.

Are there concerns in opposition to the bill?

**Lee Rowland, Northern Coordinator, American Civil Liberties Union of Nevada,  
Reno, Nevada:**

We are here to oppose this bill because we believe extending DNA collection to arrestees goes too far down the slippery slope of choosing criminal prevention over individual liberties and rights. I would go so far as to say that we believe the collection of DNA from people who have just been arrested on a probable cause standard is unconstitutional under the Fourth Amendment of the *United States Constitution*, and Article 1, Section 18 of the *Nevada Constitution*. There are a small handful of states that do now collect DNA from arrestees; I believe there are currently seven. The appeals court of one of them, Minnesota, found that collection of DNA from folks who have just been arrested does violate the Fourth Amendment, and they struck down the program there. The reason is that the collection of your DNA is obviously the collection of very private information about you. As earlier testimony has noted, it can have very serious consequences, including with respect to your health care. From our point of view, there needs to be a compelling government interest, and that interest is a conviction, warrant, or court order. Below that,

simply having probable cause to arrest and take DNA, we believe, violates the spirit of the Constitution.

In addition, we believe there are very practical considerations: you are now expanding a haystack to make it harder to find the needle when you need it for legitimate law enforcement purposes. You have heard plenty of testimony that the DNA databases are already overwhelmed. In the numbers just reported to you, there were apparently 86,000 felony arrests in Nevada last year and 13,000 felony convictions. That is a conviction rate of approximately 15 percent. What that means is the state would be paying to obtain and later destroy the DNA of 85 percent of those arrested for felonies. I do not think the state has a fiscal interest in putting its money there. I think we could clearly spend your money better, our money better, by putting it towards targeted resources such as the DNA that is already collected from certain felons.

We think there are serious legal and constitutional problems with this bill. We also think that, as a practical matter, this will not realistically increase the chances that we are using DNA for targeted and sensible law enforcement. We urge you to consider those things when you are discussing this bill.

**Assemblywoman Parnell:**

I tend to agree with some of your comments, but I think we have to balance the issue of using DNA to find the guilty with the fact that it can also free people who are not guilty. We have not talked a lot about that, but I think it is important to be on an equal footing. It can confirm that this truly is the bad guy; it can also confirm that who we thought is bad, is not. So, that is the end-all for me in any discussion about DNA.

**Lee Rowland:**

I absolutely agree. There are two other bills, Assembly Bill 179 and Assembly Bill 279, that deal with the use of DNA for those who may have been wrongly convicted and extending their rights to obtain the DNA. I do not think this bill fits into that category because people who are arrested, and not charged or convicted, obviously have no use for exculpatory DNA evidence. So again, I go back to the numbers. We are talking about 73,000 people last year alone, who would be subject to this bill, who were never entered into the system because they do not have a felony conviction. I think paying for, and later destroying, 73,000 collections of DNA for people who have been found innocent of the felony arrest is wasteful. It does not help people expunge their records. It is not needed for folks to prove their innocence because they were never charged or convicted of the felony. I do not think this bill gets at those concerns; the other bills that are coming do, and we support those.

**Orrin Johnson, Deputy Public Defender, Washoe County Public Defender's Office, Reno, Nevada:**

We also have some concerns along the same line as the constitutionality of this proposed bill. In 2004, the Ninth Circuit Court, in a case called *United States v. Kincade*, 379 F.3d 813 (2004) confirmed the constitutionality of a California law which took the DNA samples of all convicts. That was a reversal of an earlier decision of a three-judge panel of that circuit which found that law to be unconstitutional. In confirming the constitutionality of taking the DNA from the convicts, one of the things that the court said specifically, in addressing some of the concerns of the dissenters in that opinion, is that it is all right because it does not implicate arrestees.

I am not going to waste any time echoing the legal arguments already made by the ACLU, but I will say that it is important to consider the impact if somebody was convicted on the strength of DNA that was taken based only on a previous arrest, perhaps an arrest for which they were not convicted. If this law was later found to be unconstitutional, we have potentially lost that conviction and put a person back out on the street who might have been convicted legitimately in some other way just because we wanted to use this shortcut method. That is something that we are always concerned about when making it easier for law enforcement, although we absolutely appreciate the concern and the desire to gather this other information.

The other thing I will add is that we can get a lot of the potential benefits of this bill by using existing methods and policies that are less expensive and less intrusive, for example, seeking the consent of those who want to take their DNA for exoneration purposes or seeking a search warrant to get the DNA of someone who seems to meet the profile in a specific case.

**Assemblyman Segerblom:**

The information we were given indicates that California is DNA-testing arrestees for violent and sex offenses. Do you know if that is true, and if so, how are they getting around the constitutional issue?

**Orrin Johnson:**

I do not know if it has been litigated. There are certainly good arguments on both sides as to whether taking DNA upon arrest is constitutional. I think one of the problems here is the blanket nature of the bill, where it is not targeted toward specific offenses. Fourth Amendment analysis always rests on reasonableness, which is a fact-specific issue. I honestly do not know the answer. I can do some research and try to find out for you. I think this is still an open legal question that is going to come up in the next few years around the country.

**Assemblyman Carpenter:**

Would we have any constitutional problems if we expand this to people who have been convicted of a misdemeanor or gross misdemeanor?

**Orrin Johnson:**

That is a little beyond the research that I have done. I would say "no" because due process has already been done; they have already been convicted. Now you have someone whose expectation of privacy and liberty has already been curtailed. He has pled guilty, with the due process entailed there, or he has had his fair trial. I would not think so.

However, regarding a person who has been arrested but not convicted, you are conducting a search, and the taking of a biological specimen is absolutely a search and seizure within the meaning of the Fourth Amendment. The issue is that person has not been adjudicated through the due process to which he is entitled.

**Assemblyman Mortenson:**

What is the fingerprinting process? When can you take fingerprints from a person?

**Orrin Johnson:**

I can speak to what courts have determined is the legality of taking fingerprints upon arrest. The courts have determined that it is all right. The difference between fingerprints and DNA is the level of intrusiveness. Even though the cheek swab would seem intuitively less intrusive than a blood draw, there is still the question of the amount of information that you are potentially taking through the DNA sample. The fact is that you are taking a part of someone's body: a biological sample, whether it is from a cheek cell or a red blood cell.

**Jason Frierson, Chief Deputy Public Defender, Clark County Public Defender's Office, Las Vegas, Nevada:**

In that regard, I would simply echo the sentiments expressed by Mr. Johnson. I am also here after having spoken with Clark County, and they would like to express their concerns about the fiscal impact for the county. I think that has been discussed, but I want to go on record as echoing that for Clark County.

**John McCormick, representing the Administrative Office of the Courts, Carson City, Nevada:**

I would speak only in reference to the idea that was mentioned regarding a \$5 fee on tickets. The Administrative Office of the Courts (AOC) has not heard any information about that; no research has been done. We are open at this point to exploring the topic, but other than that, I cannot really say anything.



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

Me too, and I am concerned about the cost.

**Daphne DeLeon, Administrator, Division of State Library and Archives,  
Department of Cultural Affairs, Carson City, Nevada:**

I want to voice the concern that we see at the State Library and Archives because we have the responsibility for records management, both for the Executive Branch and local governments. We see this bill, including the need to expunge records of a highly sensitive nature, to be extremely costly in terms of staff resources. If it is not done properly, it will also result in increased liability for all of the organizations involved, including the Central Repository, the Forensic Lab, and law enforcement agencies.

**Chairman Anderson:**

The hearing is closed on A.B. 234. We will take a two minute break.

[Committee recessed for two minutes.]

We will now open the hearing on Assembly Bill 239.

[Assembly Bill 239](#): Revises provisions relating to habitual criminals, habitual felons and habitually fraudulent felons. (BDR 15-9)

Mr. Ohrenschall, please make your presentation on the bill.

**Assemblyman James Ohrenschall, Clark County Assembly District No. 12:**

An amendment ([Exhibit N](#)) has been passed out on A.B.239, which is the result of a lot of hard work by Kristin Erickson, Sam Bateman, Jason Frierson, and me. We have come up with a really good compromise and a really good bill.

We are amending *Nevada Revised Statutes* (NRS) 207.010, the habitual criminal penalty enhancement, that is a penalty enhancement meant for the worst of the worst of our criminal offenders. Assembly Bill 239, as it is amended, accomplishes that intent by not including nonviolent, small-time petty thieves within the habitual criminal penalty enhancement. I believe this is an example of smart sentencing, and a wise and prudent marshalling of our state's resources.

**Jason Frierson, Chief Deputy Public Defender, Clark County Public Defender's  
Office, Las Vegas, Nevada:**

We met to come up with some consensus language that we could all live with, and that is what we have in the amendment that Mr. Ohrenschall has circulated. We felt this would take a step towards addressing the problem of people going

to prison who do not necessarily represent the greatest threat to the community. Those are the misdemeanor habituals.

**Chairman Anderson:**

I would note that in section 1, subsection 1, paragraph (b) you change habitual from three times to five times at line 15. Apparently the potential benefit that the prison system might have gained is a major part of the concession that was made.

**Jason Frierson:**

That was a major part. The original bill changed the number of felony convictions from two times in paragraph (a) and three times in paragraph (b) for habitual treatment to three in (a) and five in (b). It also addressed some discretionary measures and added a provision requiring that a defendant must have previously served time in prison before being eligible. However, those were areas that, for many philosophical and practical reasons, were not measures that we could agree on. We decided to go forward with the areas that we could agree on.

**Kristin Erickson, representing Nevada District Attorneys Association, Reno, Nevada:**

This proposed amendment does reach a compromise among all of us, Mr. Frierson, Assemblyman Ohrenschall, and me. We worked very hard on this to get a piece of legislation that we could all agree on. We believe this amendment puts forward the spirit and intent of the habitual criminal law, which is to not punish those with misdemeanor offenses. We believe that it is adequate and meets all of our needs, and we would urge your support.

**Chairman Anderson:**

Does the rest of the bill remain the same? Is there only a change in section 1?

**Assemblyman Ohrenschall:**

That is correct. We deleted any changes from sections 2 and 3.

**Chairman Anderson:**

Are you deleting the discretion of the prosecuting attorney, or are you keeping that?

**Assemblyman Ohrenschall:**

No, we agreed to delete sections 2 and 3 in amending NRS 207.012 and 207.014.

**Chairman Anderson:**

Are you keeping page 3, section 1, subsection 3, "A trial judge shall not adjudicate a person as a habitual criminal unless the person has served a prior prison term ..."? That is staying in, right?

**Assemblyman Ohrenschall:**

No. My amendment is a little confusing. We did not want to include that part, and I should have deleted it in the amendment.

**Chairman Anderson:**

So, that is being removed, as well as lines 29 through 30 of section 2, and the similar reference in subsection 2 of section 3?

**Assemblyman Ohrenschall:**

That is correct, Mr. Chairman.

**Chairman Anderson:**

Concerning section 1, subsection 3, page 3, lines 11 through 13, have you had an opportunity to show this to bill drafting?

**Assemblyman Ohrenschall:**

When we finally got together and agreed on everything, I went straight down to the Legal Division and asked them to draft this amendment. They are under a time crunch, as you can understand, and rather than a full mock-up, they were able to give me this. A mock-up could come later, but they just did not have enough time.

**Lee Rowland, Northern Coordinator, American Civil Liberties Union of Nevada,  
Reno, Nevada:**

Me too.

**Chairman Anderson:**

There is an amendment that has been suggested, but I do not know whether you have a copy of the amendment.

**Scott Coffee, Deputy Public Defender, Clark County Public Defender's Office,  
and representing Nevada Attorneys for Criminal Justice, Las Vegas,  
Nevada:**

I have been following the legislation, and I am familiar with the amendment. To be honest, I wish the bill went further, but we agree with the bill submitted, as amended, and offer our support.

**Chairman Anderson:**

We will close the hearing on A.B. 239.

The Chair will entertain a motion to amend and do pass. The amendments will be those as submitted to change section 1 of the bill, to further remove from section 1, subsection 3, on page 3, lines 11 through 13, and to follow the suggestions of deleting the language in sections 2 and 3, so it will conform as provided by our bill drafter when he has time to finalize the language.

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 239.

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Anderson:**

We are going to go to the work session document that is left over from yesterday.

Mr. Carpenter, on the bill that you are concerned about, it appears that I need to put it back on the board, so I will ask for it to be removed from the work session document. In addition, one of the members of the Committee came to me yesterday afternoon about Assembly Bill 102 and indicated that there were some problems that he wants to have explored, so we are going to wait before we take it up.

We will look at the bill on subpoena power for the Medicaid Fraud Control Unit, Assembly Bill 42, a work session document ([Exhibit O](#)).

**Assembly Bill 42: Grants administrative subpoena power for the Medicaid Fraud Control Unit within the Office of the Attorney General to obtain certain records and materials. (BDR 18-273)**

**Jennifer M. Chisel, Committee Policy Analyst:**

Assembly Bill 42 was brought from the Attorney General's Office, Medicaid Fraud Control Unit, and the bill authorizes subpoena power to obtain records and material to carry out the duties of the unit. There were some concerns expressed by the Committee about giving direct subpoena authority to the Chief Executive Officer of the Medicaid Fraud Control Unit. Subsequently, an amendment was presented to alter the language so that the subpoena power was given to the Attorney General, or his designee, acting through the Medicaid Fraud Control Unit.

**Assemblyman Carpenter:**

Would that mean that the Attorney General could give the Executive Officer of the Medicaid Fraud Control Unit that authority?

**Keith G. Munro, Assistant Attorney General, Office of the Attorney General:**

We would be happy to strike "or his designee." We intend to draft policies and procedures with respect to this legislation.

**Assemblyman Carpenter:**

Would that then mean that the Attorney General would be the only one who could issue one of these subpoenas?

**Keith G. Munro:**

I think it would mean that the Attorney General would have the authority to have a subpoena issued on her behalf, and we would adopt policies and procedures for how that would be done.

**Assemblyman Carpenter:**

I think the issuance of a subpoena is a huge power. I would feel more comfortable if it were just the Attorney General who could issue the subpoena.

**Chairman Anderson:**

Although we are giving the Attorney General this ability, we are giving it on a very limited basis. It can be used only in the Medicaid Fraud Control Unit, and, as we heard in the testimony, it would be only to get specific records. We want to make sure it is limited to the Medicaid Fraud Control Unit only. Am I correct in that, Mr. Munro?

**Keith G. Munro:**

You are absolutely correct. This is limited to Medicaid fraud.

**Assemblyman Segerblom:**

Initially, I was concerned about this, but when I think about it, subpoena power is not that big of a deal. It would automatically be given to you if you went to court, so I think this way is a lot more efficient. We are talking about Medicaid fraud, which is a big deal, so I support this bill.

**Chairman Anderson:**

The Chair will entertain a motion of amend and do pass, the amendments are as suggested by the Attorney General's Office, with the understanding that the bill drafter will determine if we should keep the "or designee." I think we should keep the "or designee" because I recognize that the Attorney General is

occasionally out of state or may have other issues, and this is a very limited power that will not be used without a great deal of consideration.

**Assemblyman Carpenter:**

I think I am comfortable with the suggestion that the Attorney General's Office made. I guess it is probably just a matter of bill drafting.

**Chairman Anderson:**

Mr. Anthony, can the legal staff solve this problem for Mr. Carpenter and me, so that the Attorney General is not prevented from ....

**Nick Anthony, Committee Counsel:**

I did take a look at this language, and throughout the *Nevada Revised Statutes* it is done either way. You can either say, "The Attorney General" or you can specify, "or his designee." It is really a matter of choice for the Committee.

**Chairman Anderson:**

So, to move forward with this piece of legislation, we will strike the language. Mr. Anthony, in this regard, it would be something like "the Attorney General acting through the Medicaid Fraud Control Unit," using language that you suggest to cover the issue.

The amendment is as suggested: In carrying out the duties and responsibilities of this section, the Attorney General acting through the Medicaid Fraud Control Unit, may issue a subpoena for records and materials.

ASSEMBLYMAN HAMBRICK MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 42.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Let us move to the next bill, which is Assembly Bill 59, a work session document, which is on rebuttable presumptions ([Exhibit P](#)).

**Assembly Bill 59:** Creates a rebuttable presumption against an award of custody or unsupervised visitation for any person who has abducted a child in the past. (BDR 11-265)

**Jennifer M. Chisel, Committee Policy Analyst:**

Assembly Bill 59 was brought by the Office of the Attorney General. This would create a rebuttable presumption that sole or joint custody, or unsupervised

visitation, of a child by a parent who has abducted a child is not in the best interest of the child. During the hearing one amendment was proposed, and it would strike a couple of subsections in the bill. I have provided the language for you. You can see it by the strike-through. It is in three portions of the bill: first on page 4, lines 29 through 43; next on page 5, lines 42 through 45, and page 6, lines 1 through 11; then on page 7, lines 9 through 23. The language created a rebuttable presumption against an award of custody to a parent if charges alleging child abduction were filed against that parent during the pendency of the child custody proceeding. The amendment removes that language from the bill because there is no actual finding by a court.

The second amendment was offered after the hearing and is intended to address concerns that were raised during the hearing. The bill said that a rebuttable presumption would be created if charges were filed, against a parent, that alleged child abduction after the custody proceeding. The amendment would change the basis of the rebuttable presumption from charges being filed to an actual determination of probable cause being made by a magistrate. If there was a motion to modify that custody order, a judge would have to revisit the issue.

**Chairman Anderson:**

In reviewing some of our concerns and looking at *Nevada Revised Statutes* (NRS) 171.206, we are saying that a court must make a determination, which raises it to a higher level than simply filing criminal charges. It is not just going to be somebody filing a piece of paperwork; there has to actually be a court determination. That is why the cross-reference is made to NRS 171.206. I think it addresses the basic problem. The first proposed amendment was requested by the family court, in part, through the Attorney General's Office.

**Brett Kandt, Special Deputy Attorney General, Office of the Attorney General:**

I just confirmed that, not only do the family court judges support the bill with the striking out of the three sections under proposed amendment one, they support proposed amendment two as well.

**Assemblyman Horne:**

These amendments address the concerns that I expressed during the hearing, so I can support the bill as amended.

**Assemblyman Gustavson:**

I have not really had a chance to go through this, so maybe you can answer my question. A concern was brought up before, which was also my concern, that a

person was actually being found guilty before being convicted. Has that been removed?

**Chairman Anderson:**

The courts and the Attorney General felt this solves a problem that they have had in the past regarding custody matters.

**Assemblyman Gustavson:**

I will support the bill, but I reserve the right to change my vote after I read the final bill.

**Chairman Anderson:**

The Chair will entertain a motion to amend and do pass. The amendments are those suggested on one and two.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 59.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY. (ASSEMBLYMAN  
GUSTAVSON RESERVED THE RIGHT TO CHANGE HIS VOTE ON  
THE FLOOR.)

Mr. Gustavson, we recognize your right to change your position and would ask that you indicate to the Vice Chair or me your intention to do so before the vote on the floor.

We will turn our attention to Assembly Bill 61, a work session document ([Exhibit Q](#)).

**Assembly Bill 61:** Requires notification of certain victims of crime of the discharge, conditional release or escape of certain persons from the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services. (BDR 14-339)

**Jennifer M. Chisel, Committee Policy Analyst:**

Assembly Bill 61 was brought on behalf of the Division of Mental Health and Developmental Services. This would require the administrator of that division to notify crime victims if an offender is about to be discharged or conditionally released, or escapes from a mental health institution. During the hearing, language was proposed by the testifiers on the bill to clarify, on page 2, line 21,



that the release of the individual is not prevented if the victim's address is unavailable: "A person described in subsection 1 must not be discharged or released from commitment for any purpose unless notification of the discharge or release has been sent to the last available address of the victim."

A second amendment was suggested during the hearing. Mr. Mortenson asked if there is a time frame for this notice to be made because there was no time frame indicated in the bill. Basically, the notification just has to go out before the person is released. The memorandum behind the bill page results from some research that I did. I found that Arizona has a similar statute regarding notice to victims upon release of an inmate from a mental health institution. They provide a ten-day window, so the notice needs to be mailed at least ten days before the release. That is another offer of an amendment on this bill for the Committee to consider.

**Chairman Anderson:**

When Ms. Chisel shared the results of her research with me, I felt that Arizona used a reasonable notice period.

**Assemblyman Mortenson:**

I think that is reasonable. If a woman felt vulnerable and wanted to get out of town, ten days is better than one day, or none.

**Assemblyman Carpenter:**

When we send notices like this, does the time frame include weekends and holidays? Are they exempt from these notices?

**Chairman Anderson:**

It depends on the statute. In some, we are talking about court or business days. In others, we are talking about calendar days. In this particular case, since it is an institution that operates 24 hours a day, 7 days a week, unlike a court or some other institution, I presume they are talking about calendar days. I think that is why it is longer; we usually do a five-day notice for business days.

The Chair will entertain an amend and do pass motion; the amendments to be to accept the recommendations of proposed amendment number one. We will ask the bill drafter to come up with similar language to clarify the difference between notice regarding someone who is being released—10 calendar days in advance—and someone who escapes. We cannot notify a victim in advance of someone escaping, but we can have similar notification after the fact so they know it has taken place.

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 61.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

THE MOTION PASSED UNANAMOUSLY.

We are adjourned [at 11: 20 a.m.].

RESPECTFULLY SUBMITTED:

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Karyn Werner  
Committee Secretary

APPROVED BY:

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Assemblyman Bernie Anderson, Chairman

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

## EXHIBITS

**Committee Name:** Committee on Judiciary

**Date:** March 13, 2009

**Time of Meeting:** 8:10 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 233	C	Assemblyman John Ocegüera	Television news article dated July 24, 2007, "Copper theft a rapidly growing crime"
A.B. 233	D	Assemblyman John Ocegüera	City of Las Vegas, 2008 Legislative Agenda, FY 2009 Appropriations Summary
A.B. 233	E	Assemblyman John Ocegüera	Newspaper article from the <i>Las Vegas Sun</i> , dated March 5, 2009, "DA thinks big on scrap metal case"
A.B. 233	F	Assemblyman John Ocegüera	Federal Bureau of Investigation report dated September 15, 2008, "Copper Thefts Threaten US Critical Infrastructure"
A.B. 233	G	Assemblyman John Ocegüera	Article from <i>Arizona State Senate Issue Brief</i> dated December 12, 2007, "Scrap Metal"
A.B. 233	H	Randy J. Brown	Written testimony of Randy J. Brown, and other information
A.B. 233	I	Terry K. Graves	Proposed amendment
A.B. 233	J	Assemblyman Bernie Anderson	Proposed amendment
A.B. 234	K	Assemblywoman Heidi Gansert	Information packet including "The Official Family Site Dedicated to Brianna Zunino Denison"
A.B. 234	L	Assemblywoman Heidi Gansert	"Drafter's Checklist for Arrestee DNA Legislation"

A.B. 234	M	Renee Romero	Written testimony of Renee Romero
A.B. 239	N	Assemblyman James Ohrenschall	Proposed amendment
A.B. 42	O	Jennifer M. Chisel	Work session document
A.B. 59	P	Jennifer M. Chisel	Work session document
A.B. 61	Q	Jennifer M. Chisel	Work session document