

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

**Seventy-Fifth Session
February 11, 2009**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:07 a.m., on Wednesday, February 11, 2009, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jennifer M. Chisel, Committee Policy Analyst
Nick Anthony, Committee Counsel
Katherine Malzahn-Bass, Committee Manager
Robert Gonzalez, Committee Secretary
Nichole Bailey, Committee Assistant

OTHERS PRESENT:

James W. Hardesty, Chief Justice, Nevada Supreme Court
Michael A. Cherry, Associate Justice, Nevada Supreme Court
Drew Christensen, Clark County Director of Appointed Counsel
Ben Graham, representing the Administrative Office of the Courts,
Las Vegas, Nevada
Melissa Saragosa, Justice of the Peace, Las Vegas Judicial Court,
Las Vegas Township (Department 4)
Jeff Wells, Assistant County Manager, Clark County Managers Office,
Las Vegas, Nevada
Steven H. Osborne, President, Nevada Justice Association, Reno, Nevada

Chairman Anderson:

[Roll called.]

Ms. Chisel, is there a handout that I should bring to everyone's attention?

Jennifer M. Chisel, Committee Policy Analyst:

Before you is a memorandum to the Chairman and the members of this Committee having to do with the presentation that was before this Committee on February 9, 2009 from Captain P.K. O'Neill in the Records and Technology Division, Department of Public Safety ([Exhibit C](#)). It provides you with the sex offender tier information presented by Captain O'Neill. The Chairman requested that this be provided to you as a reference guide.

Chairman Anderson:

With that, let me ask the Chief Justice of the State Supreme Court to present to us with the primary issue. Traditionally, we have started with an overview of the courts. This Committee, several sessions ago in 1995, began to ask for an

annual report to be created so that we would be able to better understand and follow the trends through our courts. As a result, your staff publishes a beautiful book every year towards that end. Justice Hardesty, you have set a high mark for your court. I look forward to your presentation.

James Hardesty, Chief Justice, Nevada Supreme Court:

Thank you, Chairman Anderson. On behalf of the Judicial Branch, we would like to thank you for your invitation to appear here this morning and offer an overview of the Judicial Branch, as well as several other subjects. With your permission, I would like to indicate that our intention today is to provide you with an overview of the following items. First, allow me to present an overview of the Judicial Branch, which is somewhat of a summary of the report that I delivered to each of you personally. Second, we would like to give you an overview of the work of a couple of commissions that the Supreme Court appointed; one dealing with the indigent defense issues that exist in our state, and a second dealing with the preservation, sealing, and retention of court records. Then we would like to give you an overview of certain Judicial Branch bills that we have proposed with the unanimous recommendation of the Judicial Council. We would have you consider two specific bills: the first dealing with filing fees and new judges, and the second dealing with court masters in the limited jurisdiction courts.

Chairman Anderson:

Mr. Chief Justice, I do not want to break your presentation up, but recognize that we have to be very careful to preserve the separation of the two houses of the Legislature. We are not able to consider or discuss those bills that are residing in the other house. On a procedural basis, we are not supposed to be dealing with it. We would not want to take the prerogative of the Senate, and we do not want them to take ours, either. In recognition of that, while I appreciate the overview of the bills that are of concern to you, the people who are presenting those bills, hopefully, will make a more detailed discussion. I wanted to caution you in advance.

James Hardesty:

I would like to bring to the Committee's attention my colleague, Justice Michael Cherry, who is in Las Vegas. He will participate with me in the presentation of the PowerPoint slides dealing with the Indigent Defense Commission and his work there.

I will begin with the Judicial Branch overview ([Exhibit D](#)). As you can see, the Judicial Branch of the State of Nevada is organized as indicated in this organizational chart; the Judicial Branch is created by Articles 3 and 6 of the *Nevada Constitution*. The Supreme Court operates as a separate branch of

government co-equal with the Legislature and the Executive Branch. This slide provides you with quick references to the locations in the Constitution and the statutes that identify the organization of the Supreme Court, the District Court, the Justice Court, and the Municipal Court. The Supreme Court is made up of seven Justices who, as you no doubt know, serve on staggered terms. The court sits in three-judge panels and *en banc*, meaning the court hears selected groups of cases as an entire court. However, most of the cases are heard in three-judge panels. The court's responsibility is to administer the Nevada Judicial Branch. It has appellate jurisdiction for all civil and criminal cases from district court. It has the power to issue writ relief in these differing types of writs which are listed here. The court is responsible for the licensure and the discipline of lawyers, as well as appellate review for all judicial discipline recommendations that come from the Judicial Discipline Commission. The Supreme Court is funded currently through a combination of administrative assessments and General Fund appropriation. We thought you might find it interesting to see how that is broken down.

Assemblyman Carpenter:

Would you explain a little more about the situation with the discipline of lawyers? I get a number of questions from some constituents. If you would explain it a little more, I would appreciate it.

James Hardesty:

The Supreme Court issues rules which govern the conduct of lawyers. Lawyers who might be in violation or against whom a complaint might be lodged are presented to the State Bar of Nevada. The State Bar of Nevada has a northern and southern disciplinary panel. Within the state bar, they have a set of internal rules that address how a complaint is evaluated. The complaint is initially evaluated by a bar counsel and its staff. If there is a belief that the matter should be taken further, there will be an initial review. If it escalates to a more serious level, there will be a disciplinary hearing, which may ultimately result in a recommendation by one of the disciplinary panels for discipline of the lawyer. This could range anywhere from a private reprimand, a public reprimand, suspension or disbarment. Those actions are subject to review by the Supreme Court, which then acts on the cases, frequently in published opinions. Since I have been on the court, we have seen to the Supreme Court somewhere around 35 to 45 appeals a year; however, those are just on the level of appeals. The level of discipline is quite a bit different. The State Bar provides statistics for us annually on the number of complaints that are received, how those complaints were handled, and their disposition. If you would like those statistics, we can have them available to you for the last year. We can make them available to the Committee.

Chairman Anderson:

Mr. Carpenter, I think you and I are used to seeing the quarterly reports that come from every other group that has any kind of licensing requirement in the state. We require them to submit a report to the Legislative Commission on a quarterly basis. Yours is done just annually from the State Bar?

James Hardesty:

Sure, but we can get those monthly to you.

Chairman Anderson:

But is it sent to the Legislative Commission or put online for public consumption?

James Hardesty:

I do not believe so. The summary report is not, but it is certainly something that we make available.

Assemblyman Carpenter:

The disciplinary team or panel, does that come from the State Bar?

James Hardesty:

It does, and it is a combination of lawyers and laypeople. Would you like that report, Mr. Carpenter?

Assemblyman Carpenter:

Yes, I would.

James Hardesty:

We will make it available to the Chairman and to all of the Committee. Any other questions about State Bar or lawyer discipline?

Chairman Anderson:

Does it list individual attorneys? Or is it simply a numeric count, as we do with physicians and dentists?

James Hardesty:

A numeric count, that is right. Now, if an individual is publically reprimanded, suspended, or disbarred, this is a matter of public record, and it is published in the *Nevada Lawyer*, which is the monthly publication of the State Bar of Nevada.

Chairman Anderson:

Is that also noted in the report given to you on an annual basis, so that there is a central location where you could go to get all of the information?

James Hardesty:

I do not believe so, but there is an important step that the Court worked on with the State Bar last year that I think is a major step forward in informing the public about lawyer discipline. The Court, working with the State Bar Board of Governors, now requires disclosure on the State Bar website of the fact that the lawyer has malpractice insurance and requires the lawyer to identify any public reprimand or more severe discipline on the website. Hence, if an individual were to contact the State Bar and inquire about James Hardesty, they would be able to determine whether I have malpractice insurance. They would also be able to determine whether I have been publicly reprimanded, suspended, or disbarred. That is very new. There are about 30 states which do this, and we are pleased to see the State Bar do it as well, as part of the public service.

Chairman Anderson:

Is there a link between the Supreme Court's website and the State Bar website, so that the public, who may not be aware of the existence of the Bar website, will have easy access?

James Hardesty:

Yes, I believe there is. I would mention that the Supreme Court is currently in the process of revising its webpage and bringing it into the twenty-first century. We hope to have the webpage revised, which will improve it, and make it more user friendly, and provide better access to additional links. We are looking at trying to accelerate that project. We hope to have it online in the next couple of months.

I wanted to give you some sense of the workload of the Supreme Court; not for purposes of whining, but rather for purposes of letting you know that your Judicial Branch is extremely busy. In my judgment, this is the busiest appellate court in the United States. As you can see here ([slide 4 on page 2 of Exhibit D](#)), this is a tracking of cases filed by year. These also show the cases disposed of by the seven-member court and published opinions. For some of you who may not know the importance of the published opinion, a published opinion is a published work or disposition of the case, which sets law in Nevada and sets precedent for other cases to be decided, based upon the rules that are enunciated in those published opinions.

I had the privilege of attending the Conference of Chief Justices about two weeks ago. Twice a year, all of the chief justices of the state supreme courts

meet, and I was having dinner with the chief justices of Washington and some other states. They were very proud of the fact that the Supreme Court of Washington had produced 152 published opinions. That is impressive, and it is good work, but I asked them how many other orders or opinions or dispositions they had produced. The chief justice said, "no, that is all of our work." They asked me how many we produced. I replied "close to 2,100." Of course, all of the chief justices are in amazement at what our court does. It is because we are the only appellate court in the state. We have to handle all appeals. But not all appeals result in published opinions because not all of them result in legal precedent.

This gives you a sense of the workload, and I'm proud of the fact that our justices are pretty much matching what other courts are producing in published opinions, yet still getting all of the other orders and dispositions accomplished.

Chairman Anderson:

Chief Justice Hardesty, I am always very impressed by this particular statistic. Mr. Carpenter expanded the Supreme Court to pick up two additional judges and allow for *en banc* hearing. This statistic is impressive over the last three years. How about reaching back in time as compared to when it was a smaller court and everything had to be handled by those judges rather than hearing them *en banc*? Has that increased your caseload as the population increased?

James Hardesty:

I think that our caseload is increasing because of a multitude of factors; however, there are three things that primarily drive it: first, the population itself is a factor; second, the number of judges—obviously, we get our appeals from judges, so when more judges are added, we get more appeals—and third, the number of lawyers in the state. We have a slide to show you that indicates the progression of the number of lawyers in the state. The state has been increasing its lawyer population by about 6 percent or so a year. You might be surprised to know that we are close to 8,000 lawyers, now, in the State of Nevada. A large number are inactive or are in government service, but, nevertheless, you have quite a number of lawyers who generate a significant amount of legal business.

Chairman Anderson:

I guess the purpose of my question was, when we moved to expand the court with the two additional judges, it was precisely because of the number of appeals that they were having to process. When I look at the number, here, I am thinking back if we are now, once again, approaching that question. Of course, my driving underlying question is the need for an appellate court.

James Hardesty:

The court believes that one of the most important initiatives that can benefit the judicial system is the adoption of an intermediate appellate court. You have that second vote on the constitutional amendment before your Legislature this year. If you approve that, it will go to the people in 2010. We have provided to the Legislature an outline of how that court should be configured, in the opinion of the Supreme Court. As we have pointed out, this would be a push-down court, a court in which people would continue to file their cases with the Supreme Court, with no new filing offices, no new staff. We would simply reconfigure the existing staff and utilize three intermediate appellate court judges who would hear error-correction type cases, criminal post-conviction cases, and certain petitions for judicial review, about 800 to 900 cases of the Supreme Court's total 2000 cases. If we did that, we would make a major difference in the time-to-disposition of the caseload that the Supreme Court currently has.

By the way, there will be no facility cost for an intermediate appellate court. We have proposed that this court be located in the Regional Justice Center, which the Supreme Court currently uses and occupies for hearings in southern Nevada. There are three chambers there that would be available for that purpose. Furthermore, we believe that the updated operating costs for such a court would be approximately \$1.6 million. As I told the Senate Judiciary Committee last week, the Nevada Supreme Court will have returned about \$3.4 million in reverted money over this biennium. Those funds would have paid for that intermediate appellate court on an annual basis. So, we think that it is almost a revenue-neutral proposition. For the benefit you get, we think this is a real bang for the buck, and we hope that the Legislature will consider the intermediate appellate court.

The *en banc* process, Mr. Chairman, since you and Mr. Carpenter were intimately involved in bringing that about, is not the most efficient way to get these cases resolved. It has worked, it has been successful, but it is not the most efficient way to handle the appellate work of the state.

I would like to show you this slide, which compares Nevada with other states that are within our population range and have or do not have intermediate appellate courts. I think it is an interesting slide; in particular, I would show you Utah, which is number 34 in population. We are number 35. The Utah court system has an intermediate appellate court of seven judges. They sit in panels of three. They have 922 cases filed, with 132 cases per appellate judge. Their supreme court consists of five justices, with 564 cases filed the year covered by this report; 113 per justice per year. Look at Nevada: 2,238 cases; 320 per judge per year. Why is that statistic important? Is it important? Do you care?

The reason that it is important is because it directly impacts the time that it takes to get an appeal resolved. The more cases we have, the longer it takes to resolve them. This Legislature has been very helpful to the court in providing us with central staff to assist us in processing the cases. But you still have seven justices handling a caseload that is significantly greater than even the caseload of the supreme court of Arizona.

Regarding the district courts, this is a general slide which, as you can see, shows they have general jurisdiction in all felony cases, gross misdemeanor cases, civil matters above \$10,000, family law cases, and juvenile crimes of abuse and neglect. They conduct jury and non-jury trials, rule on various legal issues, and hear appeals from justice court and municipal court. Like the Supreme Court, the district courts in our state continue to experience significant growth. I would encourage all of you to take a look at the annual report that we provided to you. There is a graph that is very telling in the annual report, and it shows the number of cases filed per district court judge per year.

The reason I mention that graph is because of the effect, particularly, on Clark County. Clark County continues to have the highest number of cases per trial judge, I think, in the country. Certainly, if it is not first, it is not far behind. It is a caseload that directly influences the time that it takes to go to trial, and we are going to talk a little bit about that some more this morning. It also directly impacts the court's ability to be able to handle medical malpractice cases, respond to business court cases, deal with construction defect cases and class action cases, and also handle the burgeoning criminal docket that we have. We will talk more about that in a few minutes.

The district court judges' salaries are paid for out of the state General Fund, but all of the other financial support comes from the general fund of the various counties throughout the state. As you can see there, we have 9 judicial districts currently in this state covering the 17 counties. As of January 1, we have 72 district court judges in the state, both family and general jurisdiction.

The justice courts, also created by the Constitution and statutes, are identified on the slide. As of January 1, we have 64 judgeships. They are courts of limited jurisdiction. These courts are without a doubt the busiest courts in the system. They are extremely busy courts, dealing with matters that affect people's lives in a very direct way. As you can see by their jurisdiction, they deal with preliminary matters of felony and gross misdemeanor cases, traffic and other misdemeanor cases, civil matters up to \$10,000, small claims court cases up to \$5,000, landlord-tenant disputes, temporary protective orders, and the like. In fiscal year 2007, there were 223,000 non-traffic cases throughout the state. There were over 500,000 traffic cases. In fiscal year 2008, both

numbers escalated significantly. Non-traffic cases were up to 235,000, and traffic cases almost reached 600,000. The funding source is the county general fund. There are nine judges who serve both as justice of the peace and municipal court judge in our state.

There are 30 municipal court judges as of January 1. They are also courts of limited jurisdiction. They preside over misdemeanor and traffic cases that occur within the incorporated boundaries of those communities and have very limited civil jurisdiction. These are the statistics concerning non-traffic and traffic cases. As you can see, the numbers for traffic cases, at least, have escalated in those areas. The cities provide the funding for those courts.

Chairman Anderson:

Just a second, I have a lot of new people on this Committee that have not been through this particular question. One of the points we want to keep in mind is that the dollars from the municipal court stay within the city, whereas, dollars collected in both the district court and the justice court can come into the state General Fund, to the permanent school fund. It is an important distinction to draw in terms of funding formulas for different kinds of court functions based upon the filings and some of the other issues that we will be dealing with in other kinds of legislation.

James Hardesty:

We have, in a couple of more slides, some breakdown of administrative assessments and fines, and how that is allocated.

The first specialty court, referred to as a specialty court—at the time, it was referred to as a drug court—was started in 1991 in Clark County. Judge Jack Lehman was the initiator of that court. Judge Peter Breen shortly followed with a drug court in Washoe County. The first rural drug court program was started almost ten years later in 2001. The first mental health court was established in 2001 in Washoe County. Through the auspices of this Legislature, we created somewhat of a stable funding source for specialty courts through the passage of Assembly Bill No. 29 of the 72nd Legislative Session, which increased administrative assessments at the time by \$7 to provide augmentation of funding for specialty courts.

Now, when I use the term "specialty courts," I am primarily referring to drug court and mental health court. As you know, these are courts that are created for diversion. We divert criminal cases to those courts to address drug addiction and mental health disorders. The mental health court, as you can see, is a newer model. You are going to see some presentations tomorrow from me, as part of the Advisory Commission on the Administration of Justice, showing

extensive detail about statistics dealing with the specialty courts within our state, their effectiveness, and what more they could do if they had additional resources.

Suffice it to say, these specialty courts have been the most successful in our criminal justice system in reducing the recidivism rate and making major changes in people's lives. In drug court, there is example after example of people who have successfully overcome addiction and become productive members of society. The statutory structure that this Legislature created when specialty courts were developed allowed these folks to avoid a felony as a reward for their accomplishments in drug court. Mental health court does a similar thing in dealing with those with mental health problems, not only in felony cases but also in misdemeanor cases. This has been enormously successful in allowing people with serious mental health problems to transition, through the supervision of the court, into productive, hard-working people in society.

Mr. Chairman, I want to extend this offer to your Committee. Should any member of the Legislature wish to sit at the bench during a mental health court hearing, or a drug court hearing, or if any one of you would like to sit at the bench during a jury trial, or a family court proceeding, let my office know. We will make arrangements for that. Seeing is believing, and I think you would be astounded at what you would see in 45 minutes sitting on the bench of any court in this state. We will make arrangements for you to do that. I think you will find it to be a very interesting process. I have spoken with all the judges about this, either through email or otherwise, and they are very open to having any member of the Legislature sit at the bench with them, watch the process, and see what takes place. I think you would enjoy the experience.

Chairman Anderson:

Justice Hardesty, this is Mr. Carpenter's last legislative session. In 1989, before I arrived, Mr. Carpenter was already working on the driving under the influence (DUI) statutes of the State of Nevada and set some of the landmark legislation. This ultimately led to the operation of the DUI schools, which then went to the Transportation Committee for discussion. In 1991, when Judge Lehman was talking about expanding his program, Mr. Carpenter and I both happened to be on the Transportation Committee at the time and were able to facilitate that opportunity. In 1995, of course, Mr. Carpenter was helpful in the Interim study on the assessment of court practices on the recidivism rate in the state prison system, which came out with the ultimate discussion of drug courts. This Committee established drug courts in 1995. Mr. Manendo, I believe, that you were involved in that particular part of the process.

This particular Committee has had a long history of direct involvement in the specialty courts. Mr. Carpenter and I have a particular interest in making sure that they continue to receive the necessary support to remain in place as diversionary courts. I have had the opportunity to be in Judge Breen's mental health court and see it in action. I saw the absolute positive energy force that is there. Judge Breen is truly a caring individual. In my opinion, he is not unlike all the judges that I have had the opportunity to see in action in any of their courts. Whenever I see someone throw a stone at the court, I always think fondly of people of Judge Breen's and Judge Lehman's quality.

James Hardesty:

Thank you. I appreciate your saying so, because both of those judges, as well as a number of other judges throughout the state who are committed to the specialty courts, have been very successful. In fact, in the presentations I will be providing to you tomorrow, you are going to see exactly what those courts have generated in terms of work load and effort.

Thankfully, through the efforts of A.B. No. 29 of the 72nd Session, we have now been able to extend drug courts to rural communities throughout the state, which I believe has been a big step forward. We will touch on specialty courts more tomorrow with your permission Mr. Chairman, but here are a few additional statistics. We are all very proud of this, and I think the Legislature can be very proud of this. In 2009, we now have 42 specialty court programs throughout the state. More than 2,700 defendants were treated last fiscal year. Seventy-six drug-free babies were born to participants in the drug court program. The funding for the specialty courts comes from the following services: about \$7 in specialty court assessments through the statutes that you all enacted in 2003, felony bond forfeiture money, and about 12 percent of Judicial Branch general administrative assessment revenue. As you can see, these are the revenue levels in 2007 and 2008 and projected for 2009, 2010, and 2011. We are now up to about \$6 million. Tomorrow you will hear, however, that we still fall far short of the revenue needed to meet the needs for specialty courts and for mental health courts, in particular.

Of particular concern to me as Chief Justice is the mental health court in Clark County. It is the largest county in the state; the county with the most need for mental health assistance. And yet, you have the least number of slots. It is an interesting problem. It is one that needs to be overcome, and we will talk about this more tomorrow. The Advisory Commission discussed this at some considerable length. We want to show you some slides tomorrow dealing with the specialty courts and the mental health courts, particularly in Clark County. So much more good can come from some additional resources to

support that court and Judge Jackie Glass, who is the mental health court judge in Clark County, and the work that she is doing.

Here is the location of the specialty courts, drug courts, and mental health courts. For drug courts, both adult and juvenile, we have them in the First Judicial District in Carson City; the Western Region, which covers Carson City, Storey, Churchill, Lyon, Mineral and Douglas Counties; the Second Judicial District, which is Washoe County; the Eastern Region, which is Elko, Eureka, Lincoln, and White Pine Counties; the Central Region, which is Humboldt, Lander, and Pershing counties; the Fifth Judicial District, which is Esmeralda and Nye Counties; and the Eighth Judicial District, in Clark County. I want to mention the judges who serve in these courts because we should all be very proud of them. They have carried on the tradition of Judge Lehman and Judge Breen.

Fortunately, and this ties into another provision we will be talking about, there is the senior judge program. The senior judge program, that this Legislature approved and added funding to in 2005, is the backbone to the specialty courts in northern Nevada. Senior Judges Breen and Blake are the specialty court judges for Washoe County and the western region. If we did not have those senior judges, we would not have specialty courts in Washoe County and in the western region. I just want to emphasize that. Their services are critical to being able to provide those services. We will be discussing additional judges later in this session and throughout the course of this session. The reason for that is we may need to have a plan at some point when Judge Breen and Judge Blake finally decide to hang up the robes. I can tell you, though, that currently neither one of them wishes to do so. They have a zeal for this work, and their effectiveness is enormous.

Until January 1, we were also providing all of the drug court assistance through senior judges in Clark County, as well. New Chief Judge Art Ritchie has undertaken a wonderful initiative by designating a family court judge to take over the drug court in Clark County. You now have a full-time district court judge doing that work. We recognize the importance of transitioning that court to a full-time district court judge. His leadership on that has been very successful.

Chairman Anderson:

Recognizing that Judges Breen and Blake, in the Second Judicial District, allow that particular program to continue on, and recognizing that Judge Breen enjoys doing that to such an extent that I could not imagine him retiring when he did because of his love for the drug and mental health courts, is it as a result of a caseload question that the Second or the Eighth District Courts would not have

the ability to carry on the regular process of justice if there was not a desire of the chief judge of that particular district, or a bench of that district, to dedicate some of their personnel to take on the specialty court problem?

James Hardesty:

Unquestionably. I think the best example of this problem is illustrated by what happened in the District Attorney's (DA) office in Clark County. Because of a limited availability of DAs, Mr. Roger had to pull DAs out of drug court in Clark County. Now, the drug court in Clark County operates very much like the Washoe County drug court, where a DA is not present in the court room during those proceedings. Resources and caseload are factors. There comes a point in time where you have to address the priorities.

As the Legislature and the public ask the judicial system to address dispute resolution in a variety of areas, whether it be medical malpractice, business court, or crimes, you have to have give and take in your judicial resources. The caseload in Washoe County is such that they are better off utilizing their full-time judges for that caseload, currently, especially where we are fortunate to have two judges through the senior judge program that can handle the specialty courts. But we have to have a plan to replace those judges, ultimately, with a full time district court judge.

Chairman Anderson:

Is it that the county itself does not see the value of, or recognize the need for, providing the financial support to make sure the specialty court does exist? When I was looking at drug courts throughout the country between 1993 and 1995, the district attorney's office was very much involved, as was the public defender's office, in the implementation of making sure that they functioned. I was absolutely shocked to see that there was no district attorney involved in the Second Judicial District Court because it was so much different than the models I had seen in other locations. Now, it may be working, but it is a jury-rigged system in that the active involvement of the district attorney in the screening process is not there. This is of great concern to me; making sure that we are getting all of the people into the specialty courts that we feel should be there, even those that are more problematic. We do not want to only take the cream of those people with whom we think we will be successful, which might make the statistical average go up.

James Hardesty:

Actually, we will get into that in some detail tomorrow, Mr. Chairman, with the Advisory Commission's report to all of you. I do not want to leave the impression that the DAs are not involved. Under statute, they have a right to review and screen, and do for people who enter the drug court; however,

resources restrict the ability to have a deputy present in those courts all of the time. In terms of judicial resources, the judges who actually manage these programs, that becomes a strain on the system.

I would like to acknowledge, if I could, Judge Puccinelli, Judge Memeo, Judge Dobrescu, and Judge Papez, who have done a terrific job in the eastern region for drug courts. In the central region, Judge Wagner has been tremendous in handling the docket in Humboldt and Pershing Counties. We are trying to get Judge Montero involved in the drug court and assisting in that area. In Esmeralda and Nye County, Judge Robert Lane has done a terrific job in Pahrump, advancing the drug court there. As you all know, Pahrump is growing, and there is a tremendous demand in that community for this court as well. In the Eighth Judicial District, we had senior judges there, but now Judge Jennifer Elliot is the designated judge.

Business courts have been a priority for the Court. We initiated business court by Supreme Court rule some years ago. Justice Rose, former district court Chief Judge Gene Porter, and I, as Chief Judge, co-chaired a committee that studied business court. The Supreme Court at that time adopted rules that we recommended to create business court. This, I think, is an excellent example of "if you build it, they will come." It has been enormously successful.

I want to mention the committee of the Legislature that studied chancery court. That was a subject that was of interest to the 2007 Legislature, and in the Interim, a committee studied that topic. As a result of the study of that topic, though, the Legislature's committee concluded that the business court model operating in Nevada under the Supreme Court rules is the most effective model for the operation of business court. There were five recommendations that would improve business court in this state and serve to attract businesses to the jurisdiction as a result of the improved jurisprudence through business court.

Here are a few statistics about the business court. In the Second Judicial District in fiscal year 2008, 93 cases were filed, 97 cases were transferred from other departments, 47 were disposed of in that fiscal year, and 87 cases were pending at the end of the fiscal year. In the Eighth Judicial District, 543 cases were pending as of June 2008, 258 cases had been filed, and 137 cases closed from July 1 through December 5. As of December 8, 2008, 770 cases were pending. We have two judges in the Eighth Judicial District handling business court cases: Judge Elizabeth Gonzalez and Judge Mark Denton. In Washoe County, Judge Brent Adams and, as of the first of the year, Judge Patrick Flanagan are handling the business court cases.

One of the recommendations made by the Legislative Committee as an improvement to business court is that the business court judges would do written opinions on discreet important business areas. This is extremely important to the business community and extremely important to business lawyers throughout the state. However, these judges carry other civil and criminal loads and do not have the staff to write or author published opinions. Part of what you will hear about later this morning is a proposal, that the court system is offering to the Legislature, called the Judicial Business Plan. One of the objectives of the Judicial Business Plan is to improve and advance the business court in our state by adding some additional civil judges and staff who can accomplish and meet the business court objectives of the state.

This slide on administrative assessments is in reference to what the Chairman had mentioned earlier. It provides a history of administrative assessments. What are administrative assessments? These are assessments that are imposed by district courts and, mostly, by limited jurisdiction courts on traffic fines. These assessments, as you can see, have escalated over a period of years. The next slide illustrates the amount of the assessment as compared with the amount of the fine that has been imposed. I would be remiss if I did not tell you that the limited jurisdiction judges continually raise concerns about the increase in administrative assessments as a means of funding the judicial system. The Supreme Court shares their concern.

This is not the right way to fund the Judiciary. The problem that exists is that we are now seeing administrative assessments that are equal to or greater than the fines. This does not make sense. The correlation does not make sense. This last fiscal year, we reverted \$2 million to the state General Fund. About a million of that came from budget cuts from the Supreme Court's budget. But about a million of it came from administrative assessments that were greater in collections than the amounts that were budgeted. So, those administrative assessments augmented the state General Fund.

Look at this from the point of view of a limited jurisdiction judge. Their budgets are being cut. Their budgets are restricted, and yet the funds that they are generating through imposed administrative assessments are going to the state General Fund, not to the courts that are generating the revenue. We would hope that at some point the Legislature would revisit this and allow the Supreme Court the authority to control those funds and to grant them back to the limited jurisdiction courts where they could make use of those funds in expanding their programs and utilizing their programs more effectively.

As you can see, the distribution of administrative assessments (on the right hand side) reflect first, \$2 to juvenile court, \$7 to the local court fund, and the

remainder to the State Controller; second, \$10 for court facilities; and third, \$7 for specialty courts. Lastly, there is the fine. Where does the fine go? The school teacher in me wants to pose the question and see if anybody knows the answer. Until I sat on the Advisory Commission, I did not know the answer. Here it is. Article 11, section 3 of the *Nevada Constitution* has all fine money going to the Permanent School Fund. Does anybody know how much money is in the Permanent School Fund? As of June 30, 2008, \$285 million are in the Fund. The *Nevada Constitution* provides that interest only is payable from the State Permanent School Fund for K through 12 education. If I were a legislator, especially on a money committee, I would want to take a look at where that money was going and whether the state could improve on its investment and its utilization. I think it is a topic that ought to be discussed. I hope you will visit this.

Assemblyman Carpenter:

I think there may have been a hint that it is unconstitutional to limit the school fund.

James Hardesty:

Yes, there is a hint. Where do the administrative assessments go? This slide shows you how those administrative assessments are distributed. The Judicial Branch gets 51 percent; the Executive Branch gets 49 percent. Of the 51 percent, 48 percent of that number goes to the Supreme Court, and it is divided between the Administrative Office of the Courts, specialty courts, the Uniform System for Judicial Records, judicial education, and the senior judge program. I want to highlight the issue I was talking about before on the Executive Branch side. As you can see, 32.53 percent of the Executive Branch's share of administrative assessments goes to victims of crime. You would think that all of that money would go to victims of crime. The truth is when they budget this, they set a dollar amount. If there is more in administrative assessments collected than the amount budgeted, that excess does not go to victims of crime. Instead it goes to the state General Fund. The Victims of Crime Fund was "shorted" by over \$400,000 in fiscal year June 30, 2008. We believe the Legislature ought to revisit this issue. It affects each of these accounts when you have excess administrative assessment revenues that are being collected. This is a real phenomenon.

I want to take this opportunity to congratulate and compliment the judges of the Las Vegas Justice Court. I presume that the legislators in Las Vegas are in tune with the press coverage concerning the amnesty program that has taken place in Clark County. It has been an incredible success. The justices of that court have initiated collection efforts for 199,000 outstanding tickets generated in that court. They started this effort back in November. I want to compliment

Judge Doug Smith who was the presiding judge of the court at the time, and now Judge Ann Zimmerman. She and her colleagues have ratcheted this up to another level.

Over the past two weeks, and extended into this week, they have had an amnesty program where citizens have had an opportunity to come in and pay outstanding traffic fines and fees without additional penalties. What has it produced? They have been generating \$300,000 to \$500,000 a day during the amnesty program. This is an enormous benefit to the citizen who owes outstanding tickets, but it is mostly the court system that benefits from the receipt of these dollars. A portion of those payments are administrative assessments that are being collected.

This is a great effort on a part of that court. As of last Friday, Judge Zimmerman reported to me that about 7,000 tickets had been cleared. They have 192,000 to go. Depending on what happens this Friday, they are going to initiate a more aggressive effort. Bobby Gronauer, who is the constable there, and his operation are going to be making house calls on citizens in Clark County to collect outstanding fines, fees, and so forth. I mention this because it is a wonderful example of the effort being made by the judiciary in this state to take a proactive business approach to the management of our docket, the management of our budgets, and the management of our system. I am really proud of the judges that I serve with and their initiation of this effort.

Chairman Anderson:

This collection question has been a nagging problem in front of the Legislature over many sessions. I appreciate your lauding the municipal courts of Clark County, particularly Las Vegas, and their collection efforts. To remind members of the Committee, those fees do not come to the state General Fund but to the City of Las Vegas, which is the way it should operate, as compared to the administrative assessments which we do get. The collection problem is something that we have been concerned about for some time, and we agree with you that it is very innovative of the municipal courts in Las Vegas to do this.

James Hardesty:

It is actually Las Vegas Justice Court that is doing this.

Chairman Anderson:

Oh, I am sorry; I am wrong. If it is the justice courts, then we do get a shot at the money.

James Hardesty:

The state Permanent School Fund benefits, ultimately.

I wanted to briefly describe to you some organizational issues. As you know, the Administrative Office of the Courts (AOC) services not only the Supreme Court but also the state court system. Ron Titus is the State Court Administrator. We are very proud of Ron's work. The role of the AOC is to provide a budget, personnel and technical support, education for judges and court staff, and trial court services. All of the work that they have done has been a major effort to improve the judicial system throughout the state. These slides also show some of the administrative functions, budget preparation, human resources, and Judicial Branch budgets. Here are some of the judicial programs that they administer. Some of the programs include the Court Interpreter Certification program and the Court Improvement program for dependant children. This is a grant that is supervised by the court and by Justice Saitta and her committee for distributing funds for assistance for dependant children.

The AOC technology group has done a tremendous job for the court and court system. We are trying to get all of our courts' technology improved, updated, and usable. We have a long way to go, but we are getting there. A number of courts, especially in the rural counties, have benefited from software and other technology that the court system has made available to them through the efforts of our technology department. The Supreme Court is very close to going to e-filing. In fact, training is being conducted this week for lawyers throughout the state on how to convert to e-filing of your documents with the Supreme Court.

Through the good work of the Legislature last summer, the Interim Finance Committee approved funding for our appellate court case management system. We have case management systems that we are providing to trial courts that would interface with the Supreme Court and allow us to run our operations more efficiently. The Court has a legal division. The senior judge program is the highlight of that division. Justice Cherry is the designated justice who supervises and operates the senior judge program, and, working with the other justices and the Chief Justice, allocates senior judges throughout the system to deal with the caseload of the district courts.

The Judicial Council of the State of Nevada is an advisory policy group that is made up of judges throughout the state. They assist the Supreme Court in a variety of areas, providing advice on rule changes and proposed legislation, and they also assist in identifying potential legislation for past legislative sessions and this session.

I want to highlight some of the commission work of the Supreme Court. The Court has, by order, appointed and designated some commissions. First, the Article 6 Commission is a commission that is comprised of lawyers and laypeople who are examining the entire structure of the court system and revisiting how the court system should be operated. It is called the Article 6 Commission because Article 6 is the constitutional provision that designates the court system. They have already made recommendations concerning the intermediate appellate court and the merit selection process for judges.

Second, the Nevada Judicial Code Commission is a commission that is studying the American Bar Association's model code and updated revisions to the model code that governs judges' conduct in the state. That Commission's report is due to the Supreme Court in about another month and a half, and we will begin conducting public hearings. These are the ethical rules by which judges govern their conduct in the state. There are some significant issues affecting judges' ethical conduct, such as campaign contributions, or sitting on cases where campaign contributions have been made, and a number of other similar topics that the court and Commission are examining.

Third, the Access to Justice Commission is a commission that the court created two years ago. It is co-chaired by Justice Michael Douglas and me. It has been examining how we fund and how we deliver legal services to the needy in our state. The commission has recently completed a legal needs assessment that identifies the substantial legal needs of the poor in Nevada. It is a significant step forward to quantify the extent of the legal needs that exist in our state. The commission has completely examined how we fund legal needs. The most significant funding can come from interest on lawyers' trust accounts. Every lawyer in the state is required to have a trust account, or their firm is required to have a trust account. The Supreme Court made it mandatory that those accounts be in banks that pay interest on lawyers' trust accounts, and the interest from those funds goes to legal aid. I discovered about two years ago, however, that the interest being paid by banks was pretty low in our state. It was, in some cases, 0.001 or 0.005 percent. This commission, over the past year, has made a concerted effort to urge banking institutions to raise the rates being paid on interest on lawyers' trust accounts. We are proud of the fact that 14 banking institutions in this state are now paying 2 percent, which is one of the highest rates in the country right now on lawyers' trust accounts. This will have a dramatic impact on a source of revenue that helps fund legal aid in this state. After a meeting I had with Wells Fargo, I received a voice mail message yesterday. Wells Fargo is now going to be a participant in this program. It is a major step forward in providing funding for legal aid throughout the State of Nevada.

There are two additional commissions that I want to highlight because they relate to the activity of the Judiciary Committee. First, I want to mention the Nevada Supreme Court Indigent Defense Commission. It is chaired by Justice Cherry. I want to begin to put this in context and relate it to something I had indicated earlier about the constitutional authority of the Supreme Court. You will recall that one of the constitutional powers and responsibilities of the Supreme Court is to adopt rules which govern the practice of law by lawyers and set standards and ethical requirements that measure the conduct of lawyers. It is in that context that this commission has been working over the past couple of years.

If I may, before Justice Cherry begins, I just want to tell the Committee and the Legislature that the work of this Commission and the orders entered by the Supreme Court have received national attention. When Justice Cherry finishes his presentation here today, he will be heading to Boston as an invitee of the American Bar Association to make a presentation to the House of Delegates, there, about the indigent defense work that has been done in the State of Nevada. This is a tremendous recognition of our court and of our state. This is clearly an area where the State of Nevada has been innovative.

Michael Cherry, Associate Justice, Nevada Supreme Court:
Thank you Chief Justice.

(Read in part from a PowerPoint presentation, [Exhibit E.](#))

There was some adverse publicity about the indigent defense in Clark County. There was a case called *Miranda v. State*, 101 Nev. 562,565 (1985) that was a murder case where the fellow was on death row. It took years for him to be exonerated. Really, the blame was on indigent defense. It cost the county about \$5 million. Also, there was a problem with the contract attorneys. That is where there is a conflict with the public defender's office, and judges were appointing contract attorneys. We had some adverse publicity, again, on that. The Chief Justice at the time was Bill Maupin. Bill and I served in the public defender's office in the early 1970s and have the best view from the defense point as to indigent defense here in the State of Nevada.

The Indigent Defense Commission (IDC) filed its initial report with the Court in November of 2007. The Nevada Supreme Court's Indigent Defense Order (ADKT 411) called for the implementation of performance standards and the removal of judges from the selection of counsel process, called for all rural counties to use state public defenders, and endorsed the Washoe and Clark Counties' plan to do weighted caseload studies. This was very controversial when we embarked on this area. The situation was that the American Bar

Association (ABA) had established some performance standards and also some caseload standards. We brought in David Carroll from the National Legal Aid & Defender Association to be a consultant. He was very helpful in supplying us with the necessary information to distribute performance standards to the various members of the Commission. There were complaints about judges actually appointing people they wanted to appoint rather than the best attorneys, so we decided that we needed to do something. Drew Christensen is here with me in Las Vegas. He is the Director of Appointed Counsel in Clark County. A fellow named Bob Bell is doing it in Washoe County. Of course, we had to do something a little different in the rural areas, which I will get to later.

Unfortunately, there were some objections filed with the Court by several groups. One of the mistakes we made when we first established the Commission was I overlooked the fact that we needed to have some district attorneys and some rural judges involved in this. I must say, one of the smartest moves we made was involving the rural judges, thanks to Justice Hardesty, who was the intermediary, and John McCormick, who has a great relationship with the rural judges. We were able to get some DAs involved: Nancy Becker from Clark County, Richard Gammick from Washoe County, Jim Shirley from Pershing County, and some other DAs. They were very helpful with their input. We had Dan Papez from White Pine and Richard Wagner from Lovelock and Battle Mountain. These two judges did an outstanding job. A lot of times, it is the rural counties versus the urban areas, but this is not the case here. Here, everybody was working hand-in-hand to make the best possible report that we could. Thanks to John McCormick who has been an invaluable staff member from the AOC in helping us out. This man is the most respected person in the rural areas. He makes my job very easy. In fact, recently everybody who had commissions wanted John McCormick to be their person. I said you cannot take him, but he is working now with the Chief Justice on legislative issues. He is still very active here in ADKT 411.

After a hearing on the objections, an order was issued on March 21, 2007. The order required that new members be added to the IDC, the performance standards be reconsidered, and the rural subcommittee be reconstituted to reexamine the issues in rural Nevada. We had a meeting up in Lake Tahoe. Richard Wagner and Dan Papez did a fabulous job of coming up with a preamble which satisfied the district attorneys and some of the other folks on the commission. Performance standards were necessary. We are going to add to indigent defense here in the State of Nevada.

The district attorneys and the defense bar worked with the IDC to revise the performance standards. Let me give kudos to Franny Forsman, the Federal

Public Defender, and former Justice Nancy Becker, who is now Chief Deputy at the Clark County District Attorney's office. These two ladies worked exceptionally hard to make sure the performance standards were acceptable, not only to the defense bar, but to the prosecutors. It helped with the rural subcommittee when they reconvened and developed refined recommendations. That subcommittee was co-chaired by John Lambros, who is from the Federal Public Defender's office, and District Judge Dan Papez.

Clark and Washoe Counties, and the cities in urban jurisdictions, formulated and began to implement plans to remove judges from the process of appointment for conflict counsel and to reform their contract attorney systems. That is where Bob Bell and Drew Christenson took over to help facilitate when there were conflicts between the public defender's office and contract attorneys who would offer their services. This was very satisfactory to those who felt that we were not doing a very good job when there was a conflict with the public defender's office. There are those who felt that judges were appointing their best friends, and there were calls of corruption, which were untrue. So, we cleaned up the system very well to make it like Caesar's wife. We are still looking at issues in Washoe County. Some of the judges are not quite satisfied with the system as it works there, but we are going to work with Washoe County.

Chairman Anderson:

We will have a more thorough discussion when this Committee takes up Assembly Bill 45. It was going to go to Government Affairs, but we decided it would probably fit a little bit more comfortably over here. We thought that judges would feel a little bit better about it in the Judiciary Committee rather than Government Affairs. If you use a contract attorney, then, obviously, there is a billing cycle that happens. Are they more expensive than the public defender's office? Is there a cost differentiation? Do you set the same hourly standard as the public defender's office?

Michael Cherry:

It is going to be a completely different situation. It is a monthly stipend. There were claims that contract counsel was pleading too many people guilty because it was too expensive to go to trial for them. We had a committee from Clark County, headed by District Judge Stu Bell, which decided that not only would defense counsel have a contract where they would represent the folks, but if they, in fact, do go to trial, there is added compensation on an hourly basis. Otherwise it is monthly compensation.

Drew Christensen, Clark County Director of Appointed Counsel:

Mr. Chairman, you had some questions concerning the payment structure we do here in Clark County. It is a bifurcated process. Justice Cherry was correct. We pay a monthly stipend to approximately 37 attorneys. We track them through the judicial department that exists here in Clark County. Depending on the complexity of the case and the issues that may arise that tell us that there is a lot more work that needs to be accomplished, we will agree to pay them the statutory hourly rate of \$100 an hour. That is also true for all prosecutions where the state is seeking a life sentence punishment or the death penalty. There are various charges that encompass those types of punishments, and so, from the start, we pay them the hourly stipend of \$100 an hour. It is a combined process to take away some of that original criticism that there was no incentive to do any work on the case because you got a flat monthly fee.

Chairman Anderson:

I hope you make yourself available when A.B. 45 is scheduled for hearing so that we can discuss this particular part of the fee schedule in greater detail. I have two bills today, and I want to make sure I have an opportunity to get to them.

Drew Christensen:

I will definitely make myself available.

Michael Cherry:

On July 8, 2008, the Supreme Court ordered that the performance standards be reworked and that they be reviewed by the rural subcommittee. The court stayed the implementation of the standards until October 2008. On October 16, 2008, the court issued the order setting the final performance standards to be implemented in April 2009. We needed more time to make sure that there would be some continuing legal education on performance standards so that folks would have a chance, both prosecutors and defense attorneys, to understand the performance standards. They will not have an impact on ineffective assistance of counsel under *Strickland v. Washington*, 466 U.S. 668 (1984). We had legal analysis of that by David Carroll from the National Legal Aid & Defender Association and Franny Forsman, Federal Public Defender; we had case studies where *Strickland* was not affected by the fact that a state or a court adopted performance standards. We are looking forward to April 2009 when these standards will go into effect. They are meant to be suggestive, only, rather than mandatory, so that gets us around any problem that *Strickland* may be applicable if somebody breaches the performance standard. Still, we give much discretion to anybody who represents a criminal defendant. I did it for 28 years, and there is really no bible for how you represent somebody charged with a crime. You still have to do many things that the defendant

requests per caseload. We have to be very careful about that. Also, we granted Clark and Washoe Counties' request that they be given to May 2009 to complete their weighted caseload studies. We are waiting for the analysis of that to determine what the actual caseloads are.

At this point, I want to thank John Berkich from Washoe County and Jeff Wells from Clark County. These are folks in the county manager's offices. They have been super to come up with the dollars they needed for this weighted caseload study. This is a very expensive proposition. They picked the Spangenberg Group, which does caseload studies and is very familiar with indigent defense here in the State of Nevada. That is moving along rapidly, and we should have a report very shortly.

On January 6, 2009, the Supreme Court had another hearing, and the rural subcommittee presented its final report. Washoe and Clark Counties are on track to complete their study by May. We anticipate another order will be issued by the Court in reaction to the rural report. The rural subcommittee has made some interesting recommendations. These will definitely affect the legislative session this time. The rural subcommittee presented five recommendations. Recommendation number one: the State of Nevada should accept its constitutional responsibility and totally fund indigent defense services in every county via reimbursement. That way you could still have the public defender's offices in Elko, Clark, Washoe, and any other county that decided to have a public defender's service. It would be reimbursed; instead of the county picking up the whole tab, the state would pick up the tab. Everyone asks me, "How are we going to do this in this economic climate?" That is the question that I am turning over to the Chairman and the various Legislators in the State of Nevada.

Recommendation number two: each county would remain free to choose its own indigent defense delivery model, provided that the model complies with the performance standards and any contemplated caseload standards, and is subject to the oversight of an independent board. Remember, this is the rural subcommittee that is coming up with these recommendations.

Recommendation number three: the state must create and fund an independent oversight board to ensure accountability and independence for public defense. Again, we would be taking judges out of selection and using people like Drew Christensen and Bob Bell. We would have an exception, of course, in the rural counties, where there are a limited number of attorneys from which to select. We would have to have a different type of selection process in the rural areas as opposed to the urban areas. This is what is recommended by the National Legal Aid & Defender Association and the ABA.

Recommendation number four: the Supreme Court should adopt the rural subcommittee proposed language regarding the appointment of counsel and payment of fees in rural Nevada to ensure the avoidance of the appearance of impropriety. We want to make sure that when the public looks at this whole system, they will know that this is a very moral and legal method of providing indigent defense services.

Recommendation number five: the Nevada State Public Defender's Office must be completely and totally funded by the state and must be independent in the Executive Branch. I think right now it is in the Department of Health and Human Services or something like that. It needs to be independent and funded. Unfortunately, it is not funded very well, and many of the counties have decided to forego use of the State Public Defender. We need to build up their reputation and their ability to provide services.

The State Public Defender's office has never been adequately funded since its inception, nor has it had adequate staffing or training. It does not have the necessary independence as part of the Department of Health and Human Services. We are going to make it independent of the Executive Branch and make it a better method of delivering indigent defense services throughout the state.

When I first became the Special Public Defender of Clark County in 1997, the State Public Defender had that position, first, to work out the conflicts with the Clark County Public Defender's Office on homicide cases. It just was not working out. They did not provide the services. It was to my benefit; I became the first Special Public Defender, Phil Kohn followed me, and Dave Schieck followed Phil Kohn when he became Clark County Public Defender. Certainly, we found that the Special Public Defender can deliver some great services along with the Clark County Public Defender. Then, if we had the State Public Defender, that would cut back on contract attorneys because we would have a third delivery service here in Clark County. We could probably have it throughout the State of Nevada if it was adequately funded.

One of the most interesting things about the rural subcommittee report is that politics makes strange bedfellows, and so do Supreme Court commissions. The Nevada Association of Counties (NACO) has become a real ally to us. They have offered a bill to require the state to fund indigent defense in full. The NACO folks have been very helpful to my commission. I really thank them. The report from the rural subcommittee contains a white paper regarding the delegation of the funding responsibility to the counties, authored by several national organizations. The current delivery of indigent defense services in

Nevada costs approximately \$46 million. We are looking to make sure that the state would have to pick up the tab and fund indigent defense, per *Gideon v. Wainwright*, 372 U.S. 335 (1963).

A lot of people say, "well this is like an unfunded mandate." *Gideon v. Wainwright* was a tremendous unfunded mandate, but it was constitutionally-based. Again, indigent defense is very important. When Bill Maupin was Chief Justice, he saw there was a problem. Many of the publications and newspapers in the various counties saw there was a problem. The judges saw there was a problem. NACO saw there was a problem. Even the DA's office saw there was a problem because it is very expensive when, unfortunately, cases are reversed, and they have to be retried years later. It is not a great service to persons who are victims of crime. They do not have the closure that is necessary; the finality when the cases are tried correctly.

I would like to thank Chief Justice Hardesty for allowing me to make this presentation and for the support he has given to allow me to continue to chair this Commission. Our next commission meeting is February 20, 2009. We will be talking about various issues, including where we go from here.

Chairman Anderson:

Thank you for your hard work on this, Justice Cherry, and I appreciate the hard work of everyone on the Commission. Thank you to the Chief Justice for taking time to come here. Obviously, he considers it a very important part of the overall workload and responsibility of the court. I know we will be dealing with this issue when we look at A.B. 45 and its many potential problems for the counties, rural areas, and the large municipal areas in the state.

James Hardesty:

Mr. Chairman, I would just like to augment two things from Justice Cherry's presentation. You, as Legislators, need to ask yourselves a question. Is it appropriate for the State Public Defender's Office to be servicing only two counties in this state? Why is that? Is that creating an effective delivery system of indigent defense? This issue is a very serious issue this Legislature must address.

The delivery of indigent defense services can be accomplished more efficiently and more effectively. It does not make sense to have the counties and the state abandoning the use of the State Public Defender's Office because of underfunding, lack of training, and inability to respond. I think that is a major issue. By the way, I know Justice Cherry and I have great confidence in Diane Crow from Washoe and Lyon Counties. She is a wonderful lawyer and person, but you cannot have an office doing the kinds of things they need to do

with the responsibilities they have, while being underfunded and undertrained the way they are. This is a major issue that needs to be addressed by the Legislature this session.

Mr. Chairman, I would like to turn to the Commission on the Preservation, Access, and Sealing of Court Records (ADKT 410).

Chairman Anderson:

Mr. Justice, I think that, in fairness to members of the Committee, we probably need to take a five minute break.

[Five minute recess. Chairman Anderson reconvened the Committee.]

Chairman Anderson:

It is the Chair's intention to take up Assembly Bill 63 today, and I would like for us to have an opportunity to approach the questions relative to Assembly Bill 65; however, in the interest of time, I want to make sure there are about 50 minutes left to us and that we have a thorough discussion of at least one of the pieces of legislation. Justice, I do not want to take any more time so we can finish the important parts of this bill in the very beginning.

James Hardesty:

Mr. Chairman, if you repost A.B. 65, that is fine. We will be back. It is not a problem.

This Committee is very familiar with the concerns expressed in 2007 about district court judges sealing court records, particularly in Clark County ([Exhibit F](#)). The concern expressed was that the entire file was being sealed, including the existence of the file. The Legislature looked at that question and considered a bill that would address it, but there was recognition that this would create a conflict in the separation of powers. The Supreme Court, in response to the concerns expressed by the Legislature, appointed a commission to study this subject and, also, the greater subject of: how does the court handle, preserve, retain and dispose of its files? Not the most interesting subject in the world, but very important in terms of history and public access to the judicial files and judicial system. The commission embarked, first, under the co-chairmanship of Judge Brent Adams and me, to look at the sealing of records and the sealing of files. Under the Supreme Court's rule-making authority under *Nevada Constitution* Article 6, Section 19, the Chief Justice, as the administrative head of the Judicial Branch, and subject to the rules adopted by the Supreme Court, can make rules necessary to regulate civil and appellate practice. The commission met on several occasions. It included lay representatives, including the Chairman of this Judiciary Committee. At the

conclusion of the work of the commission, a rule was adopted by the Nevada Supreme Court in January of 2008 governing the sealing and the redacting of court records.

The most important part of the rule is that we prohibit any super-sealing of records. A judge cannot seal a civil court file and obliterate, in effect, its existence by sealing the file, the docket number, and the existence of the file. Furthermore, a judge cannot seal contents of a file without holding a hearing, first, to determine whether there is a legitimate, statutory, or common law basis for sealing the portions of the file. In sealing portions of the file, the court must enter written findings that support the ruling that seals the file and provides a basis for anyone who objects to the sealing of that portion of the file to appeal that determination to the Nevada Supreme Court. This provides a uniform procedure for sealing and redacting civil records in civil cases. It does not apply when a specific *Nevada Revised Statute* (NRS) is in place, such as in criminal cases where the sealing of criminal files is prescribed by statute.

The commission also addressed the sealing of records under certain justice court rules of civil procedure. It addressed the protection of records for medical, tax, and identification issues. It protects intellectual property rights and proprietary interests. A judge is permitted to seal records when justified or required by compelling circumstances. As I pointed out earlier, the sealing of records cannot occur with respect to the entire file, and only after findings have been made.

In the fall of 2008, the commission began to address the broader subject of the retention and the access issues relating to court files. The commission is now examining how the various files of the judicial system are catalogued and defined. We have broken those down between administrative records, such as court's budgets, payroll records, and the management of the court, and adjudicatory records such as what is contained in the court files, pleadings, evidence and the like. We are addressing the subject of the retention period for those administrative records and adjudicatory files: when they should be destroyed, what portions should never be destroyed, and how they should be preserved. We are also addressing the technology issues, which, as you know, are ever-changing, in how you address the computer portions of those files. The commission is also very concerned about the practice of microfilming files, which has always been the case. We are now getting to a point where files microfilmed 35, 40, 45 years ago are now subject to being lost because the microfilm cannot preserve those files. We are also concerned about where court files are stored. Counties throughout the state are losing storage space. The environment in which those papers are stored can have a lot to do with whether they are restored at all. We are suggesting that the Legislature

consider utilizing the State Archives Office as a repository for court records submitted on a voluntary basis, which is a much more uniform and protected environment for the preservation of important court files and records throughout the state.

The commission is also examining the historical value of certain court records. There is some tremendous history throughout our court files, much of which could be lost if appropriate retention and storage methods are not examined. The commission is also looking at policies regarding the retention of objects lodged with the court and evidence lodged with the court. The evidence lockers in our state are of enormous concern to the judicial system and the Supreme Court. We invite all of the members of the Judiciary Committee to go take a look at the evidence lockers in Washoe County or Clark County. It is quite a visit. You would be shocked. Some of the stuff that is down there is rather amazing. If you are in a lawsuit, you would think that evidence is going to be preserved. Well, how long is it to be preserved? You will hear from me tomorrow about the recommendations of the Advisory Commission on the retention of biological evidence, such as deoxyribonucleic acid (DNA) samples and the like. How is that evidence being retained? It is particularly important when you take into consideration the efforts of the Innocence Project; being able to go back and access evidence and to cross-check against old DNA samples that existed but were never tested. So, these are very important subjects for the Legislature to take into consideration.

James Hardesty:

On the issue of accessibility of court records, the commission is examining what court records should be available online; what fees should be charged, if any, for access to those records; who should have access to electronic court records; and policy issues regarding the availability, use and dissemination, and ownership of data that are mined from the court records. This is a serious problem. You have companies that come in and mine the court records for data and information to use as part of their marketing or other purposes. Some purposes are appropriate, others are not.

The commission is also examining what types of information should be provided to data miners, who ultimately owns court information once it has passed from the possession of the third party to the court itself, and how technology differences in different courts will impact access and distribution of electronic records. This is an evolving process. The commission has a lot to do over the course of the next couple of years on this subject. I would not expect a lot of legislation to come before the Legislature this session on this topic, but, certainly, access to court records and preservation of records might be

something that one could consider in the context of the State Archives Office. That is the activity of the preservation and the retention of records commission.

My main point in making this presentation to you is that I feel the commission and the Supreme Court addressed a major concern identified by the press, this Legislature, and this Committee, specifically. The practice of district court judges super-sealing court records has been discontinued by order of the Supreme Court.

Chairman Anderson:

[Entered [Exhibit G](#) and [Exhibit H](#) into the record.]

James Hardesty:

The two cases distributed to you are recent opinions of the Supreme Court that address the constitutionality and implementation of the DUI diversion legislation that this Legislature approved in 2007. There were significant legal questions surrounding the DUI diversion program. These cases resolve those questions. It is informational more than anything else. It makes clear that the rural counties now are in a position to address DUI and diversion issues like the urban counties are.

Chairman Anderson:

I would ask that our legal counsel, Mr. Anthony, would review these cases so that the Committee is fully apprised of where they might have application to the proposed legislation we are dealing with. Do you have any concluding remarks regarding the overview of the legislation?

James Hardesty:

I would like to thank the Committee for your patience in extending to the Judiciary an opportunity to give you this overview. Once again, I extend an invitation to sit on the bench and watch a case. I also extend to each of you an invitation to call me, personally, with any questions or request for data that you may seek during the course of the session. Thank you.

Chairman Anderson:

Let us open the hearing on Assembly Bill 63.

Assembly Bill 63: Makes various changes to provisions regarding justice courts.
(BDR 1-398)

Chairman Anderson:

It is a piece of legislation requested by the Supreme Court. Justice Hardesty, we see that with you today is Mr. Graham, who, I believe, is the designated hitter for the Administrative Offices of the Court, and from Las Vegas Justice Court your colleague, Judge Saragosa. We will allow you to do the introductions.

Ben Graham, representing the Administrative Office of the Courts, Las Vegas, Nevada:

I am Ben Graham, here on behalf of the Administrative Offices of the Court. I will defer at the moment to Justice Hardesty and Judge Saragosa. Thank you.

James Hardesty, Chief Justice, Nevada Supreme Court:

This slide shows you an overview of A.B. 63.

[Read from slide 13 of a PowerPoint presentation, page 7 of [Exhibit I](#).]

It is a bill that is of enormous importance to the limited jurisdiction judges, and, particularly, to the Justices of the Peace in Las Vegas, for improving the efficiency and operation of their courts. It is my privilege to introduce to you Justice of the Peace Melissa Saragosa, who is from the Las Vegas Justice Court. A very talented judge, she is going to offer you testimony in support of this bill.

Melissa Saragosa, Justice of the Peace, Las Vegas Judicial Court, Las Vegas Township (Department 4):

While this bill pertains to all limited jurisdiction courts, it is of particular importance, in my opinion, to the Las Vegas Justice Court. The Las Vegas Township Justice Court is the busiest justice court in the state with a reported 14,641 non-traffic case filings per judicial position. The state average is 3,921. We believe this legislative change is needed to give justice courts flexibility in dealing with that overwhelming caseload. We are seeking this enabling language to provide us a tool in our case management capability that will, hopefully, provide us some relief in an already overstressed system. Authorization of a master by our Board of County Commissioners can offer a court with options to redirect certain case types to be heard by the master, thereby enhancing access to justice efficiency and consistency in rulings. Between fiscal years 2006 and 2008, the Las Vegas Justice Court saw an increase in general civil filings of 25 percent, a 22 percent increase in small claims filings, and a 56 percent increase in nondomestic violence temporary protective order filings. While we have seen a 3 percent decrease in summary eviction filings, we have seen an increase in the formal eviction filings, which are part of our general civil caseload. Between calendar year 2007 and 2008,

we saw an increase of 140 percent in those formal eviction filings. The actual filing numbers increased from 1,798 to 4,311.

These numbers demonstrate the strong need for some options and flexibility in managing our caseload to meet the needs of our customers. Some of these case types have statutory time constraints that may be met more efficiently and with increased consistency if handled by a master. Currently, the district courts are authorized the use of masters for a variety of judicial duties. The Eighth Judicial District Court utilizes masters for alternative dispute resolution, discovery commissioner, probate commissioner, child support, juvenile delinquency, domestic violence temporary protective orders, and others. A.B. 63 would enable our Board of County Commissioners to authorize the appointment of a master to perform similar judicial duties within the jurisdiction of the justice court and as approved by rules of the Supreme Court.

Finally, I would like to address the need for this legislative change to provide for the potential use of a master to perform judicial duties on misdemeanor traffic offenses. In the 2007 Legislative Session, Assembly Bill No. 514 of the 74th Legislative Session was passed. That bill created section 4.040. That allowed the Las Vegas City Council to amend its charter and appoint hearing commissioners to hear misdemeanor traffic cases. That section empowers such a hearing commissioner with all the powers and duties of a municipal judge and magistrate, pursuant to the laws of the state. The Las Vegas Justice Court is seeking that same authority for a master to preside or hear its over 200,000 misdemeanor traffic cases filed per fiscal year. Currently, we have a process that can use referees under NRS 4.355. It is a little bit more of a cumbersome process, and it would then be a different authority than the municipal court judges have that handle the same type of traffic offenses. I believe that this approach would be consistent with a municipal court traffic master and would provide a greater efficiency in our traffic caseload. It would also enable us to streamline the process so that all misdemeanor traffic offenses are heard in one area. Currently, the way the referee statute is drafted, there is a process by which a person who proceeds to a traffic trial in front of a referee would file a formal objection; then that case would be heard again *de novo* in front of the Justice of the Peace. We are seeking to use a master. That would eliminate that particular process for traffic offenses.

Thank you for your time today and allowing me to speak on this particular bill. I would be happy to answer any questions.

Assemblyman Carpenter:

In Clark and Washoe Counties, the master would have to be an attorney? Do you think you would be able to recruit an attorney to work for the amount of money that the County Commissioners would be willing to pay?

Melissa Saragosa:

I am not sure that I know what the County Commissioners would determine that position would be paid, but I would say that, with the salary they have authorized for the masters that are used throughout district court, we have had no problem recruiting attorneys to hear those types of cases. I do not believe it would be a problem in our jurisdiction to find eligible applicants for such a position.

Chairman Anderson:

Might I suggest, Mr. Carpenter, that if we were to move with this piece of legislation, we would want to clarify that the requirements for serving in one of these positions would be similar to those that are either set by state statute or by municipal code.

Assemblyman Carpenter:

Why would you not want to have these people hear a first offense DUI? It is not a felony, it is just a misdemeanor. Why should they not be able to do that? It seems to me that a lot of those matters that come before the court are first offense DUIs.

Melissa Saragosa:

It is true, sir, that many of the misdemeanor criminal offenses that do come before us are DUIs. It is my opinion that those are particularly sensitive cases. Particularly, DUI offenses carry a requirement to have an evaluation done if they are 0.18 or above. The recommendations that are made on those cases give us far greater insight as to the potential problems that defendant may have. It may be a first time offense. It may be someone who has a greater need for judicial oversight of that case, that sentence, and whether or not that person is an appropriate candidate for a diversionary program. In Clark County, we have a DUI court program in the Las Vegas Justice Court. It is my opinion that those cases are more appropriately handled by the elected official. They are very sensitive cases.

James Hardesty:

A first time DUI offense, on the surface, may sound like a straightforward proceeding that can be handled by a master. But DUI offenses have enhancement risks. Subsequent offenses create and escalate a person's criminal responsibility to a felony. In determining whether that third offense

reaches the felony status, the court has to examine the constitutional standards surrounding any plea or adjudication of the very first DUI offense. We think it is better handled by an elected judge, since it has such serious later enhancement qualities.

Chairman Anderson:

I would point out that there is an opportunity for first time DUIs and other kinds of hearings to be sent to a diversionary court, like a drug court or other courts. Thus, that would keep intact that collegial relationship, knowing what is going on in the other programs.

Assemblyman Ohrenschall:

You brought up the skyrocketing number of evictions in Las Vegas Justice Court, and I wondered, do you foresee the masters dealing with these evictions? Will they need any special training if they are dealing with these evictions?

Melissa Saragosa:

I definitely think that for any area that we anticipate a master covering, there would be training in that area. That is also incorporated within the bill, section 1, subsection 3. The Supreme Court would establish a training program or a rule that would give a course of instruction for the elements which that particular master may hear. So yes, we anticipate instruction in any such areas. At this point in time, I think that all of those various areas are possibilities; specifically, my Justice Court would love to be able use a master in traffic. We would love to have that enabling language to give us the opportunity to use a master when we see a surge in a particular area that we might identify as a need. The masters anticipated in this bill do not necessarily have to be permanent employees. It could be a temporary employee who would address a temporary problem, such as this surge. However, I do not think we have any specific plan in place right now to use them for formal evictions.

Chairman Anderson:

If, in utilizing this statute, would it be possible to serve in this capacity without having had the training already from the court? That might raise a certain level of concern. I note that in section 1 of subsection 2, you do address in the bill, in lines 11 through 14, the general nature of qualifications, which are similar to that of a sitting judge. But the question revolves around the training application, which is a very important element of the confidence level of using somebody that has not been elected by the public to serve in this capacity, where we do expect that person is going to take a training course within a certain period of time.

James Hardesty:

The bill provides for training to be established by Supreme Court rules. The Supreme Court is going to be very interested in these masters—how they are trained, how they are utilized in their function—as a part of the overall system. This will be a significant topic, and I think we need to be flexible through the Supreme Court rules as to what kind of training we utilize. The Supreme Court has had some reservations about some of the training that our judges are currently being sent to. As a consequence, the Supreme Court is reexamining the course type and curriculum of all of the various courses that judges are getting. This is an area that will be examined in the course of the rule development, should you pass this bill.

Assemblyman Carpenter:

How long do you currently allow, after the election of a judge to a position, before they have to take training?

James Hardesty:

For limited jurisdiction judges, I do not know if it is mandated. For district court judges, it is within a year at the judicial college.

Melissa Saragosa:

When I took the bench in January 2007, I was required to go to a two week course at the National Judicial College held in Reno. The course pertains to limited jurisdiction judges and is an overview of everything. I believe that was required at the time by the Administrative Office of the Courts. If not, I went anyway. I believe we send all of our new judges. Our two new judges are planning to go within the first six months. I think they only offer that course about two or three times a year.

James Hardesty:

Statutorily required for both sides, but we will check on the time of it. I think it is within one year.

Chairman Anderson:

I guess there is a concern about making sure these people are well-trained.

James Hardesty:

Correct. What I was referring to earlier, though, was actually the type and quality of the instructions being given, even within the mandatory required time. We were concerned with that curriculum, and the Supreme Court is about to require all of the judges in the state to attend a separate new Nevada Judicial College. We have been working on this curriculum where every judge in the state will be required to receive training every two years, regardless of how long

they have served as a judge. One of the weaknesses we currently have in our system is that once you have gone to the judicial college, there is no requirement that you go back. We want every judge to have to go to school for a week every two years on Nevada-specific subjects: evidence, rules of civil procedure, and, in this kind of circumstance, subjects relating to traffic, landlord-tenant, or eviction issues.

Chairman Anderson:

This particular Committee is painfully aware, as I am sure the Administrative Office of the Courts is aware, of an incident several sessions ago when one of the judges indicated he was not aware of the statutory requirement for counseling in domestic violence. We were all somewhat surprised that he had not attended a conference on that subject, only to be reassured by the Administrative Office of the Courts, that such an attendance at a conference had, in fact, taken place and there had been an attempt to include all judges in that. Do we need to put something statutorily into place to reassure the public that the people whom they elect to these positions are indeed mindful of the statutory requirements of the office? It is a very daunting task, no doubt. I think we are all very aware of that.

Assemblyman Carpenter:

I see that you have changed the situation in regard to the referees. In certain traffic violations, it says the parties do not have the right to file a formal objection pursuant to the subsection. I do not understand, I thought we had the right to file an objection in most cases.

Melissa Saragosa:

The language that is proposed in the referee portion is to address those cases in which a plea is taken and the referee is not hearing testimony. He is not making any findings of fact or conclusions of law pursuant to testimony being taken. Rather, it is a negotiated case or a plea that the referee is taking and then sentencing a traffic offender to whatever sentence may be appropriate in that particular case. It is designed to eliminate the formal objection process for those cases that are negotiated cases or simply pleas of guilty, not one in which testimony was taken. Aside from that, it is anticipated that the general appeal right of any defendant would still be in place. They would have the ten-day period to appeal under NRS 189.010. Typically, on a guilty plea, there are only certain situations under which someone can appeal. That may be filing a motion to withdraw the guilty plea in lieu of making an appeal.

Chairman Anderson:

We want to make sure that, in the canvassing of someone who has been adjudicated, or who has agreed to a plea bargain, that their right to appeal is not

being taken away from them. If we need to clarify this in the language, we will take a look at it. It would make us all feel a little more comfortable, in case one of these people gets a little carried away with something other than first-time DUI.

Melissa Saragosa:

We would be happy to take a look at that, as well, and make any proposed amendments to clarify that issue.

Ben Graham:

Those of us who are here every day stand ready to cooperate and work with the staff and the Legislators in constructing this, as needed. Thank you.

Chairman Anderson:

Anyone wish to speak in favor of A.B. 63? Anybody to speak in opposition to A.B. 63? Anybody neutral on A.B. 63 and wants to get it on the record? Let me close the hearing on A.B. 63. Let me indicate to members of the Committee that it is the intention of the Chairman to entertain a potential motion on A.B. 63 at our first work session, which I have tentatively, with the cooperation of the other morning Chair, envisioned as coming up a week from Thursday.

Let us then turn our attention to Assembly Bill 65.

Assembly Bill 65: Provides for the collection and disposition of additional court fees. (BDR 2-372)

We will not be taking action on A.B. 65 today, but I want to get it open for the record so we can begin to process it.

James Hardesty, Chief Justice, Nevada Supreme Court:

Let me try to summarize A.B. 65. You will hear, later, a presentation by the court system characterized as the Judicial Business Plan ([Exhibit J](#)). This is a plan which asks the Legislature to revisit the civil filing fees, a task that has not been done since 1993, and to bring our civil filing fees up to standard in comparison to other jurisdictions in the state. With the revenue generated from those funds, to designate those funds in support of additional judges needed in the Eighth Judicial District and the Second Judicial District, and to provide funding for rural counties who desperately need additional revenue sources to assist them in their technology, courthouse renovations, and facility needs. That is the nature of the Judicial Business Plan. We think it is a responsible approach to a very desperate need for access to justice in the State of Nevada.

Chairman Anderson:

I believe that this is the first time that the business plan has really been presented for public scrutiny. We would make it part of the public record for today.

James Hardesty:

Mr. Chairman, if I may, for the record, the chief judges of the Eighth Judicial District and the Second Judicial District are with me today and will be with us as we progress. Let me introduce Art Ritchie, Chief Judge of the Clark County District Court, and Connie Steinheimer, Chief Judge of the Second Judicial District Court. They are very familiar with the plan and have spent hours with their staff developing it.

Chairman Anderson:

I will note, for the record, that Judge Steinheimer from the Second Judicial District Court and Judge Ritchie from the Eighth Judicial District Court are with us this morning. Let me indicate to the members of the Committee that we will take this up again when we have an opportunity to put it into our calendar. Thank you.

Jeff Wells, Assistant County Manager, Clark County Manager's Office, Las Vegas, Nevada:

The county has been working directly with the Eighth Judicial District and Justice Hardesty, and we support the broad concept of what is being proposed in their business plan. We leave it to you folks for the policy decisions on the dollar amount of the fees that are coming forward. We do have a series of suggested amendments. We have been working with them on those amendments. We wanted to make it clear that, while we support the concept, we do not yet support the bill. It is subject to some amendments that we are seeking.

Steven H. Osborne, President, Nevada Justice Association, Reno, Nevada:

We are very cognizant of the concerns of the Supreme Court as well as the district courts. We do appreciate the goals that were outlined and addressed by Chief Justice Hardesty. Our primary concern is the access to justice and the fairness to litigants. We understand that this needs to be balanced with the needs of the courts to have additional judges. We have met with Chief Justice Hardesty as well as Second Judicial District Chief Judge Steinheimer this morning. We are encouraged by their comments and are very optimistic about working with them. Thank you.

Chairman Anderson:

Mr. Osborne, do you have any suggested amended language?

Steven Osborne:

I do not have this time. I would like to speak with the Chief Justice as well as the other judges to discuss the specifics.

Chairman Anderson:

Anybody else need to get on the record? We are adjourned.

[Meeting adjourned at 11:05 a.m.]

RESPECTFULLY SUBMITTED:

Robert Gonzalez
Committee Secretary

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: February 11, 2009

Time of Meeting: 8:07 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Jennifer M. Chisel, Research Division, Legislative Counsel Bureau	Sex Offender Tier Classifications in Nevada
	D	James W. Hardesty, Chief Justice, Nevada Supreme Court	Judicial Branch Overview
	E	Michael A. Cherry, Associate Justice, Nevada Supreme Court	The Nevada Supreme Court's Indigent Defense Order (ADKT 411) – An Overview
	F	James W. Hardesty	Commission on Preservation, Access, and Sealing of Court Records (ADKT 410) – An Overview
	G	James W. Hardesty	Stromberg v. Dist. Ct. 125 Nev. Ad. Op. No. 1 (2009)
	H	James W. Hardesty	Savage V. Dist. Ct. 125 Nev. Adv. Op. No. 2 (2009)
	I	James W. Hardesty	Nevada Judicial Branch Bills 2009 – An Overview
	J	James W. Hardesty	Nevada's Judicial Business Plan