

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fifth Session
February 20, 2009**

The Senate Committee on Judiciary was called to order by Chair Terry Care at 8:36 a.m. on Friday, February 20, 2009, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Terry Care, Chair
Senator Valerie Wiener, Vice Chair
Senator David R. Parks
Senator Allison Copening
Senator Mike McGinness
Senator Maurice E. Washington
Senator Mark E. Amodei

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Bradley A. Wilkinson, Chief Deputy Legislative Counsel
Judith Anker-Nissen, Committee Secretary

OTHERS PRESENT:

Howard Skolnik, Director, Department of Corrections
Patrick Conmay, Inspector General, Department of Corrections
Steve Barr, American Federation of State, County and Municipal Employees
Local 4041
Dennis Mallory, Chief of Staff, American Federation of State, County and
Municipal Employees Local 4041
Richard P. Clark, Executive Director, Commission on Peace Officers' Standards
and Training
Ronald P. Dreher, Government Affairs Director, Peace Officers Research
Association of Nevada

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Brian O'Callaghan, Detective, Office of Intergovernmental Services, Las Vegas
Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association
Ron Cuzze, President, Nevada State Law Enforcement Officers' Association
Gordon Walker, Administrator, Taxicab Authority
Bill Shranko, Chief Operating Officer, Yellow Checker Star Taxi
James Velthuis, Taxicab Authority Driver No. 006788

CHAIR CARE:

I will open the hearing on Senate Bill (S.B.) 44.

SENATE BILL 44: Designates certain employees of the Department of Corrections as category II peace officers. (BDR 23-304)

HOWARD SKOLNIK (Director, Department of Corrections):

Senate Bill 44 will allow us to designate our criminal investigators as category II peace officers. Most of them are category III.

We use these staff as internal investigators, but they have also become involved in pursuing walkaways and escapees. This puts the investigators in the community beyond their definition of authority. We have been able to do this without any problems.

We would like to bring our criminal investigators in-line with other agencies, such as the Attorney General's Office, by making them category II officers. Essentially, that is what S.B. 44 will do and why we would like to have it passed.

CHAIR CARE:

How many people are we talking about altogether?

PATRICK CONMAY (Inspector General, Department of Corrections):

We have approximately 15 people who would be impacted.

CHAIR CARE:

I note there is no fiscal note here.

MR. CONMAY:

The cost will depend on what the Peace Officers' Standards and Training Commission (P.O.S.T.) will require. We are not asking to grandfather these

individuals. Our expectation would be a two-year window to allow our officers to qualify as category II. We estimate the training cost to be approximately \$7,000 per officer, unless some of their existing training is applied. I suspect that would not be the case. We do not anticipate all our staff will qualify. Some of them will either have to take voluntary reductions or retirement because the qualifications for a category II are higher than category III.

CHAIR CARE:

Last week, there was a joint hearing with the two Judiciary Committees. Chief Justice James W. Hardesty made a presentation about the Advisory Commission on the Administration of Justice. Was this one of the recommendations?

MR. CONMAY:

This did come out of their Commission.

SENATOR PARKS:

I know we have category I, II and III. Could you give us an overall view as to how this fits together?

MR. SKOLNIK:

Category I peace officers are police officers; they have full enforcement authority. They are required to attend 480 hours of training in order to complete their P.O.S.T. certification.

Category III personnel are correction officers. Their peace officer authority is limited to correctional facilities. They are required to attend 160 hours of training. They are people you find working in prisons and jails.

Category II is in between: statutorily designated positions with less authority than a category I but more authority than a category III. They have a 200-hour training requirement.

MR. CONMAY:

It should be noted there is ambiguity in the law. The law says if an individual is not identified as a category II or III, they are automatically a category I. The law indicates the Director of the Department of Corrections can appoint peace officers to do a variety of duties.

In our instance, that is what the Director has done with criminal investigators. Because those criminal investigators are not identified in either category II or category III, some argue that they must be category I. There are individuals who do not wish for that to be the case. They do not need the 480 hours of training. They do not do specific duties that police officers do, and they would be more appropriately designated as category II. Part of this process is to clear that ambiguity.

SENATOR AMODEI:

I am looking at the Class Specification and the bill says the Director can designate them. It talks about the items you testified to. Under the existing statute, is there ambiguity with your designation of those employees for pursuit and return of escaped offenders?

MR. SKOLNIK:

The issue is providing them the training they need, which would probably require that they be category II. Category II is not part of what we have done. I can make them category I, but then, theoretically, they need to go through full training. We are not sure that would be required. This is to clarify; the Attorney General's Office investigators are all category II.

The criminal investigator series is a category I peace officer series, unless by exception. That is the issue we have right now; the only exception we find in the law is the Attorney General's Office investigators.

MR. CONMAY:

The Legislators created one other exception in the last Session when they designated criminal investigators for the Secretary of State's Office as category II. That was done because there was some ambiguity.

You are correct in citing that the Director can appoint a peace officer, but the section does not allow him to bestow a P.O.S.T. certification. If he appoints a peace officer in whatever category, there still needs to be the ability to get that P.O.S.T. certification based on other sections.

SENATOR AMODEI:

As a housekeeping item, you need this language to help you get P.O.S.T. training?

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MR. CONMAY:

Exactly, so as to clarify the intent for which P.O.S.T. certification these people need to have.

SENATOR AMODEI:

That is about the investigators, but I see you are also named. What is the thought process in this training?

MR. CONMAY:

The class series originally indicated the Inspector General should meet P.O.S.T. qualifications. But the language was vague as to whether he should be P.O.S.T.-certified. I have been the Inspector General since 2001. The debate has gone back and forth as to whether this is an administrative position or a P.O.S.T.-certified position. Senate Bill 44 is to clear up the ambiguity.

STEVE BARR (American Federation of State, County and Municipal Employees Local No. 4041):

We are in favor of S.B. 44 to the extent I have submitted to you, ([Exhibit C](#)). Page 2 has distinguishing characteristics and specifies the only exception to category I status is the Secretary of State's Office.

Under this class series, it specifies criminal investigator III as the job description. We are going to go a step beyond what the Director is asking for. There is a high probability—based upon the growth of the department, drug activities of the inmates, inside and outside the institution, and the possibility of escapes—that according to personnel regulations, the criminal investigator III position should be a category I position.

The difference between a category II and I is demonstrated in the hours. The actual difference is they receive additional training in vehicle stops, felony arrests from vehicles, pursuits and anything involving automobiles. There is a high probability these incidents could occur if the investigators are on the street searching for a walkaway or someone who escapes from a maximum security prison.

In the best interests of this State, we want the Inspector General's Office to be fully prepared to respond to those situations. They do not have parallel communication devices with whatever jurisdiction they are operating in. Many

times they may depend on themselves instead of calling for assistance or backup.

DENNIS MALLORY (Chief of Staff, American Federation of State, County and Municipal Employees Local 4041):

Our major contention with the Inspector General's Office is the level of professionalism within that office. It is our position if they are category I peace officers, it would raise that level of professionalism.

These people investigate not only inmates but they also investigate Local 4041 members. Many times the result of those investigations determines the livelihood of our members. The more trained the investigators are, the better prepared they are to conduct an investigation on behalf of our members.

We do support S.B. 44 for the reasons Mr. Barr stated. It will raise the professionalism within that office.

SENATOR PARKS:

We have certain supervisory individuals. Would the Inspector General be a category I peace officer? Should those individuals reporting to the Inspector General be category II officers?

MR. MALLORY:

They should all be category I. As Mr. Barr stated, there may be a circumstance where an inmate escapes from a facility and they have to pursue the inmate in a high-speed chase. The Inspector General is not going to be available at the same time across the State. It would allow the latitude and flexibility for all individuals working under Mr. Conmay to act aggressively and immediately try to minimize whatever damages this fleeing inmate may cause.

MR. BARR:

I have had the opportunity to respond with Inspector General Conmay in the middle of the night on a walkaway inmate. We had tracking teams out, and Mr. Conmay responded to that situation. Mr. Conmay should also have that category I status.

RICHARD P. CLARK (Executive Director, Commission on Peace Officers' Standards and Training):

We are in support of S.B. 44. We want people to be professionally trained, but we want to make sure that: those people put into a higher category are capable of performing the duties necessary for the responsibility of category I, II or III; there are no waivers; and people are not grandfathered in.

As far as the necessity of people for different categories, there are several. Category II status is conferred upon people who do not have full field responsibilities as per their designated job and duty assignment. The Attorney General's Office, the Secretary of State's Office, Parole and Probation, and the State Gaming Control Board are all category II agency investigators who do everything they need to do for investigations and pursuit of people.

There is a statutory requirement that category I officers attend 480 hours of training. That is antiquated as far as what training they receive with closer to 700 hours of training. We run a parallel academy with categories I and II that start off at the same time. The category II trainees only receive 10 weeks of training, where the category I trainees receive 16 weeks of training. There has always been a pull, back and forth, as to whether it would be better to make that all one category and not have a category I and II designation. On the other side of that issue is the cost and time for training people whose duties do not necessarily include traffic citations, traffic accident investigations, domestic violence investigations and emergency vehicle operation training.

We are in support of S.B. 44 for the Department of Corrections. We want to make sure there are no waivers and that nobody is grandfathered in. Also, everybody must meet the minimum standard of professionalism that is dictated by that category.

CHAIR CARE:

Senate Bill 44 goes to organizational and structural issues and classifications. If there is dissatisfaction with performance, that would go to the specific individuals. According to what Mr. Barr said, he wants to go a step beyond what the Director of Corrections has proposed. I cannot tell if you are suggesting an amendment or some reassurance on the record.

MR. BARR:

My stance, after reviewing the existing statute, is that this Committee could quantify on the record that based on personnel specifications and regulations, they are category I as specified. Intent may be enough.

SENATOR AMODEI:

Does that not go against what you just said, we do not want anybody grandfathered in? I have heard that none of these individuals are trained to a category II or I level. Based on the personnel requirements, if we say they are all category I, we grandfather these individuals in. Or did I misunderstand that?

MR. BARR:

I am not implying the training should be omitted. It states that is the requirement for the position. They would still have to have the training. We are merely quantifying what the specifications already state.

SENATOR AMODEI:

Someone already mentioned a fiscal note in terms of providing training. Now, as I understand it, there is more of an effort and resources involved in training everybody to category I. I am not sure how the budget works as far as you providing training to the individuals for a category II.

MR. BARR:

Senate Bill 44 neither has a fiscal note nor a request for category II. Perhaps phasing training over a period of two years would be more appropriate, but if we establish legislative intent and the benefit to the citizens of this State, this would be sufficient.

RONALD P. DREHER (Government Affairs Director, Peace Officers Research Association):

We too would stand in support of S.B. 44 providing, what you have heard from Mr. Clark, the Department of Corrections and other individuals, you are aware of the problems you may face. There would be economic costs in promoting someone who is not trained and P.O.S.T.-certified to the level you want.

The Peace Officers Research Association of Nevada (PORAN) objective and goal is to have equality in law enforcement. As such, we object to having three categories of law enforcement. There should only be one but for the cost. If we are all trained the same way, you do not have the system you have as in

the *Nevada Administrative Code* (NAC). You have to identify each and every individual agency.

We face this in a number of other categories in the Legislature when we try to raise benefits and compensation.

First and foremost, we believe in high standards of training. Inspector Generals do jobs that require them to be a category I-trained police officer. You are trained in emergency vehicle operations and all categories you need to do the job effectively.

You have men and women in corrections who are professional in what they do, and they should receive the same training but for the cost. As you look at the NAC in front of you, [Exhibit C](#), it spells out the addition of the Inspector General as a category II. Every one of the agencies here that are members of our organization are already being trained a category I.

I do not see a huge economic cost to provide the individuals and Inspector General training in the area they need for consistency of training and meeting the standards. Otherwise, they do not qualify. We would object to that. If they are not trained right now, there is some assumption they are category I, but it is not spelled out.

What we have seen in the law, if it is not spelled out, it does not happen. We support them being trained as category II or category I, but our preference from PORAN is a category I.

Right now, [S.B. 44](#) is defining them as category II. We support that, and we will keep working over the years to get everybody on the same page.

BRIAN O'CALLAGHAN (Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):

I am speaking for Frank Adams who represents the Nevada Sheriffs' and Chiefs' Association. They support [S.B. 44](#), but want to make sure there are no waivers or grandfathering in.

SENATOR PARKS:

Within the State Personnel system, does it specifically state that an individual who fills or qualifies for a position must be P.O.S.T.-certified to a specific level?

MR. MALLORY:

Yes, it does. There are minimum requirements from State Personnel, and the class specifications for a category III do not state they have to be a category I peace officer, referring to [Exhibit C](#) on page 2 under distinguishing characteristics.

RON CUZZE (President, Nevada State Law Enforcement Officers' Association):

I would like to address the funding and fiscal impact. The Attorney General's Office has three investigators we deal with in our cases. One is a former Nevada Highway Patrol (NHP) sergeant; he is category I-trained. The other two are from category I departments outside the State. The three that I know of are already category I-trained. The fiscal impact is not as much as they think because they do have open positions.

Unlike PORAN stated, most of the training today is category I. With that in mind, I would like to give you a little history of this. Prior to the Department of Corrections and Secretary of State's Office, the title "criminal investigator" was used for the Nevada Division of Investigation (NDI) detectives. It is a category I position as stated by law.

In 2006, we represented Secretary of State Office investigators before the Personnel Commission. At that time, the Personnel Commission granted the investigators' request to become criminal investigators versus compliance enforcement investigators. They were no longer working in compliance enforcement and were only doing criminal investigations. The Personnel Commission retained the investigators in a category II status.

Last year when we created the 13.000 series in the Department of Personnel class specifications and put all law enforcement officers in the series, the title "criminal investigator" was in three different places; these are training categories. Corrections had them as category III, the Secretary of State's Office was category II and NDI was category I. The investigators at Gaming Control and the Attorney General's Office are neither criminal investigators nor classified employees nor in the 13.000 series.

I fully support S.B. 44 but in conjunction with the law. These people should be designated as category I. That is what the law states. We agree they have to be professionally trained. We strongly recommend you do it within the law to class specification and designate them category I.

CHAIR CARE:

No one has testified in opposition to S.B. 44. You heard the testimony where they say yes, they should be trained. We are concerned about waivers and grandfathering in. Mr. Barr stated he wanted to go a step beyond the Director.

MR. SKOLNIK:

We will not be requesting any waivers or grandfathering any of our staff. We expect, within a two-year window, the staff functioning in those criminal investigator positions will become P.O.S.T.-certified to the category the Committee chooses.

Our preference is a category II. However, we do not have strong objections to a category I position. We actually have three criminal investigators who are category I peace officers. It would be up to the Committee how you want to proceed with this. What we want to do is remove ambiguity.

The statute authorizes the Director of the Department of Corrections to appoint peace officers. That is why our officers are category III, even though they are classified as criminal investigator III. As pointed out by personnel code, that is a category I peace officer. The authority given this position has allowed us to clean it up.

SENATOR AMODEI:

Can you explain the impact of the cost difference on your Department for a few more weeks at the P.O.S.T. academy?

MR. SKOLNIK:

Irrespective of the decision, our training budget would allow us to absorb costs for either the category II or category I.

SENATOR AMODEI:

In your hiring practices, if a person is a category I, that would not be an issue. Is that correct?

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MR. SKOLNIK:
That is correct.

CHAIR CARE:
We are not going to move the bill today. We will put it on the work session. If you have any clarifying language, please let us know.

We will close the hearing on S.B. 44 and open the hearing on S.B. 99.

[SENATE BILL 99](#): Limits the peace officer powers of taxicab field investigators.
(BDR 23-432)

GORDON WALKER (Administrator, Taxicab Authority):
I will read from my written testimony ([Exhibit D](#)).

CHAIR CARE:
Do you have any idea how long NRS 289.340 in its present form has been on the books?

MR. WALKER:
I do not, but I can find out for you.

CHAIR CARE:
If an officer, with the authority granted in statute, comes upon a matter that consists of exigent circumstances and has nothing to do with what he or she is employed to do under statute, can that officer take on the duties of a street officer if he/she deems that necessary?

MR. WALKER:
The answer is yes, if life and property are at stake. However, by policy, our officers enter into the situation after having called the appropriate local law enforcement jurisdiction to assist and contain the scene until they arrive.

CHAIR CARE:
Would the officers have that power, policy aside? If we make a statutory change, would the officers have that power?

MR. WALKER:
Yes, based on the advice of our legal counsel.

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SENATOR AMODEI:

What category from P.O.S.T. standards are they trained to now?

MR. WALKER:

They are category II peace officers.

SENATOR AMODEI:

They are investigators, not involved in traffic and pursuit matters?

MR. WALKER:

Our field investigators investigate complaints from the riding public. They get involved in investigating defrauds. This is where a passenger runs out on the fare. They may come across a cab driver involved in selling illegal drugs. In that case, they would take the appropriate action by arrest and forward the report on to the district attorney for prosecution.

SENATOR AMODEI:

Is your supporting legal counsel the Attorney General's Office, or how do you get your legal advice for your operations?

MR. WALKER:

Our legal advice comes from the Attorney General's Office.

SENATOR AMODEI:

The question, from a risk management point of view, is despite their training, they are allowed to do this, this and that, only by statute. Do exigent circumstances open a door for second-guessing and micromanaging? Especially given an exigent circumstance in the post-911 world, with rumors that circulate around Clark County, why do we want to put in statute you can only do this despite category II status and despite what you may encounter?

Certainly, a policy that you would call Las Vegas Metro Police Department or whomever makes sense. If your people are statutorily limited to this, and they encounter a situation not addressed and do something—which may be the right thing to do but not involve simply calling Metro, that would expose you to a phenomenal amount of second-guessing and potential liability.

MR. WALKER:

Our officers should be focused on taxi incidents. That does not preclude them from acting on some situation they come across where they believe they need to act. If they come across that our policy is to contact the appropriate agency and take action. Then through the chain of command, they report involvement in a private vehicle or private citizen incident.

SENATOR AMODEI:

I agree with your statement. However, S.B. 99 does not match that. If I vote yes, that is not going to be the operational reality.

SENATOR WIENER:

What prompted this and why now?

MR. WALKER:

Prior to my coming to the Taxicab Authority (TA), there were incidents where the TA field investigators were involved in stopping private vehicles. In order to keep them solely focused on the taxi side of the equation, delineating their statutory authority was the appropriate course of action.

SENATOR WIENER:

Though your tenure has been short, how were those situations dealt with that brought the concern to the table? How did you handle those under your authority?

MR. WALKER:

I was not involved in those particular circumstances. Since I have been with the TA, there were three occasions where our officers became involved with private citizen incidents. They were all excellent stops on our behalf. Two were driving under the influence (DUI) and one was early in the morning, a private vehicle stopped in the middle of Las Vegas Boulevard. As it turned out, that individual not only was under the influence but was wanted on a murder charge in California.

CHAIR CARE:

As previously mentioned, NRS 289.340 was enacted in 1993. There are no case annotations under the statute. That policy has been on the books for 16 years.

DETECTIVE O'CALLAGHAN:

The circumstances should not limit the investigator from stopping anybody because now you are talking about life and property. The DUI is going to cause property damage and/or lives. Someone stopped in the middle of the roadway is something they can work with.

My concern with S.B. 99 is when you limit investigators to traffic stops, it will take away their ability to take care of defrauds and also batteries. This will cause an increase in calls for service to the Metro.

They can handle situations dealing with taxi issues. Senate Bill 99 might take that away. We are concerned that is going to affect our department.

MR. DREHER:

I checked in neutral on S.B. 99. I have a problem trying to limit the powers of any peace officer in this State. Everyone should have the same powers.

The NRS 289.470 defines categories. The category for Nevada Transportation Authority (NTA) is the same group except, in the north, as the TA in the south—these are category II peace officers. How are they trained? It is my understanding they are all trained as category II or category I peace officers. They are receiving the appropriate training.

In 2005, we had testimony on NRS 289 about increasing the powers of the jurisdiction of the TA. Because of the way the bill was designed, the amendment was removed. There was testimony regarding exigent circumstances, allowing investigators to continue to do their jobs. We want them to do their jobs in deadly force situations. We do not want investigators to have to make a split-second decision deciding to call for cover versus taking action instead of pulling out their gun. That is our concern.

As you heard Mr. Walker indicate before, since he has been the Director of this agency, he has had three instances where his officers have taken situations and used those powers. As peace officers, they have to take action.

I have represented investigators who got confused because they took action. Policy says you get into trouble if you take action. They bring in internal affairs and do an investigation. We come back and say your policy says you have to do

this. As a peace officer in this State, you have the power of arrest and the power to take action. In deadly force situations, you have those powers.

We do not want them not to be able to do their job. If this limits them, saying you can no longer take defrauding an innkeeper or defrauding a cab driver, you cannot take that action. Then they put more pressure on Metro to do their job. In effect, we are limiting them. I would like this Committee to understand, we do not want them limited.

Senate Bill 99 says when on duty. When on duty is pretty open. When on duty means when you get into your patrol car and when you start your shift? There are problems with that. As officers, we know 24 hours a day we are a police officer. If you see a situation going down, you have to react.

Their powers are limited to the airport. As you heard, you have one individual coming to work—I do not know if they have take-home cars, but he is not on duty until he hits the airport property. If you take out the one on duty, then you have given that officer more power. We do not want him under investigation because he did something wrong by making a stop when not on duty, and it turns out that the stop was a deadly force situation where he had to take action.

That is our concern. We do not want to limit what these people do, but they are confined to the airport. They have to have some stability when they go out and do their jobs—what are my boundaries, what am I supposed to do, when can I take that action. We do not want their hands tied so they do not take action when required. That is why I cannot say we are opposed to what they are trying to do. We understand the concerns from a policy perspective.

CHAIR CARE:

Since the 1999 Session, we have had discussions about what is the proper scope of school police. We reviewed that last Session. When new legislation is introduced, we weigh the limits contained in a bill on the scope of the authority. I do not recall ever decreasing power already in statute about a law enforcement officer.

SENATOR AMODEI:

Just so my concern is clear. I do not have a problem with protocol or policy. The training would go to those investigators by law. If I am an investigator getting that training, when in doubt, I am calling Metro.

If we put this in statute and you have a circumstance where it is not in these chapters or clearly related to Mr. Walker's agency, are his investigators now violating the statute? Are they subject to risk management issues?

If investigators violate a chapter, are they now subject to a law enforcement investigation for violating that chapter? If you put this in statute, everybody is going to err on the side of picking up the radio or phone. I would dislike doing something that now makes these investigators potential misdemeanants or something along those lines. We could expose them to civil liability for erring on the side of doing something rather than talking.

MR. DREHER:

Having been through some of the situations that you are talking about where there is confusion on an officer's part, you are exactly right. If they do something and it is in law, then they are subject to investigation under NAC 284.650, which sets the parameters for internal investigations. There is a whole menu of when one can and cannot be investigated.

I have represented many of these officers in internal affairs hearings in both State and local government. I want it clear to them what they can and cannot do. That information allows them to make a split-second decision on whether they want to take action or sit back and say, I am going to call Metro to take action on this deadly situation, and somebody winds up getting killed, including them. They have a concern when they see their powers limited.

My concern with putting it in law is if you do this, then you are not going to be disciplined. Policies and procedures are one thing, and they can set whatever they want. However, when you put it in law, that tells the agency if you do this, then you are subject to discipline—we do not want that except under situations where they go outside the norm and do things they are not supposed to do. We have that concern and confusion.

You are absolutely right. If you look at NAC 284.650, which governs internal affairs investigations, they would fall subject to that if this law passed. They

would lose their powers. Keep it in policy; keep it in procedure. Let the TA do what policy and procedure dictate. It does not have to be put here because they already have that authority.

DETECTIVE O'CALLAGHAN:

I want to clarify exigent circumstances. We are not increasing investigators' powers to where if they see something, they can stop an unregistered vehicle; that is not an emergency. Even though it is in policy, if they change that policy, then they can revert back to pulling over any vehicle or private citizen. They can limit it to their taxi issues besides the emergencies.

SENATOR WASHINGTON:

Senate Bill 99 tries to say they want to limit their scope of jurisdiction to issues dealing with taxicabs, whether they are at the airport or wherever their duties may take them. You are saying, outside of private citizens, issues that deal primarily with taxicabs is where their authority should lie.

DETECTIVE O'CALLAGHAN:

That is correct, or if there is an emergency.

SENATOR WASHINGTON:

Senate Bill 99 does not accomplish that.

DETECTIVE O'CALLAGHAN:

I do not believe so.

MR. DREHER:

I concur with Officer O'Callaghan that we do not want to increase or diminish powers. We want to say these are your powers already in law. Leave it alone, there is no reason to change it.

SENATOR WASHINGTON:

It is already stated in statute.

MR. DREHER:

It is already so stated—so why are we doing this?

MR. CUZZE:

I would like to clear up some questions the Committee has asked. The reason for this legislation was based on a couple of incidents I was closely related to.

One incident was when an airport control officer (ACO) was in his privately owned vehicle and took police action. The officer was on the way to work. However, he was still in an off-duty status. There was an internal investigation, and I represented him. The TA and the NTA are in a department where their administrators and director know nothing of law enforcement.

The second incident is where a TA investigator—who is on duty, in uniform, in a marked police car, red lights and siren—sees a woman the officer thought may be drunk. The officer did not think anything of it to begin with until the woman started running people off the road. It ended up in a high-speed pursuit on Tropicana Avenue with the woman crashing into a tree, killing her. Because upper administration did not know anything about law enforcement, it snowballed.

The other thing I want to clear up: TA and NTA are category II departments. However, because TA investigators want to comply with the law, the majority of them got category I training. Because the law says you will be category I trained, you go through emergency vehicle operations training to operate a marked patrol car.

The third thing I would like to clear up for you—what Mr. Dreher was talking about has nothing to do with these investigators. The people restricted to the airport are the ACOs. I worked closely with these investigators, both while on active duty and as President of their organization.

I remember one incident where there was a robbery in Metro jurisdiction. I was with the University Police Department. I responded and a TA officer responded. Metro was tied up. We secured the area, Metro got there. We turned the guy over to them. That is one of the things they do. That is what law enforcement agencies do. Restricting them is ludicrous.

The other thing that you need to know—80 percent of the patrolling that the TA does is within Metro's jurisdiction at the airport, The Strip and downtown. The other jurisdictions involved are Henderson, North Las Vegas and to some extent, Boulder City and Mesquite.

If S.B. 99 passes, there is going to be a huge fiscal impact on local government. I know what these investigators do; I know how many drugs they confiscate. I read the Uniform Crime reporting, which nobody is taking into consideration. If they stop a taxi for forgetting to turn on his light and then come across drugs, guns or whatever, they are exactly right to take action. With S.B. 99, they might not do anything and just let suspects go. You cannot do this.

We have bills right now to expand the ACO's jurisdiction to match the investigator's jurisdiction because they are both in the same departments and all category I trained. We have to do away with this category designation. Either you are a cop or a corrections officer, and you are trained to the best you can do.

Lastly, if S.B. 99 passes, you are going to seriously hurt the Joint Terrorism Task Force (JTTF). A key person on the JTTF is the investigator, which the TA provides to them. Everybody knows you do not have to be a law enforcement officer to understand there is a 50-50 chance of a terrorist attack in Las Vegas and that will likely come from a vehicle. More than likely, it is going to come from a cab, limousine or something of that nature.

The JTTF and the Federal Bureau of Investigation rely heavily on input from the TA. For the sake of the people, for the security of our State, please do not pass S.B. 99. If anything, you should be giving them more powers.

BILL SHRANKO (Chief Operating Officer, Yellow Checker Star Taxi):

We want to echo both your comments on the fact that the law has been working effectively for 16 years, and Officer O'Callaghan and Senator Amodei are saying it clear as a bell.

The passage of S.B. 99 would impact both Metro and the taxicab industry. Batteries by or against drivers, prostitution and the sale of illegal drugs, are all handled by the TA in concert with Metro.

Yellow Checker Star has a deep involvement with Metro, NHP and TA. I myself have been in the business for over a quarter of a century, working with TA investigators, administrators and their staff, as a road supervisor all the way up to operations and director of operations. I have been out in the field on many murder scenes of drivers. I have watched how professional the TA officers are. We contribute to Crime Stoppers of Nevada and help pay their phone bills. We

go to the annual awards banquet for meritorious services by Metro, NHP, the TA and other agencies.

Like Officer O'Callaghan says, there will be many referrals to Metro if S.B. 99 should pass. It averages out to about 1,000 calls a month where investigators now refer matters to Metro. Metro is on a serious overload. They are overwhelmed with calls. They do not need another 1,000 calls a month.

Many stops are made by the TA when there is a passenger in the vehicle. I have witnessed these over a 25-year period. The TA deals with them professionally. If that would have to be siphoned off to Metro when a TA investigator can handle it, that customer is inconvenienced. It is a stress factor because Metro is not going to immediately respond. A defraud of a cab driver is not a big deal. We need our visitors now more than ever before, but here they are, whiling away the time in a cab or trying to get another cab, but Metro needs their testimony.

I do not know where on earth this came from. Why would anybody even propose this?

This cab authority is one of the most respected in the world. They come from London, Australia and the Balkans to study it, and many times, I have been called in to explain some of the regulatory arms. I agree with the Chair, and I certainly hope he is in this frame of mind. After 16 years in statute, I say do not fool with this agency. It is one of the best, if not the best, in the world.

CHAIR CARE:

I want to clarify something. I am not in a position to say the statute has worked well for 16 years. What I can say is that it was adopted 16 years go. There are no case annotations. Neither the Nevada Supreme Court or a federal court has ever issued a published opinion that has discussed that statute and whether it has worked or not. My approach is if somebody wants to change the 16-year-old statute, silent of case law, the burden is on the party that wants to do that—in this case, the TA.

MR. SHRANKO:

I stand corrected. I will be the one who says after 16 years, I have seen it work wonderfully.

JAMES VELTHUIS (Taxicab Authority Driver No. 006788):

I am a cab driver. I have been driving in Las Vegas, part-time, since 1978. I have been a local resident since 1976. I also have a law enforcement background.

Not having the TA investigator as a police officer would be a detriment to this community. The biggest respect the community and visitors have for the TA is the fact they are police officers. They are professionally trained and have marked vehicles.

In my dealings with Metro, many times the TA will handle things that Metro would handle, which frees up the police department to take care of more serious crimes. The passenger will not have to wait for an officer to respond, and the TA will take care of that. Most of the time, the problem is taxicab-related.

The TA performs an invaluable service; they have done a great job. I have been a driver for almost 30 years with the TA out there as police officers. Leave it status quo.

Also, it is a problem for morale. From the perspective of law enforcement, you cannot strip someone of their authority, strip them of their badge, gun or anything of that nature. It is like stripping a security guard of his weapon in a casino. It is not a good thing to do.

MR. DREHER:

I did misspeak earlier; there is a difference between the Airport Control Authority and what Mr. Cuzze talked about. The bill I was talking about a couple of sessions ago dealt with them, not the TA. I want that clarified for the record.

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CHAIR CARE:

We will close the hearing on S.B. 99.

That takes us to bill draft requests (BDR). This is the last day for Committees to request BDRs. The Committee has before us, latent defects in chapter 11 of NRS, administration of homeowners' associations, grandparent visitation rights and landlord tenant law in chapter 118 of NRS

SENATOR WASHINGTON MOVED TO INITIATE FOUR BILL DRAFT REQUESTS ON THE FOUR ABOVE-MENTIONED ITEMS.

SENATOR WIENER SECONDED THE MOTION.

CHAIR CARE:

Ms. Eissmann, what is our number now?

LINDA J. EISSMANN (Committee Policy Analyst):

Please do not forget the construction defect BDR that the subcommittee discussed yesterday.

CHAIR CARE:

Yesterday, the subcommittee convened on construction defects. We moved to request a BDR from this Committee dealing with certain revisions to NRS 40. We do not have any language. The language will come from subsequent testimony when the subcommittee meets. The intent is attempting a way to keep parties out of construction defect litigation when there are no grounds for those parties to be named. We may get into other subjects such as right of repair, etc., based upon what was heard February 3 at the informational hearing.

SENATOR WASHINGTON:

I withdraw the motion requesting the initiation of four bill draft requests.

SENATOR WIENER:

I withdraw the second on that motion.

SENATOR WASHINGTON MOVED TO INITIATE FIVE BILL DRAFT REQUESTS ON THE FIVE ABOVE-MENTIONED ITEMS.

SENATOR WIENER SECONDED THE MOTION.

SENATOR AMODEI:

Voting to request a BDR or Committee introduction does not necessarily mean I am in favor of listening to the grandparent issues we heard last Session. This is nothing personal against anybody involved.

SENATOR WIENER:

I have talked to Dr. John Yacenda. In fairness to the measure we are considering taking a vote on, although it has been described as grandparents' rights, the BDR would focus on the best interests of the child and visitation opportunities for family.

CHAIR CARE:

When you delve into family law, custodial issues and visitation issues, it is supposed to focus on the best interests of the child. The problem you have is competing interests as to what that means. If this motion passes, this bill is introduced, we schedule it for a hearing and it starts to get out of hand, I am going to cut it off. I am not going through what we did in previous sessions.

SENATOR WASHINGTON:

We would all express the same sentiments.

CHAIR CARE:

Any further discussion on the motion?

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

SENATOR AMODEI:

I have been approached about an ignition interlock device in a DUI context. I had indicated to the party that if we had something dealing with DUI, we could talk about an amendment rather than a formal bill. I was obviously speaking for myself, but I want to put this on the record so if this comes before the Committee, that is what I know about it. We do not need to compete for bill

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drafts on that.

CHAIR CARE:

The Senate Committee on Judiciary is adjourned at 10:03 a.m.

RESPECTFULLY SUBMITTED:

Judith Anker-Nissen,
Committee Secretary

APPROVED BY:

Senator Terry Care, Chair

DATE: _____