

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS
SUBCOMMITTEE**

**Seventy-Sixth Session
April 14, 2011**

The Committee on Government Affairs Subcommittee was called to order by Chair Marilyn K. Kirkpatrick at 11:49 a.m. on Thursday, April 14, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 5100 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/76th2011/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:

Assemblywoman Marilyn K. Kirkpatrick, Chair
Assemblywoman Irene Bustamante Adams, Vice Chair
Assemblywoman Dina Neal
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Cynthia Carter, Committee Manager
Jenny McMenomy, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Vicenta Montoya, Chair, Si Se Puede Democratic Caucus
Lisa Mayo-DeRiso, representing the Erik Scott Family
Heather Spaniol, Private Citizen, Las Vegas, Nevada
Jose Solorio, Private Citizen, Las Vegas, Nevada
Frank Hawkins, President, National Association for the Advancement of
Colored People, Nevada Chapter

Chuck Callaway, Police Director, Las Vegas Metropolitan Police
Department

Rebecca Gasca, representing the American Civil Liberties Union of
Nevada

Ronald P. Dreher, representing the Peace Officers Research Association
of Nevada and the Professional Peace Officers of Nevada

Javier Trujillo, representing the City of Henderson

Chris Collins, Executive Director, Las Vegas Police Protective Association
Metro, Inc.

P. Michael Murphy, Coroner, Clark County

Chair Kirkpatrick:

We will open the Subcommittee hearing on Assembly Bill 320.

Assembly Bill 320: Revises provisions governing coroners' inquests.
(BDR 20-1024)

We will start with the opposition. I am sorry to keep you waiting. I would like to remind both sides to be respectful of other's opinions. I would also like to remind everyone to keep from repeating the same argument. We can get more testimony on the record if we do it that way.

Vicenta Montoya, Chair, Si Se Puede Democratic Caucus:

We are grateful to our men and women who place their lives in jeopardy every day protecting and serving our communities. On those occasions where an officer-related death has occurred, the community must have confidence that such an incident has been thoroughly investigated and that the killing was justified. The old coroner's inquest had eroded that confidence five years ago when Swuave Lopez, a 17-year-old was shot in the back of the head as he was fleeing barefoot and handcuffed. The killing was found to be justified in that instance. A human cry rose from the community. As a result, changes were made to the coroner's inquest. However, that confidence was further eroded when Trevon Cole, an unarmed man, was shot in the head while kneeling on the floor. The Erik Scott killing elicited extensive controversy.

Chair Kirkpatrick:

I would like to stay on the topic of the bill. I would like to hear about the process that was done in Clark County versus the process that the bill wants to install now.

Vicenta Montoya:

Because of these different incidences that have happened, the lack of transparency is what led to the committee that was developed. So, instead of

focusing on that instant in time that Assemblyman Hambrick alluded to in his testimony on April 11 in this Committee, issues related to evidence such as surveillance tapes and timely access reports were also in controversy. The witness from San Francisco spoke extensively about the investigative process in his community for officer-related deaths. He spoke of it as transparent, independent, and free from perceived conflicts of interest. I would welcome such a process here in Clark County. Those very measures referred to were rejected by the Clark County Office of the District Attorney when they were offered for consideration. The present recommendations for the coroner's inquest were adopted by a vote of 8 to 2. The panel was weighted on the side of law enforcement. The recommendations were a compromise. Sheriff Gillespie accepted the recommendations. Make no mistake—this legislative process and this proposed legislation is an end-run. The issue of asserting the Fifth Amendment is a red herring. Under either process, the Fifth Amendment can always be invoked. An ombudsman assures that a vigorous and thorough examination of that instant in time when an officer-related death occurs will be conducted. There will no longer be a lingering doubt because a follow-up question was not asked. Better access to reports will be assured, leading to more transparency. The ombudsman restores the public's confidence in the oversight process. As a member of the community and a representative of a minority-based organization, I ask that the complex issues which were resolved after months of deliberation be allowed to move forward. A 59 percent rate of minority officer-related deaths, as was mentioned in previous testimony, 30 percent being African American, is too high a price for a return to a system that is not transparent and has perceived conflicts of interest.

Lisa Mayo-DeRiso, representing the Erik Scott Family:

I am the spokesperson for the Scott family. I am here today to urge you to oppose A.B. 320. The process that we went through in Clark County was a very open process. We had public meetings; the Clark County commissioners received a tremendous amount of input from the public on the need to improve upon the coroner's inquest process. The purpose of this was to increase the transparency and the input from the families of the victim. These were done by citizens and taxpayers. The wishes of the taxpayers were fulfilled by the Clark County Commission.

The purpose of the testimony from the District Attorney in San Francisco was to urge you to do away with our newly adopted coroner's inquest process even before we have a chance to implement the process. He did not tell you that, according to a San Francisco Police Department research study done in 2010, the San Francisco process was improved by way of an in-depth study. It is an excellent analysis into what the process was in San Francisco, the statistics behind officer-involved shootings. It was very informative. They made some

changes based on that. Clark County and the City of Las Vegas can only wish to have an officer-involved shooting process like the one in San Francisco. We made every attempt in our testimony to the panel hearings on this subject to invoke as much transparency and non-self-investigation as possible by the Las Vegas Metropolitan Police Department (LVMPD) and the District Attorney's Office. The District Attorney and others do not want to adopt any of those measures.

If you do vote to pass A.B. 320, there are some harmful effects that could take place and unintended consequences. The Police Protective Agency (PPA) and the LVMPD will establish that they are in charge of Clark County, Nevada and not the citizens or even the sheriff. Where law enforcement is concerned, the minimal transparency that barely exists will be extinguished. In Clark County, it is only the coroner's inquest that has provided the scant, factual information available to the public when police officers shoot and kill citizens. That is something that occurs with entirely too much frequency. Absent an inquest, the public will have nothing other than what the LVMPD is willing to release. In essence, the LVMPD will investigate the LVMPD, or pretend to. They will inevitably conclude that the LVMPD is blameless in every interest, just as it has for more than a decade with a small exception. Knowing finally and beyond doubt that they are the masters of the public rather than the servants of the public, LVMPD officers will hardly behave in a more restrained and professional way. The public may come to fear their police force. There is a need to respect our police force in Clark County as a quality of life issue. It is something that is critically important. The relationship between police and the citizens is mended and starts to be improved. Knowing that they will not be held accountable for the deaths of citizens would make officer-involved shootings increase.

As I sit here today, as a citizen and someone who has worked very hard on this process, I think that you have two things to look at. If you do not pass A.B. 320, which I hope you do not, I would urge you to encourage the Sheriff, the District Attorney, the PPA to engage in a study like the one you see here that San Francisco has done. This will help us make a better determination of how to improve the investigation of fact finding for victims. If they do not like what we have now, which we have not even tried, we should do a study to figure out the best way in which to do this. We could also amend A.B. 320 to follow precisely the process of the San Francisco District Attorney. The District Attorney and the LVMPD obviously felt by bringing Mr. Fleming up that this is a process that works. We like this process too. It has several outside groups that look at this process. They have an outside independent citizens' bureau that has a lot of power. They have a firearm discharge review board. They have a management control division that is dedicated to this. I would say to amend this, you need to do exactly what San Francisco does. I

cannot imagine that the PPA or the District Attorney would oppose that because they paid to fly the District Attorney from San Francisco up to the hearing. There is a reason that we made a decision at the county. We are now at the Legislature with the PPA trying to change this. I do not know exactly why we are doing this. We have not even been given a chance to implement what the citizens requested in Clark County. I hope you will take the time to look at this issue.

I urge you to not pass A.B. 320.

Heather Spaniol, Private Citizen, Las Vegas, Nevada:

I was at every coroner's inquest meeting that went on just a few months ago. I am shocked that we are here today. I thought this problem was resolved. My confidence in the LVMPD is being questioned once again. People told me that it was too good to be true. People told me that something was going to happen that was not going to allow these changes to go through. I was optimistic and I thought that it was going to happen, but I was wrong; here we are today. Our District Attorney, David Roger, who now wants to take full responsibility for what the officers do, a few months ago wanted absolutely nothing to do with the process. The committee voted him out, by his own request, because he wanted nothing to do with the coroner's inquest. Do not be fooled. How do you go from not wanting your office to have anything to do with it, to wanting to take full responsibility for it?

The District Attorney's Office has had 40 years to prove that it could do this. They have always had the ability to charge an officer when they felt it was necessary and they never have. I do not know what the point of A.B. 320 is. If it passes, it is going to be a license to kill again. I do not need to remind you of some of the cases that have occurred in Clark County with police officers killing citizens. Tanner Chamberlain was shot in the head while he was hiding behind his mother. I want to know why there was not a bill put together in the last 40 years to scrap the coroner's inquest if it was such a bad process. If this bill called for a grand jury, I might be for it. I have never been shot by a police officer or known anyone who has been killed by a police officer. I did have something happen to me where I called the dispatcher for the police department.

Chair Kirkpatrick:

We need to stick to the merits of the bill. It is very helpful so that everyone can testify.

Heather Spaniol:

The police officer responding to my case took an hour and twenty minutes to get to my apartment. I was at all of these coroner's inquest meetings before, while all the changes were being brought. I do recall Mr. Collins saying that if changes are made, it would be the end of the coroner's inquest. It would be the final nail in the coffin. I was not sure what he was talking about at the time, but now I understand. He was talking about A.B. 320.

Chair Kirkpatrick:

Please refrain from making this personal. We want to have good testimony.

Heather Spaniol:

It was not personal.

Chair Kirkpatrick:

Please stick to the merits of the bill.

Heather Spaniol:

Assemblyman Hambrick brought this bill forward; one of the first things that came up on his website is that he is endorsed by the LVMPD. Please do not pass this. You are putting the public at risk.

Chair Kirkpatrick:

We are finished with your testimony, Ms. Spaniol. I will just reiterate, we can get much better testimony on the record if we stick to the merits of the bill and the reasons people do not want it. This is not personal. We will not have that discussion. This is not the forum for that discussion. Please send emails, call your Assemblyperson or Senator, et cetera, but for the legislative process, we are sticking to the merits of the bill. We are sticking to the reasons that people are uncomfortable with the process.

Jose Solorio, Private Citizen, Las Vegas, Nevada:

My Assemblyman is John Hambrick. This bill would replace hundreds of hours and years of local Clark County community input. The current coroner's inquest process was developed by a well-respected panel consisting of Nevada Supreme Court Justice Bill Maupin, Coroner Mike Murphy, District Attorney David Roger, Sheriff Douglas Gillespie, Phil Kohn, a public defender, Richard Boulware with the National Association for the Advancement of Colored People (NAACP), Chris Collins from the PPA, Professor Blakesley, and myself as a Latino community representative. At present, very distinguished attorneys including former Judge Wall applied and were approved to serve on the ombudsmen panel. Their first two recruits, females and persons of color, are on hold due to the uncertainty caused by this bill.

Commencing the new process is important. It is a matter of community, police, and justice system relations. The public's confidence in fairness is paramount. Without that independent component, the community believes there to be self-interest preservation without regard to public interest. The district attorney decides whether to pursue criminal charges in an officer-involved death. If no charges are filed, the coroner convenes the inquest. It is the same district attorney determining which questions to ask and what evidence to review. Officers have freely testified under this process. The newly approved process in Clark County is the least expensive alternative to have an independent review process. Hundreds of communities have funded an independent process to review police actions. Clark County is not like other Nevada counties. We will not be on parity for numerous reasons including the number of police-involved deaths annually. The Clark County process is not any more or less adversarial than the previous process unless you believe the district attorney did not ask the hard questions. I do not believe that to be the case. I implore you to let the local community input and its developed process stand. Do not support A.B. 320.

Frank Hawkins, President, National Association for the Advancement of Colored People, Nevada Chapter:

I sit in opposition to A.B. 320. I will not repeat what everyone else has said. I agree with them. I will say that the officers or those who are in favor of this bill and those who have not been willing to give the revised coroner's inquest an opportunity, do so out of fear. There is a coroner's inquest scheduled. I believe this is a Clark County issue. If the Committee does want to go forward, you have had some opportunities and suggestions made by people here today and at the previous hearing. It is vitally important that all of the legislators, or at least your Committee, come to Las Vegas, have a town hall meeting, and listen to the people. It is about fear. It may be fear on both sides. It is personal if you lose a family member, and it is personal for an officer if he kills someone. I can appreciate what we ask people to do, but it is a personal issue. People have very strong feelings in the minority communities about the treatment or lack of treatment when they have had family members killed.

We do not want to see the bill come out of Committee. We would like to see the bill killed. We would like to see the process that hundreds of hours and many people have been involved in testifying for over the past five or six years. We are trying to create a process that works for Clark County, Nevada. That does not mean it works for San Francisco or other places. If it works for Clark County, that is what we want. We think the process that is in place is the best for the time being. The Clark County Commission has agreed to keep the advisory board in place and refer back to it. They have also agreed to look at the process every other year or so. Whatever needs to be changed, with

some history of the advisory board that they put in place, with all of the knowledge that we need, those changes can be made. I would implore the Committee to not make changes to a county process that had input from many people and hundreds of hours.

Chuck Callaway, Police Director, Las Vegas Metropolitan Police Department:

The LVMPD opposes A.B. 320. If enacted, this bill would eliminate the inquest process which our agency believes is important to maintain transparency and public trust. This process is for the public. It is to air the facts of what happens when deadly force is used by a police officer. We understand that there is a need to balance the rights of a police officer with the public's right to hear the facts and circumstances surrounding an officer's use of deadly force. Clark County Sheriff Doug Gillespie sat on a panel that ultimately recommended the changes that were made to the inquest process and the Clark County Board of Commissioners voted that process into place. I would suggest to the Subcommittee that it would be very convenient for the Clark County Commission if the Nevada Legislature passed a law that eliminated the coroner's inquest. Then, when a controversial officer-involved shooting occurs, and the public demands answers and no facts can be given, it would be blamed directly on the Legislature for passing the bill.

Most of us would agree that the inquest process is not perfect, but has not had a chance to play out since the changes were made. I doubt that we will ever achieve a perfect inquest process. In the testimony that was heard the other day, it was stated that the process is not working. The fact of the matter is, we have not had an inquest take place since the changes were made. All we are asking is to give these changes that were voted into place by the Clark County Commission time to play out and see if they do or do not work. If they do not work, let the County commissioners change or eliminate the process if they choose to.

Rebecca Gasca, representing the American Civil Liberties Union of Nevada:

[Submitted ([Exhibit C](#)).] I am delivering this testimony on behalf of our organization and on behalf of our legal director, Maggie McLetchie, who sat on the coroner's inquest panel along with many other people who have spoken today in an effort to reform the flawed coroner's inquest process. The American Civil Liberties Union (ACLU) fought hard during that work for transparency, fairness, and justice for police officers and victims alike. Only by ensuring that the coroner's inquest process is truly transparent do we believe that public trust will be ensured. Unfortunately, despite the previous revisions, the public generally viewed the coroner's inquest process as unfair and lacking transparency.

After quite a bit of hard work, the review panel voted 8 to 2 to recommend changes that would provide for an ombudsman to balance the process, allow for officers to have representation to protect their rights, and change the process to get rid of findings and fault and focus on factual findings only. This was a lengthy process and we think that by moving forward with this bill, the Legislature would be undermining and vetoing the will of the residents of Clark County for various reasons. Those reasons were just listed by Mr. Callaway. We think this would undermine the public's confidence and trust that the police force relies on to carry out its duties.

One of the most important things that is a matter of public concern is that the public and even the police force recognize that even police officers are not above the law. During the work on the coroner's inquest panel the PPA argued that officers who take a life should not have to answer questions. Even officers are not above the law. In fact, because officers serve and work for the public, that public has a right to know what happens when an officer takes a life. The ACLU of Nevada certainly believes that the vast majority of officers work incredibly hard to do the right thing and deserve to be trusted. Even when an officer may deserve to be vindicated without the implemented performance, the public will continue to question the outcome and the coroner's inquest will continue to be viewed as what was often referred to as a "kangaroo court." We do not support the movement of this bill.

I would like to address the Fifth Amendment issue that has been brought up. When invoking the Fifth Amendment an officer has to show, at the very least, that he is faced with some authentic danger of incrimination. The fear of incrimination must be reasonable in light of the witness's specific circumstances, the content of the questions, and the setting in which the questions are asked. These factual findings are devoid of any stigma or fault, given the changes following the coroner's inquest panel and because the panel's findings are never binding on the district attorney. An officer who rightfully pleads the Fifth, rather than a virtual veto, is by nonparticipation as we understand the PPA has suggested. It in no way prejudices the inquest proceedings without his testimony. Just like other witnesses, both officers who use force and officer witnesses can be subpoenaed to participate in the coroner's inquest process. Now, if officers do need to plead the Fifth, they will have their legal representative present to ensure that their rights are protected. The presiding officer who manages the inquest panel, who is a trained and experienced judge, has the knowledge and skill to determine whether any officer may rightfully plead the Fifth in a particular instance. Even when an officer who did use force that resulted in death does invoke the Fifth, the inquest may proceed anyway. Justice court proceedings are routinely carried out despite the

fact that someone may plead the Fifth. Other witnesses and other evidence can be presented.

Given that, we think that the specter of concern raised earlier this week by the PPA and supporters of this bill is not applicable. We feel that this bill should certainly not move forward. We hope that you will agree. The members of the coroner's inquest panel and the Clark County Commission, in having approved this process, did the right thing to ensure that public trust is protected. We appreciate your time and concern to this matter particularly because of its personal importance and effect on public safety and the community.

Assemblyman Stewart:

I want to make sure I am hearing correctly; the ACLU and the LVMPD are agreeing and opposing this bill?

Rebecca Gasca:

Yes, it is our great pleasure to be side-by-side with the LVMPD on this matter.

Chair Kirkpatrick:

Is there anyone else who would like to testify in opposition to A.B. 320? [There was no one.] Is there anyone who is neutral? [There was no one.] Is there anyone who is in favor of A.B. 320? The Police Chief from the City of Henderson did submit testimony on this bill ([Exhibit D](#)). He was in support of this bill.

Ronald P. Dreher, representing the Peace Officers Research Association of Nevada and the Professional Peace Officers of Nevada:

We are in favor of A.B. 320 for the reasons stated by the District Attorney a couple of days ago and the reason provided by the proponents of this bill. We are in support because 16 of the 17 counties in Nevada do exactly what this bill is requesting. I have been a major crimes detective before in Washoe County and have investigated officer-involved shootings. We have good protocol for how we handle those situations. In Washoe County, officer-involved shooting investigations are done and transparent to a degree. They go to the district attorney who looks at that and makes decisions based on the evidence. I was shocked that District Attorney Roger stated that he would take all the information and put it online, and let you see it. It is a change. I cannot believe anything could be more transparent than his willingness to do that.

I have looked at the City of Henderson's letter ([Exhibit D](#)). I agree with them. There are only a couple of places in the United States that actually do the coroner's inquest. The district attorney is entrusted to do it the appropriate way. We believe that the District Attorney has done it that way and he will

continue to do so. All the other counties in our state, with the exception of Clark County, function that way.

There is always going to be someone that condemns the actions of a police officer. When family members get involved in officer-involved shootings where a life has been taken, it is extremely difficult for them to believe that those people did something that caused an officer to use deadly force. The investigation is done in an unbiased way. In Washoe County, for example, the agency that investigates the shooting is not the one that does the shooting. There are provisions that have the checks and balances that are trying to be done. We certainly request that the Subcommittee move A.B. 320 and treat everyone equally.

Javier Trujillo, representing the City of Henderson:

We would like to relay a message from our Henderson Police Chief ([Exhibit D](#)). We did submit her testimony. We would ask that you refer any questions to her office.

Chris Collins, Executive Director, Las Vegas Police Protective Association Metro, Inc.:

I would like address the three shootings that the opposition has addressed and give you the details of those shootings, if you will allow me. The first thing that I would like to address is that I do not believe that Sheriff Gillespie's vote should be weighted any more heavily than the Police Chief of Henderson's vote. We now have one head of an agency in support of and at least one who is in opposition to this bill. I do not believe his voice should be any louder than the others. It was brought to your attention today that the District Attorney wanted nothing to do with this process as we sat on a panel in fall of 2010. I do not believe that to be true, other than it was brought to his attention by virtually every member of the panel that the citizens of Las Vegas did not trust him. It was the panel members themselves who did not want the District Attorney involved in the process. It was the third of four meetings in which Mr. Roger very graciously made the motion to step aside and to not impede the process. That motion was overwhelmingly passed by the panel. It was not until the panel realized it they would no longer have the resources of the District Attorney's Office to investigate these shootings, that a new motion was made, and he was voted back into the process by the panel members themselves. So to say that he did not want any part of it is not a genuine or true statement.

This bill is not about the PPA and the LVMPD. This bill is about equity and fair treatment for the law enforcement professionals of Clark County, Nevada.

Members of every law enforcement agency in this valley are the only law enforcement agencies in all of Nevada that have to endure the inquest process.

I would like to address the three shootings that you have been made aware of by the opposition. They did not tell you that Swuave Lopez committed a brutal murder, poured gasoline into the mouth of his victim, and lit him on fire so that the police department would not be able to identify the body. At that time, the victims were told by Mr. Lopez that he would kill them if he was ever taken into custody. Those people, as good citizens, made the police department aware of Mr. Lopez's actions and he was taken into custody. He managed to get the handcuffs from behind his back to in front of him. He escaped from a locked police vehicle, and took off on the run. The officers only took Mr. Lopez's life in concurrence with the U.S. Supreme Court decision *Tennessee v. Garner*, 471 U.S. 1 (1985) which allows them to shoot a fleeing felon who is an immediate threat to the public.

Trevon Cole was mentioned. What you have not been told is that Trevon Cole was shot while a lawful search warrant was being served at his home after he had sold narcotics to undercover police officers. It has been told that he was shot while on his knees. The coroner can tell you that the physical evidence does not support that he was shot while on his knees. That is untrue.

Erik Scott has been mentioned. His past was a subject for discussion. During the Erik Scott inquest, the officers endured questions of, "Have you ever killed anyone before? Did you have too much caffeine that day? Have you had a fight with your wife or husband recently? Did anything upset you?" It was not just Mr. Scott's past that was brought up. It was all of the officers involved in that incident. The Erik Scott shooting has been sent to Washington D.C. There is an organization that is going to recognize those officers as heroes. They have been picked out of many cases in the United States. They have been chosen to be heroes.

The speakers that we had before you the other day, like Charles Kelly, spoke to the Fifth Amendment. We disagree with the ACLU's stance on the Fifth Amendment. I will not go into any more detail than that. Eric Fleming from what San Francisco came forward and stated that Mr. Roger would put all of the documents, photos, and reasoning as to why or why not criminal charges would be filed onto a website. He stated that he believed that was a more open process than San Francisco currently has. The point has been brought to you that other jurisdictions have police commissions which they believe amount to an inquest process. I have made phone calls over the last several days to large municipalities around the country who have police commissions. None of them have an inquest process. Those commissions looked into the internal workings

of the police department just as our use of force board does. If you recall, the use of force board consists of seven people, three from the police department and four citizens. The citizens control the vote in that use of force board.

It has been questioned why A.B. 320 has been brought to you. For lack of better terms, your Committee has become the appellate court for what the law enforcement professionals in Clark County believe is a wrongdoing. We ask that you fix the wrongdoing of the County Commission. The District Attorney has stated that he will be involved in process. He decides every day on hundreds of cases. He decides on thousands of cases a year which will be prosecuted. The citizens of this valley just reelected Mr. Roger in the fall of 2010. They must have full support and belief in his abilities to do so. We ask that he be allowed to take that same action in officer-involved shootings. If the family members still believe they have been wronged and the information has not been gained, they have the right to hire an attorney and file a lawsuit in federal court, at which time the discovery, depositions, and all other remedies that the court allows come into play. Those are open to the family. It is a fairer process because all the remedies allowed by the court are also allowed to be used by the officer. We believe that is where the questions should be answered and not in an inquest.

This is not a bill for the LVMPD. This is a bill about all law enforcement professionals in our county asking to be treated as the other law enforcement professionals in our state are and as the other law enforcement professionals in our country are. They ask that you support A.B. 320.

Chair Kirkpatrick:

Is there anyone else who would like to testify? [There was no one.] There are some people on the Subcommittee who would like to hear from the Coroner.

P. Michael Murphy, Coroner, Clark County:

I am not sitting here as the representative for Clark County today. I would like to make that clear. I am the Coroner for Clark County. I am responsible for conducting the coroner's inquest. For the last nine years that I have been involved in this process with over 100 inquests, it has been my responsibility to maintain a neutral stance and to answer any of your questions in a factual manner without providing any editorial as to what my personal opinions may be about the process.

Assemblywoman Neal:

Can you give me three negative and positive implications about the coroner's inquest process?

Chair Kirkpatrick:

Is that the old process or the one in place currently?

Assemblywoman Neal:

The old process is the one I was referring to. You cannot discuss the new one because it has not happened.

Michael Murphy:

It is important to remember that what people want the coroner's inquest process to be is not something it will ever be. We interact with the families from the beginning of the incident that occurs. It is a policy of mine that the assistant coroner or I will respond to the scene of these incidences and meet with the families as quickly as possible to explain to them what the process is. We do not leave that to our own investigators although we have an investigator on the scene. The positive of that is that we are able to share with them what we are going to do and what is going to happen. In the old process, we were able to bring those issues to light within about 30 to 60 days of the incident. It gave us an opportunity to air the incident publicly. Those are the positives.

The coroner's inquest process does not answer the ultimate question that families want. I do not believe it ever will. That is not the fault of the process; it is the misunderstanding of people grieving. People who lose their loved ones think that when they meet with the members of our office that someone is going to provide them with closure. No one will ever be able to provide closure for a family who has lost a loved one in any incident whether it is police-involved or not. The goal is to provide them with some resolution, but closure is impossible in my mind. I have had that expressed to me by more than one person who is grieving the loss of a loved one on more than one occasion. That is a negative.

The time frames that we are discussing right now have expanded greatly. That has been discussed almost ad nauseam in the panels that we had. I am concerned that those are going to reopen wounds that families are trying to let heal because of the length of time in the process. I cannot speak for families because I am not a family member who has lost a loved one. That is another concern that I have. People believe that police officers are mandated to respond to these inquests and they have always done it on a voluntary basis. While there is a minor penalty for not appearing, if they do not involve themselves in the process it may make it more difficult.

Assemblywoman Neal:

You brought up the issue of the difference between closure and resolution. On the subject of the coroner's inquest actually providing a resolution to the issues,

have you seen that happen more often than not? If you have, what have been the dilemmas for why the families did not feel that there was a resolution?

Michael Murphy:

I will answer the second question first. I do not think that when people have a loved one that dies, and that loved one is in a negative situation whether by his own hand or something he has been involved in, that they are easily able to wrap their arms around the concept. I am not speaking about interaction with the police. I am speaking about if someone is doing something wrong and he gets killed in that process, it is difficult for people to believe that the person that they loved could be a person that was doing something inappropriately. If you were to ask my mother if I have done something wrong, she would tell you that I do not do something wrong very often. She has a different view of me than others do. Families in general are that way. It is important to remember that after someone has died, we have a tendency to block out the negativeness that has occurred. That makes them struggle even more with their ability to get their arms around what may or may not have occurred. This process was originally created for the purpose of trying to air that information publicly. I am not the judge in that process. I am the person who facilitates what has been done by statute.

Assemblywoman Neal:

You said that there is a taint on the perception from families when a person dies that they were close to. There may be an inability to clearly see the incident as it is. On the flipside, with the officer who may be put into the position where a fact-finding issue could come up that will deal with his career, there could also be a taint or perception because you are always acting in concern to your own physical safety in a situation. When you have been doing a job forever, someone could just say that his life was at stake. He could say that he responded in that manner. How can you challenge what someone did when he was trying to save himself? That is a constant issue for an officer. From a family's point of view, family members understand that a police officer was trying to save his own life in the face of danger, but the family wants to know if they responded appropriately.

Michael Murphy:

It is important for everyone to understand that my experience in these situations is that there are no winners. I understand that there is a perception about what the police think and a separate perception about what the family thinks. I do not know that we can speak to that as well as we should because we are not either one of those. My experience has been that there is no joy in the police officers that are involved in these. While they are waiting for these decisions to come down, in the old process, the tension and stress that is involved in that

for them has realness to it. It is the same for the families. When I look at the 100-plus coroner's inquests that I have been involved in, we have families that run the gamut of emotion. We have some that have no desire to have any contact with the coroner's office, some that want to embrace what we are trying to do to help them through the process, and some that have reviewed the process—we have explained to them what has happened—and have no desire to move forward with the inquest process. We have had families that believe the process was enough, and we have other families that have indicated that it fell far short of their expectations. It runs the full width and breadth of what we do, both positively and negatively.

Chair Kirkpatrick:

Is there anyone else that would like to add anything on this bill? [There was no one.] Either side can submit any written testimony to be put on the record. We will accommodate you. We will close the hearing on A.B. 320.

Meeting adjourned [at 12:46 p.m.].

RESPECTFULLY SUBMITTED:

Jenny McMenomy
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: April 14, 2011

Time of Meeting: 11:49 a.m

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 320	C	Rebecca Gasca, American Civil Liberties Union of Nevada	Talking Points
A.B. 320	D	Javier Trujillo, City of Henderson	Letter