

**MINUTES OF THE  
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Seventh Session  
March 14, 2013**

The Senate Committee on Health and Human Services was called to order by Chair Justin C. Jones at 3:30 p.m. on Thursday, March 14, 2013, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 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 Justin C. Jones, Chair  
Senator Debbie Smith, Vice Chair  
Senator Tick Segerblom  
Senator Joseph P. Hardy  
Senator Ben Kieckhefer

**STAFF MEMBERS PRESENT:**

Marsheilah D. Lyons, Policy Analyst  
Joyce Hinton, Committee Secretary

**OTHERS PRESENT:**

Michael J. Willden, Director, Department of Health and Human Services  
Tracey Green, M.D., State Health Officer, Health Division, Department of Health and Human Services  
Richard Whitley, M.S., Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services  
Joseph McEllistrem, Ph.D., Director, Forensic Health Services, Carson City Sheriff's Office; Forensic Health Services, Douglas County  
Nadine Chrzanowski, Detective, Douglas County Sheriff's Office  
Paul T. Howell, Undersheriff, Douglas County Sheriff's Office  
Chuck Calloway, Las Vegas Metropolitan Police Department  
D. Eric Spratley, Lieutenant, Washoe County Sheriff's Office  
Robert Roshak, Nevada Sheriffs' and Chiefs' Association  
Kirk Hooten, Las Vegas Police Protective Association

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Lesley R. Dickson, M.D., Executive Director, Nevada Psychiatric Association  
William O. Voy, District Judge, Department A, Eighth Judicial District  
Jocelyn Torres  
Bunchie Tyler, President, National Alliance for the Mentally Ill of Northern Nevada  
Dan Reid, State Liaison, National Rifle Association  
Don Turner, President, Nevada Firearms Coalition  
Tonja Brown  
Robert Clifford  
Robert Bennett  
Mathew Yealy  
David Stilwell  
Zachary Jackson  
Janine Hansen, President, Nevada Eagle Forum  
Richard Brengman  
Lynn Chapman, Independent American Party  
Greg Ross  
Juanita Cox, Citizens in Action  
James Smack, Vice Chair and National Committeeman, Nevada Republican Party  
Mark Howells  
Vernon Brooks  
Roland Ogg  
Joshua Loftis  
Sam McGuire, Stillwater Firearms Association  
Allen Main  
Mitch Gerlinger  
Carole Wright  
Ed McSwain  
Michael Murray  
Robert Frank, Colonel, United States Air Force, Retired  
Cynthia Madden  
Wayne Kowalski  
Jim Sallee

**Chair Jones:**

We will open the hearing. We will first address the introduction of a bill draft request (BDR).

**BILL DRAFT REQUEST 39-1082:** Revises provisions relating to contracting with nonprofit and need care collaborative. (Later introduced as [Senate Bill 274](#).)

SENATOR SMITH MOVED TO INTRODUCE BDR 39-1082.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Jones:**

The first presentation will be about the appropriate discharge plan for an individual with a mental illness leaving facilities. This issue has been in the news media recently. I appreciate the people from the Department of Health and Human Services (DHHS) for coming to talk about the issue.

**Michael Willden (Director, Department of Health and Human Service):**

The DHHS, the Health Division, and the Division of Mental Health and Developmental Services take seriously the issue and allegations of inappropriate patient dumping.

We will explain how the system works, and then we will talk specifically about the case that has been in the press. The management team of DHHS became aware of the case on February 27, 2013. The individual was discharged on February 11 or 12, 2013. The case has evolved through the press for several weeks. We need to be careful today regarding confidentiality. We cannot give information if it is Health Insurance Portability and Accountability Act (HIPAA) protected or confidential information.

When we became aware of the case, we immediately launched a number of investigative processes. There has been a considerable amount of press about a California senator requesting an investigation. I want the Committee to know we requested the investigation a couple days before that senator wrote to the DHHS. We have been under the investigative and review process for several days.

The final issue I clearly want on the record is that policies were not followed. That has been reported and is what our preliminary investigation concludes. We will be taking action to correct this. I do not want that to sound defensive. We own it, and in this case, we blew it. You will hear more about the facts from Dr. Green and Richard Whitley. Some articles in the newspaper are not factual.

I want the Committee to come away with a broad understanding about how much mental health involves interstate clients. I also want to emphasize that our investigative results reveal this problem is not a systemic issue.

**Tracey Green, M.D. (State Health Officer, Health Division, Department of Health and Human Services):**

My testimony is on Appropriate Discharge Plans for Individuals with a Mental Illness Leaving Facilities, pages 2 through 9 ([Exhibit C](#)).

**Richard Whitley, M.S. (Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services):**

My testimony is also on the Appropriate Discharge Plans, pages 10 through 12 and the addendum, [Exhibit C](#).

**Chair Jones:**

I appreciate that you have accepted responsibility and are trying to get ahead of this. This shows the commitment you have to providing mental health services in our State.

When referring to the incident in question, you mentioned the checks and the policies that are in place. Are there processes in place to ensure an incident like this one does not happen again? If a doctor makes a decision to discharge a patient, is his or her decision reviewed by someone else?

**Mr. Whitley:**

Yes, that process is in place. Physicians conduct peer reviews. Unfortunately, in this case, the review did not take place until after the patient left. Decisions are also reviewed by nurses and social workers. The social worker acts on the doctor's order to fulfill the discharge plan. There are multiple disciplines involved in reviewing decisions. The licensing boards for the different disciplines also oversee the clinical positions. The boards were notified of this complaint, and they are assisting us with the investigation.

**Chair Jones:**

You mentioned the peer review process did not take place until the patient left. Is there a policy that states the peer review must take place before a patient is released?

**Mr. Whitley:**

That policy was not in place. Without the investigation being completed, we already know this is an area that needs improvement. We have also initiated a new policy for the authorization to purchase a bus ticket.

The authorization to purchase a bus ticket in southern Nevada resided with the fiscal staff. They determined if the purchase was appropriate and gave the authorization. We have now changed the policy so the hospital administrator has to approve all discharges that include transportation out of state.

We have made some immediate changes based on what we have been able to see on the surface where actions did not follow policy.

**Chair Jones:**

Have you have added a layer of protection regarding the transfer and discharge of patients?

**Mr. Whitley:**

Correct.

**Chair Jones:**

In your presentation Dr. Green, you talked about the lack of housing for the mentally ill. We are under tight budgets, but I know you have requested additional funding for facilities in southern Nevada. How long would it take to have those facilities ready?

**Dr. Green:**

We are prepared to implement the urgent care facility as soon as funding is available. That would be immediate.

**Chair Jones:**

Regarding the facility across from Rawson-Neal Psychiatric Hospital, what would it take to make those additional beds available?

**Dr. Green:**

I believe you are speaking about the old hospital. That facility has 77 licensed beds, but it is not currently staffed. There are plumbing and air-conditioning issues. We are in the process of having an assessment conducted to determine what is required to make the facility safe for clients.

**Chair Jones:**

I appreciate your efforts to get ahead of this issue and that you have initiated additional checks so this does not happen again.

We have a second presentation that demonstrates one of the shining examples of successes in mental health. The program is in Carson City, and Mr. Whitley has been very involved. Dr. Joseph McEllistrem, Director, Forensic Health Services, will talk to us about the Forensic Assessment Services Triage Team (FASTT) program. This program provides additional help to ensure people with mental health issues do not fall through the cracks.

**Joseph McEllistrem, Ph.D. (Director, Forensic Health Services, Carson City Sheriff's Office):**

I have provided my written testimony on the FASTT program in Carson City ([Exhibit D](#)) which I will read. On page 1, paragraphs 4 and 5 have been omitted, as have paragraph 2 on page 4, paragraphs 2 and 3 on page 5.

**Chair Jones:**

How do we use the model you have created in Carson City and apply it to larger jurisdictions in the State?

**Dr. McEllistrem:**

This plan has been crafted for our community. It has been crafted knowing who our treatment providers are in this community. We have developed the coalition of providers such as the Ron Wood Family Resource Center, the homeless shelter, Sierra Family Health Center and Carson Mental Health Center. Our program works because we have brought in the consumers that have a stake in the services. It may be more complicated in a larger jurisdiction. The jurisdictions may have to be broken down into smaller geographical areas. We have a commitment by the people who interact with this population. They are highly motivated. We break down the silos of treatment and glue together a program that works efficiently.

**Chair Jones:**

The mental health diversion court works well in Carson City and in Washoe County. It is not working as it should, or it is not being fully utilized, in Clark County. Based on your experience, what recommendation would you make to ensure the program is fully implemented in Clark County?

**Dr. McEllistrem:**

I do not know the deficits in Clark County. Nationally these courts have been successful. They began in 2003 in Broward County, Florida. They started the first drug court and then the first mental health court, so there is a model in place that can be followed. I do not know what is getting in the way in Las Vegas.

**Senator Hardy:**

Is there a private entity working with the public entities in these processes?

**Dr. McEllistrem:**

I do not know if there is a private entity at this point. The program started in December 2012 and early January 2013. We are functioning with the agencies that already exist, and they are public agencies.

**Chair Jones:**

We are now going to move to Senate Bill (S.B.) 221.

[SENATE BILL 221](#): Makes certain changes relating to persons with mental illness. (BDR 14-943)

**Senator Justin Jones (Senatorial District No.9):**

Senate Bill 221 is an important bill; it helps ensure that firearms do not end up in the hands of people with mental illness and who are a danger to themselves or others. I did not set out to take on this issue when I sought this office, but Sandy Hook changed things for me as it did for so many others. I am a father first and was deeply disturbed that someone with mental health issues had such easy access to firearms and could carry out such carnage on innocent children. Sitting in church the Sunday after Sandy Hook, I had moms, dads, grandfathers and grandmothers, many of them gun owners themselves, come up to me and say "Justin what are you going to do to make sure guns do not fall into the wrong hands?"

I do not take my charge to represent my constituents lightly, and that is why I spent what some would consider an exorbitant amount of time studying these issues, talking to mental health professionals and law enforcement officers, visiting facilities and poring over statutes and proposed legislation from other states.

As a Committee, we heard from a broad group of professionals on these issues. This helped shape my proposed legislation. Through the process, I have carried on a dialog with individual gun owners and with representatives of the National Rifle Association (NRA). One of the key parts of my proposed legislation, the duty-to-warn provision, is included in the proposed amendment. This provision was suggested by the NRA.

After Sandy Hook, New York State rushed to pass legislation that was criticized by many including mental health professionals. I have endeavored to be deliberative in the process of crafting this legislation so we get it right. I have continued discussions with mental health professionals, law enforcement and the NRA. As a result of these discussions, I have submitted an amendment that I believe addresses many of the concerns that were raised with the original draft. Before I discuss the bill, I will ask Douglas County Sheriff's Detective, Nadine Chrzanowski, to relate a case Undersheriff Howell brought to my attention earlier this week. It demonstrates the point that without legislation like this we risk another shooting like those at Sandy Hook and the International House of Pancakes (IHOP) every day.

**Nadine Chrzanowski (Detective, Douglas County Sheriff's Office):**

I am a detective with Douglas County Sheriff's Office, and I am here today at the request of Senator Jones. On Monday about 3 a.m., Douglas County Dispatch received an anonymous telephone call from a female who refused to identify herself or give her address. She called in on the nonemergency line so her telephone number could not be tapped. She wanted to report that her adult son, who was diagnosed with paranoid schizophrenia, was hearing voices and had provided her with a note stating, "Mom you need to call the police, I am seriously considering killing these people." She knew he was referring to neighbors around them as he had expressed, over the course of a month, that he believed the neighbors were out to get him and they were using racial slurs. In his paranoid state, he believed these people were a threat to him. She became very concerned. Coupled with this, every night, her son slept with a loaded AR-15 rifle. She was concerned he would act on his ideations, but she



refused to identify her son other than accidentally slipping out his name and nationality before hanging up.

For several hours, our deputies tried to identify this person without any success. I came in at around 8 a.m. and was contacted by one of our patrol sergeants. He briefed me on what he knew. He asked me to review the case, listen to the recording and try to figure this out.

After reading the case and listening to the call, I realized I knew the subject. Other deputies and I had previous contact with this person since approximately 2003, numerous contacts related to mental health. I knew he was diagnosed with paranoid schizophrenia. He was involved with two previous threats of violence: the first, he threatened to stab his mother in the chest with a pair of scissors; the second, he threatened violence against one of the local middle schools. I was very familiar with him. I took the new information to our sergeant and Undersheriff Howell. We came up with a plan to make contact with this individual at his residence.

After a little difficulty with his parents, we were allowed inside the house. When we contacted him, he was sleeping in his bedroom with an AR-15 rifle loaded with a full 30-round magazine. He had two extra magazines. The AR-15 was equipped with a red dot sight. Right next to him was another bolt-action 30.06 rifle.

While we were at the house, we talked to his mother, his father and his two brothers. We also talked to the subject. They all confirmed that they knew for the last month he had been hearing voices and had been off his prescribed medication. He had been drinking alcohol heavily on a daily basis. He had been expressing with intensity his desire to cause harm to his neighbors, who he thought were a threat to him. His mother was very concerned. His father was a concern to us because he expressed opposition to our position that his son could be dangerous with the firearms. He thought his son had every right to have these guns. He did not see his son as a danger to anyone. The boy's mother told us she had repeatedly asked her husband to lock up the guns. He refused to do it. When we were on scene, the father became angry with the mother when he realized she had been the person who called us. She expressed fear of him when we left.

I spoke with the subject, and he confirmed he had been hearing voices. He confirmed that the voices were telling him the neighbors around him were a threat. He believed they were going to harm him in some way. He told me that he had the rifles for self-protection against these people. In his paranoid state, he thought they were going to harm him. He confirmed he had not been taking his medications as prescribed. He confirmed he had been drinking a large amount of alcohol every day. He was able to articulate to me his mental illness, and he was not sure that what he believed to be true was reality. His mother provided me with the handwritten note that he had given her. It said, "Mom call the police, I am seriously thinking about killing these people." I collected the note. Our deputies and I took the subject for a mental health evaluation.

This is not an everyday occurrence in Douglas County, but it has become increasingly more frequent over the last year. It is more regular than it should be.

The major issue was the unwillingness of the family to help regulate this person's ability to have firearms when he was in a paranoid state. They seemed to see no problem with it.

The other issue is that we had previously seized firearms from this individual, specifically two shotguns and another rifle. Unfortunately, the way the laws are currently written he was able to purchase more guns. He told me during the interview that a month before I contacted him he had purchased the two rifles in Reno. I checked, and an accurate Brady Handgun Violence Prevention Act check had been done. It was legal for him to make these purchases.

From my position as an investigator, I have concern. It is difficult to come up with a long-term solution to this problem. Based on our policies and procedures, I was able to seize his firearms for 30 days for safekeeping. However, I have little recourse but to return the firearms in 30 days.

**Senator Jones:**

When Undersheriff Howell related this incident to me, it sent chills down my spine. Without Detective Chrzanowski's forward thinking and work, we may have had another IHOP shooting.

I will go through the key provisions of S.B. 221, and I will go over my proposed amendment ([Exhibit E](#)).

Senate Bill 221 requires faster reporting of mental health adjudications by the court to the Central Repository for Nevada Records of Criminal History and the FBI's National Instant Criminal Background Check System (NICS) database.

The revelation that shocked me and other members of this Committee was that the courts have no statutory time line for recording involuntary commitments and other mental health prohibitors to the Central Repository. In practice, this information was being reported 45 days or more after adjudication.

First, S. B. 221 corrects this grave error by requiring the court to report such information to the Central Repository within 5 business days. Second, S.B. 221 directs the DHHS to expand their mental health collaboration efforts with mental health professionals, law enforcement, local government and others to ensure those with mental illness do not fall through the cracks. We heard a few minutes ago from Dr. McEllistrem how successfully such collaboration efforts better serve the mentally ill in our community. Third, with the amendment, [Exhibit E](#), S.B. 221 establishes a duty for mental health professionals to report to the police and warn a potential victim when a patient expresses a specific intent to harm or kill another person. Nevada is one of only four states in the Nation without a duty to warn policy. It is time to protect potential victims.

Finally, S.B. 221 requires background checks for all gun purchasers. Looking at this issue and talking again to law enforcement and mental health professionals, I came to the conclusion we cannot effectively keep guns out of the hands those who may be a danger to others without background checks for all sales. Purchasers will not be required to do anything more than they would do if they went to a licensed gun shop to purchase a gun.

The Central Repository, through which background checks are routed in Nevada, is able to complete a background check in 1 to 2 minutes in 98 percent of the cases. The process is less time consuming and less invasive than going through security at the airport. Background checks work. Since implementation in 1998, more than one million people nationwide have been denied guns because they were prohibited by law from owning a firearm. These people are felons, fugitives from justice and those adjudicated to be mentally ill.

In Nevada, in the year 2012, nearly 2,000 people were denied gun purchases as a result of background checks. Even with our slow and spotty mental health

reporting, more than 1,000 people have been denied guns because of mental health prohibitors since the inception of background checks in Nevada.

I want to emphasize the purpose of this bill is neither to stigmatize those suffering from mental illness nor to discourage them from seeking treatment. As I have previously revealed, I have close family members who have struggled with clinical depression, bipolar disorder and suicidal ideations. Those with mental illness are unfortunately far more likely to be the victims of violence than the perpetrators of violence.

I have tried my best to balance the rights of the mentally ill, the rights of law-abiding gun owners and the rights of those parents who approached me at the hall in church asking what I would do to protect their children from the next tragedy. I do not pretend to have all the answers to this very difficult subject. Nor will I pretend that passage of my bill will stop all mentally ill individuals, who are determined to be a danger to others from gaining access to guns. However, I could not look those concerned parents in the eye if I stood idly by and did nothing.

I look forward to working with other Legislators including members of this Committee to ensure we are doing all we can to protect children and keep guns out of the wrong hands.

**Senator Kieckhefer:**

Will you walk through the amendment and explain what you are adding and what you are striking?

**Senator Jones:**

There are three aspects of the amendment to S.B. 221. In section 9 of the bill, there were concerns from mental health professionals and law enforcement personnel with the way the bill had been originally drafted. Their concerns were about the reporting to law enforcement and the ban on owning a weapon for 6-months.

Dan Reid from the NRA had reached out to me, and we had some discussions. He said that Nevada was one of four states that did not implement a duty to warn policy on behalf of mental health professionals. I thought that was a good observation. We removed the language that was problematic from section 9 and added section 13. This addresses many of the concerns that have been raised.

The other change is in the first part of section 9. When the Legislative Counsel Bureau's Legal Division originally drafted this bill, I asked them to list all the prohibitors that Nevada has recognized. The list includes: adjudicated mentally ill by the courts, a plea of guilty but mentally ill in the courts, found guilty but mentally ill by the courts, acquitted by reason of insanity in the courts and then the catchall of otherwise being prohibited by federal law.

**Senator Hardy:**

I am looking at the case in Douglas County. Who would have warned the neighbors that somebody was threatening to kill them?

**Senator Jones:**

The duty to warn is required of the mental health professional. If the individual had expressed these ideations to the mental health professional, the mental health professional would have a specific duty to warn the threatened individual as well as to report this information to law enforcement.

Detective Chrzanowski, do you know if these ideations were reported to a mental health professional?

**Ms. Chrzanowski:**

Yes, they were. After the individual was taken into custody, he was seen by Dr. McEllistrem. Based on my conversation with Dr. McEllistrem, this person expressed the same ideations to the doctor that he had expressed to me. He related what the voices were telling him with more detail and specificity regarding the level of violence.

**Senator Jones:**

Was that before your intervention?

**Ms. Chrzanowski:**

No.

**Senator Jones:**

If this person had made those comments to a mental health professional before law enforcement involvement, the mental health professional would not have had the duty to warn.

**Senator Hardy:**

What are the HIPAA standards when a mental health professional decides to warn a potential victim?

**Senator Jones:**

I will have to look into that specifically. Again, it has been adopted in 46 states. It has been upheld by the courts in those states. I would expect that HIPAA has exclusion for reporting such information, because this duty to warn dates back to the lawsuit in California more than 30 years ago, *Tarasoff v. Regents of the University of California*, 17 Cal 3d 425, 551 P.2d 334, 131 Cal. Rptr. 14, which predated HIPAA.

**Senator Hardy:**

You made mention of District Judge Voy, who is working on legislation for mandatory outpatient treatment. This would probably help this person from Douglas County who will be discharged eventually and may decide he does not want to take his medication.

In your amendment to S.B. 221, section 13 states a master's degree in the field of psychiatric nursing. Do we actually have a subspecialty of psychiatric nursing?

**Senator Jones:**

The definition of mental health professional is cut and pasted from another provision in the *Nevada Revised Statutes* (NRS). If there are additional people who should be included, I will include them.

**Senator Smith:**

I understand this is part of another statute, but why can any nurse be included while only doctors who are specialists in mental health are included?

Senator Hardy recently talked about his own experiences of holding a gun that belonged to a patient. Why would the requirements only include a mental health doctor?

**Senator Jones:**

For clarification about the registered nurse, the amendment states a license to practice and holds a master's in the field of psychiatric nursing.

I will have to look at other jurisdictions to see if they are broader. I look to the Committee's insight in that regard. I can imagine a circumstance in which a patient would make the same statements to a general practitioner or a family physician. That doctor would feel the same duty to warn. I am happy to consider expanding it. Again, this was cut and pasted from legislation of many other states.

**Senator Smith:**

I am interested because there is a shortage of mental health professionals in our State.

**Senator Kieckhefer:**

Detective Chrzanowski, does law enforcement have a duty to warn? Did you warn the neighbors that a person was making a treat against their lives?

**Ms. Chrzanowski:**

In this case, I did.

**Senator Kieckhefer:**

Do you usually do that?

**Paul T. Howell (Undersheriff, Douglas County Sheriff's Office):**

Currently there is not a legal duty in statute for us to warn, but I cannot see an incident where we would not warn. We will typically do that, and we have done it before. A couple months ago, I revoked a person's conceal and carry weapon (CCW) permit. This person's doctor had called us and reported he had made a very specific threat against a former employer. We did notify the employer.

**Senator Kieckhefer:**

How does that conversation usually take place? How do you tell a person a neighbor or someone he or she knows is making a threat against that person's life?

**Mr. Howell:**

We are as frank as possible. We cannot repeat the detail of what we know about mental health issues. However, I have never known of an incident where the potential victim was surprised. Typically, the victim is aware that an individual has issues. He or she is worried and will ask for our assessment of the danger. This is often difficult to answer, but it is our duty to warn. We have

to give the information so a person can take the precautions he or she feels are appropriate.

**Senator Kieckhefer:**

You are a person from law enforcement who is well trained in dealing with hostile situations. Does a marriage and family therapist have adequate training to engage in a conversation with a person who has had a threat made against him or her by one of the therapist's patients?

**Mr. Howell:**

I do not know. I have not discussed that with a medical professional. It is something we do on a daily basis, so we are comfortable with it. If doctors or mental health professionals are not comfortable making the notification, we would certainly do it for them.

**Senator Jones:**

I had multiple conversations with Dr. Lesley R. Dickson from the Nevada Psychiatric Association about that issue. She told me mental health professionals do receive training in the area. They are taught about the *Tarasoff* Decision in school because it has become the law in 46 jurisdictions. It is not a comfortable conversation, but they do have training. It is not something mental health professionals have to do on a regular basis.

**Senator Hardy:**

As a physician, I will assess a patient for suicide and determine that guns should be removed from the home. I will sometimes hold the guns until that person is better. Section 8 of this bill deals with the transfer of firearms. My patient probably is not going to conduct a background check on me to give me the gun. Later, when I determine he is fine, I will give the gun back to him, and I will not conduct a background check. In the strict verbiage of this transfer language, my patient is a felon for giving me the gun, and I am breaking the law when I give him back his gun. I have a concern with the language.

People who suffer from depression often have a problem asking for help. They are also concerned with what people are going to do to them. Therefore, they suffer with depression longer. The longer they suffer from this condition, the more depressed they get. I am conflicted as to how to allow them help without forcing them into something they do not want to do. The transfer language is a problem.



**Senator Jones:**

I am willing to discuss an exception for doctors or other mental health professionals to remove a weapon from a patient in order to take away the danger. It makes sense.

**Senator Hardy:**

I certainly prefer a family member hold the gun, but I do not see anything in the transfer language to protect the family member.

**Senator Kieckhefer:**

I also have trouble with the transfer language. The way I read this, my wife would have to do a background check on me if she wanted to give me a new shotgun for Christmas. Are you trying to capture all transfers? Would this include me loaning a gun to a friend going to the shooting range? Does this hang on the ownership of the firearm? What about estates when firearms are inherited from a parent to a son or daughter? The transfer language is too broad.

**Senator Jones:**

I spent time looking at these issues and looking at these issues in other states. I looked at Colorado in particular. They passed background language this week. This legislation will be going to their governor on Monday. There are provisions in their proposed statute that provide some guidance.

The struggle is that recently many of the mentally ill who have gone on shooting sprees obtained the guns from family members. To create a broad loophole in all family transfers would not fulfill the issue of limiting firearm transfers. I am happy to talk with you and other members of the Committee about the transfers we want to restrict, and not to restrict the others.

I am not here to suggest that family members cannot give gifts of firearms. By the same token, I think that too often people sell guns to family members who are prohibited from receiving guns. We do not want that to happen

**Senator Kieckhefer:**

I appreciate your willingness to keep that dialog open. Often in the case of family members' firearms being used for mass homicides, it is not necessarily a transfer; they just take a family member's guns and use them.

**Senator Smith:**

I am glad we are having this discussion. It is a hard discussion to have. I was thinking about a personal experience with a neighbor who had paranoid schizophrenia. He began harassing my family and at one point came after my children. It was weeks before I was able to do something about the situation. I finally was able to accomplish something because I was persistent enough to discover this person was an ex-felon from California who had not registered. I just stumbled on the information. He had a gun, and until that point, I was not able to get help to do something with him. It was a frightening situation.

I visited with National Alliance for the Mentally Ill (NAMI) a couple of months ago, and I met a mother who has a mentally ill grown son. She told to me how fearful she was all the time. There are discussions that need to take place. Decisions need to be made to bring about a system where people feel safe in their own homes and in their communities, while we protect the rights of others.

I am a gun owner, and my family hunts. We value that right. After the incident at Sandy Hook, we immediately starting hearing about mental health, and that is why we are talking. The issue of mental health and weapons gives rise to a hard discussion to have, but we need to have it. The detective told us these are not uncommon incidents anymore. We live in a different world. It is good to have these very open conversations. As it was said, "Welcome to democracy," and it is a good thing.

**Senator Hardy:**

We have a tender subject. I have listened to a mother who is concerned about her children, much as the teachers in Sandy Hook were concerned about the little children they wanted to protect.

How do you have the conversation where you go across the street or next door, and say to a person, "Your neighbor wants to kill you, and yes, he has guns," and then expect him or her to sleep at night? What is he or she going to do to be protected? The deputy does not worry about it as much because he or she has a gun and does not live next door.

In Israel, where the people live in constant fear, they have weapons to protect themselves. You have competing interests that exist in the reality of life in some countries, neighborhoods and families.

There is also the debate about how one protects oneself without having the weapon fall into the hands of somebody who is going to use it against him or her.

I appreciate having the open discussion and debate.

**Senator Jones:**

I appreciate the comments from the Committee and look forward to the commentary on the bill.

**Mr. Howell:**

The Douglas County Sheriff's Office supports this bill. There are some good questions, and I think all these things can be worked out. However, the incident we had in Douglas County was within walking distance of two schools, and the individual had threatened schoolchildren before.

This bill addresses the structural deficiencies in the law involving the manner in which mental health, law enforcement and the courts interact and report people who suffer from mental illness to the NICS. It is limited to the individual suffering from significant psychosis who may be of harm to others. It does not include mood disorders and people suffering from addiction issues. The bill closes the loopholes in the permanent sales and transfers of ownership. It will help prevent firearms from getting into the hands of people who should not have them. Reporting individuals who should not have firearms to the NICS is of particular importance.

**Senator Hardy:**

Where in this bill or amendment does it state that only people with psychosis will be prohibited?

**Mr. Howell:**

The bill states those who make threats of harm to others. In our experience, we are not seeing people who are suffering from depression or substance abuse committing these acts. Typically, these acts are committed by people who have been diagnosed with a psychosis, people who have disconnection from reality and people who hear voices such as the mentally ill person in the IHOP incident. This person thought demons were telling him what to do. This bill targets those individuals.

**Senator Hardy:**

I will have to look closely to see if the bill identifies psychosis or mental illness.

**Chuck Calloway (Las Vegas Metropolitan Police Department):**

The Las Vegas Metropolitan Police Department supports S.B. 221. We appreciate Senator Jones reaching out to us for our input on this important bill. Our agency has had a crisis intervention team since 2002, and we respond to about 10,000 calls involving the mentally ill every year. It is a serious problem. Certainly not every person suffering from a mental illness is violent or has a potential to be violent, but as Undersheriff Howell said, it is a problem that this bill goes a long way toward addressing.

**D. Eric Spratley (Lieutenant, Washoe County Sheriff's Office):**

I am here to express Washoe County Sheriff's Office support for S.B. 221. We desire to ensure that prohibited persons such as convicted felons, domestic batterers and mentally ill persons cannot gain access to firearms. We believe we have done a good job in this State preventing individuals who have felonies and other restrictive criminal histories from legally purchasing firearms, but we can do better. We believe we have done a poor job in preventing mentally ill persons from gaining access to firearms. This bill address that. We need to bridge the gap that restricts mental health providers from sharing information relating to mentally disturbed persons with the NICS. We need a system that allows private sales of firearms, but requires and provides for the same NICS checks that licensed dealers are required to run when transferring firearms. This bill seeks to address that. These provisions are not restrictive, intrusive or unreasonable.

We do not have an issue with a citizen's right to bear arms. The Washoe County Sheriff's Office supports and defends that right. This bill does not infringe on those rights but provides for additional protection for the citizens of this State.

**Senator Hardy:**

There is a nuance in your wording that I appreciated, "... seeks to address that." Are you suggesting a better language that could address the transfer issue?

**Lt. Spratley:**

We support additional discussion with Senator Jones regarding the questions and issues that were brought up during this hearing. We would be happy to be a part of that.

**Senator Hardy:**

Do you have words that can address this transfer issue?

**Lt. Spratley:**

I do not have words here today, but we would like to be part of that discussion.

**Robert Roshak (Executive Director, Nevada Sheriffs' and Chiefs' Association):**

The Nevada Sheriffs' and Chiefs' Association supports this legislation. On February 27, 2012, the Association crafted a letter regarding the firearms issue and the areas of their concern. One of the statements is, "We all have seen what persons who have mental illness have done. This issue must be addressed at both the National and State levels. [The] HIPAA [information] must be amended to allow or even mandate reporting of the mentally ill." We believe this legislation moves in that direction and helps to address these issues.

**Senator Hardy:**

We understand there are people with mental illness who have not been treated by anyone, nor do they want to be treated. They act out before anyone knows they have a problem. They have an acute psychotic break. Do you have suggestions that would allow us to help those people before knowing they have a problem?

**Mr. Roshak:**

No, Senator Hardy, we do not. We may never solve all the issues, but we do have to start somewhere, and this legislation is a good way to start.

**Kirk Hooten (Las Vegas Police Protective Association):**

The Las Vegas Police Protective Association supports S.B. 221.

**Lesley R. Dickson, M.D. (Executive Director, Nevada Psychiatric Association):**

The Nevada Psychiatric Association appreciates the intent of S.B. 221 in its efforts to get dangerous weapons out of the hands of those who are deemed dangerous, potentially dangerous or who are likely to use them in an

inappropriate manner. We are in support of S.B. 221 with Senator Jones' amendment.

I did work with Senator Jones on the amendment, which includes language regarding duty to warn and identify an intended victim. Senator Jones stated earlier that although Nevada does not have this in statute, we who are trained in psychiatry are trained in duty to warn and the *Tarasoff* case. We all operate under those recommendations, but it would be nice to have it in law. Senate Bill 221 primarily attempts to ensure that potentially dangerous individuals are properly reported to the Central Repository and the databases of the NICS in a timely manner. We are in favor of such reporting as described in this bill. I provided a letter of support ([Exhibit F](#)).

**Senator Smith:**

We would ask that you continue to work with Senator Jones on refining this language particularly in light of the discussions of other health professionals.

**Dr. Dickson:**

I would be happy to do so.

**William Voy (District Judge, Department A, Eighth Judicial District):**

I am not here to support or oppose the bill. I am here to assist the Committee and Senator Jones. My comment is in relation to the delay, up to 40 days, in reporting the civil commitments. In order to make that effective I would offer a further amendment. Section 11 states that the order of the court must be interlocutory; it must not become final if within 30 days of the involuntary admission, the person is unconditionally released pursuant to the statute. That would have to be stricken in order for the 5 days to work.

We previously discussed the issue that if a person going through the process is still committed at the time of the hearing, that would be sufficient cause for reporting to the NICS. The interlocutory nature of that order would cause problems. My suggestion is to strike that portion of the statute so the 5-day time frame would be workable.

I remain available to the Committee and Senator Jones for any other input. I may be able to provide the wording for other issues that need to be worked out.

**Jocelyn Torres:**

I work at Progress Now Nevada, but I am here on behalf of myself. I want to share a few statistics. One poll, released by Mayors Against Illegal Guns, found that 86 percent of Nevadans are in favor of mandatory universal background checks. There is also a poll by CBS and *The New York Times* that states nine out of ten Americans support universal background checks. A recent poll by Latino Decisions states 84 percent of Latinos support requiring background checks.

I support the section of S.B. 221 that states if you have a CCW permit you are not required to go through another background check. The background check requirement would have been satisfied.

**Senator Smith:**

If you have that poll information and would like to provide it to the Committee, you can leave it with our staff.

**Ms. Torres:**

I will leave the information ([Exhibit G](#) and [Exhibit H](#)).

**Bunchie Tyler (President, National Alliance for the Mentally Ill of Northern Nevada):**

I support S.B. 221. I have read the bill, and there are some issues with which I do not agree. A person with a serious mental illness should never be able to get his or her gun back. People with mental illness can go off their medication and can be just as ill as they were previously. The police came to me and told me, "Do not open your door to your neighbor across the street, and do not have any interaction with this man." It was good that the police did this. It did not scare me; it made me more alert to my surroundings at home.

We need more education for the families of the mentally ill. We do as much as we can, but there are only so many of us in NAMI. The family in Douglas County that would not take the guns away from their mentally ill son needs education. The family needs as much help as their son. We often run into this. I answer the phone every day with calls from people needing education. I have had suicide prevention training. I tell family members to get away from the person if possible and bargain with him or her. Tell that person, "I am going to hold on to these pills, and you are going to be fine until tomorrow." It is important for a doctor or mental health professional to be allowed to do that.

As far as the transfer of guns, I am not against guns for others or myself. However, I do not have guns in my home anymore. I have people who are mentally ill and come to my home, and I have a husband who is mentally ill. Never again will I have guns in my home. It has taken 30 years of learning. The bill is good. We just need to keep working on family education.

**Dan Reid (State Liaison, National Rifle Association):**

On behalf of the Nevada members of the NRA, I strongly oppose S.B. 221 for two reasons. First is that this bill covers two distinct and separate subject areas. One area is mental health and the other is background checks. The NRA does support improvement to our mental health system so long as it does not infringe on the rights of law-abiding gun owners. The NRA is strongly opposed to the mental health portion of this bill as originally drafted. We want to thank Senator Jones for making amendments that address many of our concerns. We would further like to offer an amendment to section 9 of the bill regarding NRS 202.360 ([Exhibit I](#)). We ask that a fourth subsection be added to the NRS to state the following:

The prohibitions of subsection 2 as they relate to a mental health commitment or adjudication shall not apply if the person has been granted relief pursuant to NRS 179A.163, or, if the commitment or adjudication occurred under the law of another state, pursuant to a restoration procedure in that state certified by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives [ATF] in accordance with Public Law 110-180.

What this section of law does is allow you to go through due process and adjudicate yourself. Perhaps there was an error in reporting. It is an existing law, and it would be good to put it back in this portion of the bill.

The NRA's second and major issue comes with the background check portion. This creates a new class of criminals. This is criminalizing private-party transfers, and it is an entirely separate issue that would be better suited for the Senate Committee on Judiciary.

There are four major flaws with this legislation: the definition of transfer is not clear; this type of legislation is ineffective; it is unfair; and it is unenforceable.



The language says "transfer." What constitutes transfer? Do you become a criminal right away by loaning your deer rifle to your neighbor, by buying a gun as graduation present for your nephew or by receiving a shotgun as a gift from your wife? You could be a criminal if you have a family gun you pass down to your son or daughter. Is this a transfer?

This type of legislation is ineffective. There are existing laws that can be used. It is already illegal to purchase a gun for someone else. That is called a straw purchase. It is already illegal to sell a firearm knowingly to a prohibited person. If you are a prohibited person, it is already illegal for you to purchase a firearm. The criminals clearly are not following these laws. If you look at the numbers from NICS, you will see that almost all background checks are approved. This is because criminals acquire firearms from means that are not legal.

The mandatory check on private-party transactions is unfair. It puts an additional tax of \$25 on gun owners to run this check. If this is something that is good for society, perhaps it should be free and come out of the General Fund.

Further, this law would be unenforceable. How do you enforce this? Are we going to require registration on every single gun in the United States?

I appreciate your time, and I ask that you separate the two issues of mental health and background checks. I also ask that you oppose this bill.

**Senator Segerblom:**

What do you do in a situation where someone loans a gun to somebody else?

**Mr. Reid:**

Under this bill, you would become a criminal for transferring that firearm.

**Senator Segerblom:**

I understand that, and you indicated you do not like it. Do you have a process that would control that transaction? If you give the gun to someone who is mentally ill, it voids all the things we are trying to do

**Mr. Reid:**

If you were transferring a firearm to someone who is mentally ill, he or she would likely already be a prohibited person. That would be an exercise in

discretion as to whom you are transferring firearms. Are you trying to come up with a process?

**Senator Segerblom:**

I am trying to see if you think there is a way we can make it illegal for a person who has a right to have a gun to give it to somebody who does not have the right to have a gun.

**Mr. Reid:**

It is already illegal. If a person does not have a right to own a gun because he or she is a prohibited person, it is against the law for him or her to have a firearm. If you know a person is prohibited, it is also against the law for you to transfer a firearm to another person.

**Senator Segerblom:**

If I give a gun to a felon, is it illegal on my part?

**Mr. Reid:**

Yes, it is illegal for a felon to acquire the firearm.

**Senator Segerblom:**

If I know someone who is mentally ill and transfer a gun to that person, is that also illegal?

**Mr. Reid:**

Yes, that is a prohibited person. You also do have discretion to transfer or not to transfer if you suspect that person is mentally ill.

**Senator Hardy:**

For those of us who do not know to whom it is illegal to transfer, do you have a list you can give as part of your testimony?

**Mr. Reid:**

I do not have it in front of me, but I believe it is felons, persons who are mentally ill, persons who are dishonorably discharged from military service, fugitives from justice and nonresident aliens. There is a whole list which I would be happy to provide to the Committee.

**Senator Hardy:**

Because mental illness is a big umbrella, is there a definition of the mentally ill?

**Mr. Reid:**

I do not have a definition in front of me, but I will look into to that.

**Senator Smith:**

I would like to go back to the beginning of your testimony and clarify what you said about preserving rights of people who are mentally ill. I want to be clear about what your position is on that issue.

**Mr. Reid:**

The NRA does support improving our mental health system. I have worked with Senator Jones on language that ensures firearms should not be in the hands of people who are prohibited from having firearms. We want to be careful not to infringe on law-abiding gun owners at the same time. We have to be careful on how we construct those laws.

**Don Turner (President, Nevada Firearms Coalition):**

I have prepared written testimony ([Exhibit J](#)). For the sake of brevity, I will read only certain parts. The Nevada Firearms Coalition opposes S.B. 221.

Many parts of this bill are flawed and need more research. We should not cut and paste laws from other jurisdictions without knowing the effects on Nevada residents.

There are presently 110 gun laws in Nevada statutes. Several of these laws would work if criminals and the mentally unstable were inclined to follow the law.

A case in point is the Sandy Hook tragedy. The owner of the firearms was murdered, and the firearms used in that crime were stolen. Nothing in this bill would prevent that from happening in the future.

The answer to the question directed to Mr. Reid is in NRS 202.360, which defines prohibited possessors in Nevada. I have suggested proposed amendments to S.B. 221, and they are included in [Exhibit J](#).

Another unintended consequence of this bill is the federal law establishing the NICS requires that information entered in the system be only from court-adjudicated cases. This law may affect the State's ability to use NICS.

For these reasons, the Nevada Firearms Coalition finds this bill flawed, and it should not be passed by this Committee.

**Senator Smith:**

You have suggested some language changes. Do you have an actual amendment?

**Mr. Turner:**

Yes, those have been sent in writing to the Committee.

**Senator Smith:**

Thank you for working with Senator Jones on this bill. I want to explain that the cut and paste term was used a bit unfairly. The point Senator Jones was trying to make is that it is common in bill drafting to take language existing in one place and use it so there is a constant definition.

**Tonja Brown:**

Page 10, section 9, subsection 2 of S.B. 221 states:

A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person: (a) Has been adjudicated as mentally ill or has been committed to any mental health facility; or ...

This is a major issue. I was told about a woman who was grieving so much over the loss of her son she was admitted to a mental institution. She was suffering from depression. This woman would lose her gun rights as this bill states "committed to any mental health facility."

There was a scenario, previously discussed, where a police officer went to a home and warned a family of a potentially harmful neighbor. What if someone in that family has mental issues like depression? They could not have a gun to protect themselves from the neighbor under this bill.

Victims of crimes or domestic violence with mental illness often fear for their safety and feel they need a gun. The bill clearly states anybody who has been committed to a mental health facility would be prohibited from having a gun. This bill is flawed.

**Robert Clifford:**

There are things that make sense in this bill regarding mental health. I agree that the background check portion should be separate from the mental health portion.

My primary concern is lack of due process. I am concerned that a mental health professional, who may disagree with a person's politics, could say, "I do not agree with them so they may be a risk or a danger." They could take away a person's gun rights without due process. This could be extended to anybody who has ever taken an antidepressant drug. Where are the control and the accountability?

The background check is not simple and straightforward. How does a person prove 10 years down the road that he or she did the required background check? Is a person required to retain records or keep a copy of a CCW permit? How long is a person required to retain these records: 10 years, 50 years? I see potential problems in the real world on the background checks. My opinion of the best way to prevent crime is to have responsible citizens who are armed.

**Robert Bennett:**

I will read my prepared testimony ([Exhibit K](#)).

**Mathew Yealy:**

I am a member of the NRA and the Coalition. I have questions about some of the testimony on this bill. In the case stated by the Douglas County investigator, the mother had actual knowledge of what the suspect was thinking or planning by the note she had read. She did not just have a vague belief. Under this bill, reasonable cause to believe is not justifiable under the Constitution. You have to have probable cause.

Why is the bill for background checks on all firearm transfers in the Senate Committee of Health and Human Services? A completely different organization handles that.

Regarding the immunity from liability for reporting, a person could make a false statement on hearsay or because he or she has a vendetta. A medical professional could make a false report, have my rights taken away, and not be liable. That is in violation of the U.S. Constitution as well as the Nevada Constitution.

Does this bill require everyone in the household with firearms to have a background check?

Regarding background checks for a charge, the police department can do a background check for no charge.

The Las Vegas Metropolitan Police Department said there are about 10,000 responses with mental illness issues. Of those 10,000 responses how many of them involved firearms? I did not hear any statistics on firearm-related mental illness.

In response to the poll that was taken in support of this bill, all polls on both sides are designed to suit the organization sponsoring the poll. It is the job of the Legislators to listen to the constituents and not media pollsters.

I appreciate what this bill is trying to do. I am in opposition to most of the language of this bill. Faster reporting is necessary for NICS.

We are adult citizens, not children. I do not hear about the millions of responsible firearm owners who keep their weapons secured and controlled. We hear about a few big sensational shootings in the media, yet we hear nothing of the millions of responsible firearm owners. We do not need more legislation to tell responsible people what to do.

**David Stillwell:**

When I read this bill, my gut feeling was that it was the Legislature and the State against lawful gun owners. This bill or any other bill will not reduce gun violence dramatically. However, gun violence will be directed toward law-abiding people. It looks like the police departments are licking their chops to get at the task.

I have a large gun safe. I have six or eight guns that are not transferred to me. I have the guns of a neighbor who is on vacation.

My sister lived close to the Rodney King riots in California. I traveled to California and dropped off a handgun for her. The 15-day waiting period in California was too long. I did what I had to do.

People between the ages of 18 and 21 are prohibited from owning a gun, period. That is a large group of people. Another issue that was not brought up is identity theft. What measures do I have to take to make sure that the person to whom I am selling the gun is who they report to be?

I have called the Department of Public Safety and used the background check system. I paid the \$25 and what I received in the end was a verbal statement that the person was not prohibited. How am I to prove I did a background check?

This bill is a knee-jerk reaction and a quick Band-Aid fix that is going to have long lasting implications. Nothing is worth this much of a rush. I am against this bill.

**Zachary Jackson:**

I oppose this bill. This is setting up a universal background check in Nevada, preempting any federal laws. I also oppose these laws as there is nothing universal about them. Criminals will not adhere to these laws. The people we are worried about committing crimes with guns are not going to go through a background check. They will steal their guns. Six hundred thousand guns a year are stolen.

There is a question about the faith in our psychiatric community. We started this meeting with a negligent discharge, not of a firearm but a discharge of a mentally disturbed individual to a Greyhound Bus. It is unfathomable that you can give a person free rein over the populace of Nevada because of the degree obtained in college or a professional license.

The statistics that were provided to you earlier were from *The New York Times*, CNBC and an antigun organization. These organizations are leaning toward gun registration.

After Sandy Hook, there was a big gun scare and threats against all the schools in Clark County. That day I drove past my daughter's elementary school, and there were no police present on the outside of the school. I know teachers who

have CCW permits. In Utah, they are allowing and training teachers to conceal and carry inside of schools. It keeps our children safe. I am disappointed the Nevada Legislature is deciding to go this route instead of providing security for my 12-year-old child.

**Senator Smith:**

No decision has been made on this subject. That is why we are having this hearing.

**Janine Hansen (President, Nevada Eagle Forum):**

The Nevada Eagle Forum is opposed to this bill. We want to go on the record to say we support all of what Mr. Reid from the NRA and Mr. Turner from the Coalition said. We appreciate their testimony and have similar concerns. We do support section 11 of the bill where the court must report in 5 working days those individuals adjudicated as mentally ill. The amendment was a great improvement. It takes away the problems we had with the lack of due process for people having their guns taken away.

I live 10 miles out of Elko, and we have a shotgun sitting by the front door because our family has difficulty with packs of coyotes killing our animals and threatening our children. It is my shotgun, but my husband uses it more than I do. Is that a transfer?

What happens when we go on a recreational shoot with our grandchildren and we are all sharing guns? What happens when you give a present of a .22 rifle? What do you do under these circumstances? The transfer portion of this bill is of significant concern to me.

Another concern for me is section 10 of this bill. This changes the level of responsibility of someone selling a firearm from actual knowledge to reasonable cause to believe. We should stay with the current standard.

Thank you for being so accommodating in this hearing. We continue to oppose the bill.

**Richard Brengman:**

I have provided written testimony ([Exhibit L](#)), but I would also like to mention that I have been a federally licensed firearms dealer in the State for approximately 20 years. We are seeing a lot of redundancy in law that already



exists in federal legislation. I would encourage the Committee to speak to someone with experience in this area.

**Lynn Chapman (Independent American Party):**

We are opposed to the bill. We do support the amendment that was presented. Our state platform includes the part of the Nevada Constitution Article 1, section 11, subsection 1, that states, "Every citizen has the right to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes."

I want to reiterate that we are opposed to the bill.

**Greg Ross:**

I oppose this bill. The amendment Senator Jones proposed does make the bill better. Without the amendment, due process would have been eliminated. People with mental illness would be discouraged from seeking help when a psychiatrist can deny someone's rights based on an opinion.

The transfer issue is a major problem. I take care of the guns of my family, and I would not be able to do that under this bill.

The background check will always inconvenience the law-abiding citizens and not do anything to prevent criminals or people with mental illness from accessing weapons. It is easy to obtain guns on the black market. The mentally ill can kill people without firearms.

A large number of people who are denied guns through the background checks are denied in error. This is another problem.

If the background check system gets backed up, you could not get a firearm for defense for 3 days. That is not acceptable. I oppose this bill.

**Juanita Cox (Citizens in Action):**

We support what Dan Reid from the NRA, Dan Turner from the Coalition and Jeanine Hansen from the Eagle Forum said. They have said everything I would say.

Our concern is the transfer problems. Often when we go out to shoot, we have a table, we place our gun on the table, and others pick it up and try it. Under this bill, each of those instances would be a transfer.

People who have background violations must be prosecuted. One of the problems is that prohibited people are getting loose, if they even present themselves for a background check.

**James Smack (Vice Chair and National Committeeman, Nevada Republican Party):**

The Nevada Republican Party joins the NRA, the Coalition, the Eagle Forum and the American Independent Party in opposition to this bill.

**Mark Howells:**

This bill is an overly broad response to a crisis. The bill needs to be split into two parts. I am opposed to background checks that could eventually lead to gun registration and then confiscation. We need to be concerned with violence control not gun control.

After England removed the guns from the populace, the crime rate became two times to five times greater than that in this Country. Their murder rate might be lower but their violent crime is up. I prefer not to be raped, mugged or brutalized. I have provided written testimony ([Exhibit M](#))

I am opposed to this bill, which I see as stealth gun control.

**Vernon Brooks:**

I am here to voice my opposition to S.B. 221. I see major problems with this legislation. Mandatory background checks on private-party sales will only burden law-abiding citizens. They will not have an effect on criminals who by definition do not obey laws. Private-party background checks will not be enforceable without universal registration to keep track of who owns what. Universal registration will lead to universal confiscation at the whims of further legislation. It is imperative that we nip this in the bud. Mandatory private-party background checks are hopelessly ineffective in stopping criminals bent on committing violent acts. Gun control is people control.

I applaud the Legislature for having interest in mental health reform. However, I think this attempt is misguided. It violates the due process rights of the

accused. This legislation would make an accused person a felon without that person's knowledge. That should not be possible in my America. Can we not do something more productive for someone who is not a threat to self or others? Singling out gun possession in this scenario is like banning Bernie Madoff from having pens.

There was a news story from California where they already have legislation like this. In December, a woman voluntarily admitted herself to the hospital after recent changes in her medication were having undesirable effects. The matter was addressed, and she went back home. Three months later, nine police officers in body armor showed up at dinnertime to confiscate all the firearms in the house including those registered to her husband. The husband was forced to open his safe, where the guns were safe, and turn over his rifles not knowing if he would ever see them again. This is what happens when due process is ignored and law-abiding citizens are forced to register firearms.

Senator Jones relayed a story where family members' guns were used to commit horrific atrocities, specifically Sandy Hook. This legislation would have been about as effective as the gun-free school zone. Nothing presented here today would have prevented that tragedy. I urge the Legislature to discard this entire piece of legislation and move on to something that can make a difference.

**Roland Ogg:**

I agree with Dan Reid and Don Turner, and I oppose this bill.

**Joshua Loftis:**

I am a lawful firearms owner, and I am here in direct opposition of this proposed bill. I am disappointed this bill is being considered. I think it is shady and deceitful to insert into what is otherwise a noble bill a proposal that would regulate the rightful purchase and possession of firearms between private individuals. This topic is very popular in today's discussions. The examples of previous horrendous acts committed by individuals with mental illness would not have been avoided by the proposals in this bill.

The crimes that are fresh in our minds were committed by individuals who illegally possessed firearms. They had obtained the firearms through access to the homes of family and friends.

**Senator Smith:**

There is nothing deceitful about having language in a public bill that is publicly debated. This is a frank discussion.

**Sam McGuire (Stillwater Firearms Association):**

Stillwater Firearms Association is opposed to this legislation. We understand there are people we do not want possessing firearms. Our motto is safety through education. We interact with our community by teaching concealed weapons programs as well as programs for youth and women. Our programs for women are taught by women. We have youth shoots with the Boy Scouts and Naval Sea Cadet Corps.

Our organized shoots are designed for education and training, and we donate our privately owned firearms to be used for these events. We have children who are trying to earn marksmanship badges and sharpshooter ribbons. We will also loan our firearms to individuals trying to obtain their CCW permits.

We are concerned about the private-party transfer. There is an ATF form completed when a person purchases firearms. There is a number on the form that is called into the Central Repository. A negative or positive response is then provided to the seller. The forms are retained at federal firearms licensed (FFL) dealer's place of business until the business is disbanded or transferred. The forms will then be sent to the ATF. What if in a private-party sale someone invades my home and steals those required records? Am I criminally liable for exposing a person's identification information?

I am a NRA instructor, a CCW instructor and the NRA volunteer election coordinator in Nevada. I am not speaking for the NRA, but I want to state that we stand ready to assist in any way we can.

**Allen Main:**

I am a firearms instructor, and I make sure guns do not get into the hands of mentally ill people. However, this bill creates a lot more problems than it is intended to solve. The more lenient and relaxed gun laws are in any state or country, the more crime goes down. Citizens are more polite and they feel safe.

Politicians will use this bill to sneak a little bit of this and a little bit of that. Politicians are drunk with the power to do all of that. Eighty-five percent of people who are in favor of background checks have not been to a gun range.

I suggest education of gun safety from a very young age. Reverence and respect for firearm safety and respect for sanctity of life would go a long way in solving the problems you are trying to solve here.

We would recommend that a way to prevent school tragedies is a properly trained, properly armed schoolteacher.

We need to come back to common sense. We are losing common sense in this Country.

**Mitch Gerlinger:**

The Central Repository used to conduct background checks has frequently been overloaded and not able to perform the background checks in a timely manner. If the Central Repository cannot provide an authorization in 3 days, the purchase of a firearm can just go through. That is happening frequently during high volume times and weekends. The weekends of gun shows and weekends of sales will overload the system. This defeats the whole purpose of having a background check system.

Background checks currently cost \$25 for a state-mandated fee. To have an FFL dealer conduct a transfer between private parties is often a charge of \$20 to \$75 per firearm transaction. Requiring universal background check for Nevada could cost \$100 in fees per firearm transfer. Many firearms are not worth \$100. This would result in many people not conducting the checks. The background check becomes a self-defeating process quickly.

Private-party transfers typically happen between friends and family or personal referrals. This prevents prohibited people from getting firearms, as nobody would want to be responsible for selling firearms unlawfully. In theory, firearm owners are responsible people. They are the people who are willing to go through training and a background check to buy from a FFL dealer. They are also willing to go through a federal background checks to get a CCW permit.

I would rather we would just enforce and review existing legislation than enact additional requirements on lawful firearm owners.

**Carole Wright:**

I am opposed to this bill. Existing law covers everything in this bill. I would appreciate it if you would save the time and money and enforce the existing laws.

**Ed McSwain:**

I have heard twice during this hearing "welcome to democracy." We live in a republic. A republic is based on laws, and the laws have their roots in the constitution. In the Bill of Rights, it is everybody's right to keep and bear arms. This bill violates that right. This bill says I cannot bear my wife's firearms, my neighbor's firearms or my friend's firearms.

I would like you to uphold your oath to God and the Constitution and throw this bill away.

**Senator Smith:**

Our comment about democracy was making the point that this is why we are having this discussion. In this society, everybody has a chance to have a comment. There was not anything intended other than that point.

**Michael Murray:**

This bill sounds like the citizens of Nevada willingly supply firearms to prohibited persons. I can assure you that is not true. The bill does not speak about post-traumatic stress disorder veterans. As a veteran, this concerns me. Post-traumatic stress disorder comes under the heading of mental illness and commitment. The law needs to be better defined.

Millions of background checks were conducted in 2011 with approximately 77,000 denials. The 77,000 denials resulted in less than 100 prosecutions. How effective are background checks? I can assure you this law will not be followed by the citizens of this State, and I would be one of the people who would not follow it.

**Robert E. Frank (Colonel, U.S. Air Force, Retired):**

I am wearing my American Legion Commanders cap to try to draw attention to the fact that there are about 100 million veterans, families and friends who could be affected by this bill and similar bills in other states.

I agree with previous testimony. I feel strongly they have made important points. I hope you are listening. It is common to be told that the Legislature has to let you speak, but they do not have to listen.

Good-intentioned legislation to control and to deal with mental illness more effectively should not be bundled with background checks. These are completely different issues. It is seriously wrong to try to merge them. The purpose of this legislation was to focus on the health care responsibilities of this Committee. The background check information should be removed from this bill and put with the Judiciary Committee.

None of the mass killings we have seen could have been stopped by this legislation.

We are concerned with the trends we are seeing today where terrorism and the behavior of the mentally ill are coming into our own environments. The way to protect people is to have points of defense in the homes, the schools and the movie houses. Taking away all the defensive capability that people have against such evildoing is not the way.

Unfortunately, people in our military come home with many problems because of the wars of terrorism we have been in for the last 25 to 30 years. They never ask for help for many of these problems because of the fear of retribution for admitting they have problems. I have had to deal with many retired military and former military people who refused to get help because they were afraid of being punished. They cannot get clearances and cannot get a job if they say anything about their problem. This bill would make that worse. People who now start blowing the whistle on them will include any professionals. There are no consequences for the professionals if they are wrong.

This bill has to be killed or separated from mental health issues.

**Cynthia Madden:**

I came from California, so I know about gun control legislation and mental health issues. Psychology was my expertise, especially abnormal psychology. I worked with children from ages 12 to 16. I just retired after 35 years. My opposition to this bill is with the term mentally ill. This is much too broad. My concern is that it will follow children.

Children aged 12 through 16 are extremely emotional. The parents are often distraught because of this. They will often seek professional counseling to decide whether to put their children on medication. This is especially the case with children who have attention deficit hyperactivity disorder (ADHD). Once the child is prescribed medication for ADHD, that information will follow him or her. If later that person were completing a request for the purchase of a gun, that mental health issue may cause the request to be denied. Mental illness should be specifically defined so we do not include a whole generation of children who are not mentally ill.

**Wayne Kowalski:**

I find it disturbing that supporters of this bill have not provided any statistical facts. It has all been based on feeling and not on real tangible proof. There is not a problem that current laws do not address.

There is not a requirement for me to conduct a background check to sell my car to a potential DUI offender. Why do I have to do it with a gun? Is not a death a death?

This bill could take away someone's constitutional rights by a simple phone call of concern followed by a Special Weapons and Tactics team to the house to confiscate guns. I oppose this bill.

**Jim Sallee:**

I have been a resident of Nevada since 1964. Nationally and statewide, we think background checks are a cure-all for everything. We think if we do a background check, guns will not get into the wrong hands. We do not talk about the black market where people who cannot get guns legally go to purchase them.

Where is the system to obtain help immediately for the kid who sleeps with his AR-15? What if he would have slept with a machete or a knife? It is the same thing; it is killing people. On the day of Sandy Hook, there was a person in China who killed 20 schoolchildren with a knife. It is not the instrument; it is the person. We are remiss if we do not deal with these people. In the entire gun conversation, there is never a mention of the elephant in the room, the gun-free zone. I have provided written testimony ([Exhibit N](#)).



**Senator Jones:**

I look forward to working with many of those who have raised concerns about this bill and hope to address them as much as possible.

With regard to the voluntary background check availability under current statute, I spoke with Julie Butler from the Central Repository. The voluntary background checks do not go through the NICS system, so it is not a complete check. Since it has been available, it has been used only a handful of times. There was a reference about only receiving a verbal response from the Central Repository. According to Ms. Butler, a letter is sent. The person requesting the background check has that letter as a record.

I look forward to working on the transfer language. I think it needs some tightening.

With regard to background checks only burdening law-abiding citizens, I can assure you, I would not ask for this type of legislation if I thought only law-abiding citizens would be affected. If that were the case, there never would have been a denial after a background check. To the contrary, to date there have been over a million denials, including criminals, domestic abusers and those who have been adjudicated mentally ill.

We have had a considerable amount of discussion about the Second Amendment. In 2008, the U.S. Supreme Court decided the *District of Columbia v. Heller*, 554 U.S. 570 (2008) and reestablished the individual right to own firearms under the Second Amendment. Since that time, there have been cases with regard to interpretation of the *Heller* case. Not once has a background check law been struck down by any court in this Nation. While I appreciate the importance of the Second Amendment, the U.S. Supreme Court has made it clear that just as with the First Amendment and other rights under the U.S. Constitution, it is not an unlimited right. The background check is a reasonable means of ensuring that our children, our parents and our grandparents are not the victims of violence.

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**Senator Smith:**

We had a very informative and respectful conversation this afternoon. That is what we tried to accomplish. We can always have differences of opinion, but

we learn something every day in this environment. We are happy you are here to participate with us.

There were two additional written testimonies provided ([Exhibit O](#) and [Exhibit P](#)).

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This meeting will stand adjourned at 6:39 p.m.

RESPECTFULLY SUBMITTED:

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Joyce Hinton,  
Committee Secretary

APPROVED BY:

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Senator Justin C. Jones, Chair

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

<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	1		Agenda
	B	15		Attendance Roster
	C	12	Tracey D. Green and Richard Whitley	Appropriate Discharge Plans for Individuals with a Mental Illness Leaving Facilities
	D	5	Dr. Joseph McEllistrem	Letter
S.B. 221	E	3	Senator Justin Jones	Proposed Amendment
S.B. 221	F	1	Dr. Lesley Dickson	Letter
S. B. 221	G	1	Jocelyn Torres	Universal Background Check Poll
S.B. 221	H	8	Jocelyn Torres	Gun Questionnaire-Statewide Survey in Nevada
S.B. 221	I	8	Dan Reid	Proposed Amendment
S.B. 221	J	2	Don Turner	Written Testimony
S.B. 221	K	23	Robert Bennett	Written Testimony
S.B. 221	L	3	Richard Brengman	Written Testimony
S.B. 221	M	1	Mark Howells	Written Testimony
S.B. 221	N	1	Jim Sallee	Written Testimony

S.B. 221	O	6	Peter Hennessey	Written Testimony
S.B. 221	P	1	Robert Walker	Written Testimony