

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

**Seventy-Eighth Session
March 24, 2015**

The Committee on Judiciary was called to order by Chairman Ira Hansen at 8 a.m. on Tuesday, March 24, 2015, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Ira Hansen, Chairman
Assemblyman Erven T. Nelson, Vice Chairman
Assemblyman Elliot T. Anderson
Assemblyman Nelson Araujo
Assemblywoman Olivia Diaz
Assemblyman David M. Gardner
Assemblyman Brent A. Jones
Assemblyman James Ohrenschall
Assemblyman P.K. O'Neill
Assemblywoman Victoria Seaman
Assemblyman Tyrone Thompson
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

Assemblywoman Michele Fiore (excused)



GUEST LEGISLATORS PRESENT:

Assemblyman Lynn D. Stewart, Assembly District No. 22
Assemblyman John Hambrick, Assembly District No. 2

STAFF MEMBERS PRESENT:

Diane Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Karyn Werner, Committee Secretary
Jamie Tierney, Committee Assistant

OTHERS PRESENT:

A.J. Delap, Government Liaison, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department
Scott Black, Detective, Las Vegas Metropolitan Police Department
John T. Jones, Jr., representing the Nevada District Attorneys
Association
Eric Spratley, Lieutenant, Legislative Liaison, Washoe County Sheriff's
Office
Robert Roshak, Executive Director, Nevada Sheriffs' and
Chiefs' Association
Steve Yeager, Deputy Public Defender, Clark County Office of the
Public Defender
Sean B. Sullivan, Deputy Public Defender, Washoe County Office of the
Public Defender
Vanessa Spinazola, Legislative & Advocacy Director, American Civil
Liberties Union of Nevada
Pan Pantoja, Rainshadow Community Charter High School, Reno, Nevada
Margaret Flint, representing Chapel of the Bells and Arch of Reno
Wedding Chapel
Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department
Judy Stokey, Vice President, Government and Community Relations,
NV Energy
E.K. McDaniel, Deputy Director, Department of Corrections
Alex Ortiz, Assistant Director, Clark County Department of Administrative
Services
Tim Shestek, Senior Director, American Chemistry Council
Bill Reynolds, Business Development Manager, Unmanned Systems Inc.
John Dunn, representing Drone America

Steven Hill, Director, Office of Economic Development, Office of the Governor

Peter Krueger, representing Silver Springs Airport

Kay Bennett, Owner/Manager, Silver Springs Airport LLC

Ben Griffith, representing Nevada UAS Network

Robert Dunbar, Private Citizen, Carson City, Nevada

John D. Abbey, Private Citizen, Incline Village, Nevada

John Ridgeway, Private Citizen, Las Vegas, Nevada

John Griffin, representing Amazon.com

Dylan Shaver, representing the Nevada Mining Association

Barry Smith, Executive Director, Nevada Press Association

Chairman Hansen:

[Roll was taken. Committee protocol and rules were explained.] We have three bills and we are going to take them out of order. We are going to start with Assembly Bill 244. Assemblyman Stewart will present the bill.

Assembly Bill 244: Provides an enhanced penalty for committing three or more graffiti offenses. (BDR 15-736)

Assemblyman Lynn D. Stewart, Assembly District No. 22:

I am here to present Assembly Bill 244. We have a problem throughout the country and in Nevada, especially southern Nevada, with graffiti. So far, the current penalties have not been able to stop those who are creating this graffiti. We are here to present this bill because we think it will be a deterrent to the graffiti that is causing such ugliness in our community. I have with me today one of southern Nevada's finest, A.J. Delap of the Las Vegas Metropolitan Police Department (Metro). He is going to present the main part of the bill.

A.J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

This measure was brought to our office by our detective in Las Vegas, Detective Scott Black. Detective Black has worked in the graffiti detail in Metro for the last 15 years. We consider him the guru of graffiti enforcement. We have worked with him in the past on graffiti measures. He came to our office and indicated that there is a section of offenders within the graffiti community who understand how the law works, how to stay underneath the thresholds of the felon realm, and how to stay at the misdemeanor level. They do sometimes go up and over to the gross misdemeanor level. They continue committing graffiti crimes because the penalties are not prohibitive. Detective Black indicated that what we are calling a habitual graffiti law could hopefully address that issue.

I would like to draw your attention to the amendment ([Exhibit C](#)) that was presented by our agency. This amendment simply addresses a drafting error that occurred when the Legislative Counsel Bureau used the word "offenses." Our intent is for that word to be stricken and replaced with the word "convictions." Based on this amendment, upon the third conviction the offender would be subject to a category C felony, which I will discuss in a few minutes. The term "convictions" is the key. There is a misconception that graffiti is essentially a juvenile crime, but that is not the case. The word convictions is used for adults. Juveniles are not convicted, they are adjudicated through the juvenile system. The conviction process in and of itself is lengthy. When we say convictions, we mean three convictions as an adult. These offenders did not pick up three convictions the week after they turned 18 years old and then the next thing they knew they were facing category C felony charges on a graffiti charge conviction. The course of action is indicative of the repetitive actions of committing the crimes, being arrested and adjudicated, and then receiving convictions for their crimes. We think that will help address the concerns that this bill is looking to identify juveniles.

Furthermore, Detective Black has worked quite a bit on the current graffiti law in prior sessions. If you look into the legislation under *Nevada Revised Statutes* (NRS) 206.330, you will see that it already has a lot of effort in it to help the graffiti offender to not offend again. If you look at section 1, subsection 3, paragraph (a) of the bill, the first offense comes with 100 hours of community service. The second offense comes with 200 hours of community service. Those penalties were included to help the offender stop offending.

Clark County suffers from approximately \$30 million in damages every year from graffiti abatement, and that is a huge number. It is a constant battle to keep our streets and communities clean and a place where we want to live. I will agree that some of this graffiti is artistic, although misguided. It is incredible what is done; however, it is placed in inappropriate locations. Then there is the offensive graffiti. As you look through the packet that our agency presented ([Exhibit D](#)), much of it is unsightly, placed in locations that are horrendous to clean, shocking to the mind, and embarrassing. We believe this legislation will address many of these issues. It will address the issue of offenders who continue this course of action, and use social media to promote themselves. A lot of time that promotion comes with amazement at where they are able to place the graffiti. We have all seen it on overpasses, public vehicles and buildings, and personal property, but it is a culture of crime that is very difficult to combat. We are hoping this bit of legislation will add one more arrow to our quiver to begin to reduce its impact.

I would like to have Detective Black make further comment, and he is the boots-on-the-ground technical information person regarding this crime.

Scott Black, Detective, Las Vegas Metropolitan Police Department:

I am representing Metro like Mr. Delap, and strongly support this bill. Not to get repetitive but, the problem we are having with graffiti investigation and abatement in trying to take a bite out of that \$30 million a year is repeat offenders. I have before me a sample of pictures of the vandals I investigate on a regular basis ([Exhibit D](#)). They are all adults, are mostly in their thirties, and are very active in graffiti. I am looking at this packet and the offenders have 5 convictions, 6 convictions, 6 convictions, and there is one here who has 11 convictions. He was actually killed in a car accident in 2008, or who knows how many convictions he would have had. That is 11 convictions in a two- or three-year span. The final offender has 14 convictions and is still active. In the 15 years that I have been doing graffiti investigations, I have probably investigated thousands of cases and extensively interviewed these guys. I have done this to gain insight into how they think, why they do what they do, and how they operate. I have determined that there is no artistic motivation; they actually want to destroy property. We have issues with the art district here in Las Vegas. Murals are put up and vandals actually target the murals to vandalize them. The pictures of the Flamingo Wash in the packet occurred just this week. Clark County Commissioner Chris Giunchigliani had a mural put up and it was completely vandalized. We have identified that person and are just waiting to get the damage assessment before we actually arrest the individual. These guys actually target certain locations, and we are finding that they are the ones who are causing a significant portion of that \$30 million and are the repeat offenders—the adults. It is not the juveniles or the one- or two-time vandal that goes out and does graffiti. These are guys who are very dedicated to it. If you look in the packet, you will see Metro police cars that are tagged and covered in graffiti. You may think that is an unusual thing, but actually, it is not. It does not happen every day, but it is pretty common. I can think of 15 or 20 incidents where Metro vehicles were covered with graffiti. Either the officers were out on a call and it was done while the car was parked out on the street, or they were at home or in a restaurant eating lunch and came back out and the car was covered in graffiti.

Our law is very good; it is solid. It addresses things like the targeting of historical locations. We successfully got that addressed in the last session. We have a lot of good things in place, but there is a gap where there is nothing to address the repeat vandals. These are the guys I interview and they look me straight in the eye and say, "You can arrest me as much as you want, but I am just going to keep doing it." They are very dedicated and there is nothing to dissuade them from doing that. There needs to be an increase in penalties and

focus on the guys who are out there repeatedly doing graffiti regardless if they are arrested.

Assemblyman Jones:

First, you mentioned that there is \$30 million worth of damage each year. Is that just what the city pays for abatement, or does that also include private property owners who have to repair their own stuff? Second, what percentage of the incidents that are reported can you actually determine who did it?

Scott Black:

The \$30 million is public and private funds expended in the greater Las Vegas area, including the City of Las Vegas, Henderson, and all of Clark County. This is an estimate because most of the cleanup is done by private businesses and private citizens. We have graffiti abatement on the city, county, and state levels, but they are not allowed to do private property. The business owner or property owner has to do it himself. That amount combines all of the entities involved. For example, our bus system spends about \$2 million a year just to address graffiti on the buses and the scratching and etching they do inside the buses, which counts as graffiti.

As far as the percentage of graffiti for which we can identify the vandal and make an arrest, there is no way to quantify that with certainty because we do not keep track that way. I would guess about half. Half would give us a little bit of credit. We make a lot of arrests, but there is a lot of graffiti that goes unanswered. We have folks come in from California on the weekends and put graffiti all over the Strip properties, and that is a whole separate type of cleaning situation. The county has a contract with an organization that keeps the Strip free of graffiti, as much as they can. I would say that we are actually able to make an arrest on less than half.

Assemblyman Thompson:

My question relates to section 1, subsection 1, paragraph (e) where we are talking about the category C felony. It seems to me that a person who offends three or more times is a habitual offender. It is like an addiction to gambling, stealing, et cetera. Are we doing anything to assess the individual and see why he is doing it? It is something impulsive within them. I am trying to determine if there are other ways to deal with them other than incarcerating people who are not a threat to anyone, but clog our jails and prisons. Have we done any studies?

A.J. Delap:

The first comment I would like to make is that, in 2011, Detective Black and Senator Weiner added the 100 hours of community service. That is pretty significant and I thought it was creative. If possible, part of that is to include the offender taking care of the area where he placed his graffiti and to keep the area clean. If you look at it, it is a step process. The first offense is 100 hours, second offense is 200 hours, and within that is Senator Weiner's intent to help with some of the things you are speaking of, and to provide some kind of service and help them understand ownership. As far as a study, maybe Detective Black can speak on what causes the offender to continue offending. I am not sure. I know that one of the aspects of graffiti is the thrill of finding a lone location to affix the graffiti to, then the impact and shock to the community. The shock of it is another aspect that provides that adrenaline rush, the thrill ride. That goes back to occurrences like what happened in Red Rock. Detective Black was the lead investigator in identifying the offenders.

Assemblyman Thompson:

The reason I brought that up is you have Alcoholics Anonymous and Gamblers Anonymous, so if we have such a core problem in our state, maybe it is time to have graffiti anonymous to address this and get to the core of the issue.

Assemblyman Araujo:

I, too, have a question about section 1, subsection 1, paragraph (e) that Mr. Thomson previously referenced. Specifically, we are looking at adding a category C felony and this is the key phrase for me, "regardless of the value of the loss for three offenses or more." Why did you come to the conclusion that we would not put a specific value to the damage? I ask that because, if this bill passes the way it is, we are looking at someone who could commit a \$100 offense each time and could be looking at one to five years in prison.

A.J. Delap:

That is an excellent question, and I am glad you brought it up. The reason we do not want a dollar amount in there is that we are talking about three convictions. Three convictions are significant graffiti charges. By the time you get to that third conviction, you are well aware of what you are doing and that it is illegal. The other problem is that these are savvy graffiti offenders. They understand how the charges are quantified based on the dollar amount, what the abatement is going to be, and things of that nature. They are adults; they have been through the system. During the process, once they are arrested and the judicial process begins, upon conviction they are notified by the prosecutor that they are in jeopardy if they continue the course of action.

On their third offense, they will receive a category C felony. Up until the passage of this law, they can continue to offend and meet their needs, whether it is an addiction or something else, but regardless of the amount of damage they cause, on their third conviction they are in jeopardy of being charged with a category C felony. That is what we are trying to capture, to identify the small group of graffiti offenders who are causing significant damage or are continuing to create minor issues. They do it in locations that are offensive and they just do not stop their actions. We want them to know that it cannot continue or they are looking at a felony.

Assemblyman Nelson:

My question has to do with the testimony about some people having had 11 or 14 convictions and are still at large. Even as the law is written right now, in a category E felony, the court can grant probation or require one year in the county jail. I would think the terms of the probation would be that, if they keep doing it, probation can be revoked and they can be put in jail for one to four years. Is that correct?

A.J. Delap:

First, my understanding is that a category E is mandatory probation. We have already been there with their prior offenses. We are looking at the idea that it is a felony. They may not have received a felony, and unfortunately, there are some social consequences to being convicted of a felony. Second, they have probably been on some level of probation by the time they are on their third conviction, another mandatory felony probation. Once again, we are still looking at the probation issue. More than likely they have already done 300 or 400 hours of public service, yet they still continue to offend. That is why the desire is for a category C felony.

Assemblyman Nelson:

I am not saying that I disagree with that, but I am curious why, if someone has 14 convictions, the court has not revoked probation and put him in prison.

A.J. Delap:

Unfortunately, I am not a judge in those issues. It may come down to this idea. Maybe Detective Black can opine and address those issues. There is a misconception that graffiti is caused by misguided youth or a what-is-the-harm mentality. That is not necessarily the entire truth. It is a significant problem and can be offensive and needs to be addressed.

Assemblyman Wheeler:

In response to your misguided youth, back in the day, the gangs used to mark their territory with graffiti. Is that still the case in Las Vegas and, if so, is that not more insidious than just misguided youth?

Scott Black:

Gang graffiti—the marking of turf in the tradition of street gangs—is actually a very small percentage of the graffiti we are seeing. What we are seeing is tagging. Tagger graffiti is what we call it. I would probably guess that tagging is 95 percent of the graffiti. The pictures in the photo packet are the kinds of stuff that we are seeing the most of and none of that is gang graffiti. It is just taggers. They are the guys who swing off of our overpass signs on the freeways and tag police cars and police stations. They do high profile places like Red Rock, Lake Mead, Hoover Dam, and that type of place. The difference between a gang member doing graffiti and a tagger just comes down to the motivation. Gang members usually mark their turf, taunt the police, taunt their rivals, and pay homage to their associates and fellow members, but taggers or regular graffiti vandals' motivation is fame. That is their word and it is the recognition by their peers, the police, and through social media. That is why they usually adopt a unique moniker. The moniker is usually a word like epic or solar or felon, or something like that. They use that unique name to get the fame that they crave, and to get the recognition they desire, so they go out and put it on as much property as they can. They want to get noticed as much as possible. They tag stop signs because everyone has to look at the stop sign when they are driving. They target overpass signs because everyone notices; it is very high profile and very daring. That is the same motivation for tagging police cars. It is very high risk for them. They have a term that they use for this: killing a cop. They tag a police car, get a quick picture of it, and then put it on their Facebook page to get recognition. We find that many of these guys do not fear contact with the police because they feel it ups their status among their peers. The belief is that they are so important and are such a high-status outlaw that the cops are always after them, and that makes them big men to the other people. Then there are tag crews, which is a group of graffiti vandals who adopt a name and go out and destroy as much property as possible. The whole purpose of doing this ultimately comes back to receiving recognition and achieving fame through property damage.

Chairman Hansen:

We have two other bills to hear so we are going to have to limit the testimony for the proponents. We will give others an opportunity to testify; however, if your testimony is redundant, please just do a me too, or a ditto.

Assemblywoman Diaz:

What is the average age of these graffiti offenders? I want to know what happens as they go through their first and second offenses, and what the community service hours are. Is it ineffective? Is there a different type of diversion program that we need to implement to complement the community service hours? I am very familiar with this, and it is not pretty. It is not the greatest thing to see, but some individuals believe they are artistic. They put their art out there for everyone to see. We need to keep that in mind, as well.

Scott Black:

It is about 50 percent for juveniles and 50 percent adults. However, most of the big, high-dollar damage—overpass signs and such—comes from taggers in their early- to mid-twenties. An overpass sign costs about \$13,000 to repair. They have to work on the weekends to clean it up and restrict traffic to repair it. It must be repaired; it cannot be left. We have made some arrests of young folks, but most of the vandals are adults.

Diversion works for a lot of people. When someone is arrested for a first or second offense and has to do community service as the penalty, it is frequently effective. There is a small group, though, where it is ineffective, and that is why we are here. We are addressing those individuals for whom the diversions are not working.

I want to touch on the art versus crime aspect. There is a little confusion about the murals in the art district and what we are doing here in Las Vegas. There are people actually doing art, but they are not the ones we are talking about. The people with prior convictions who are doing the \$30 million a year in damages are not artists. I have arrested and interviewed them extensively, and have rarely been told that it is for the artistic value. They may see their graffiti as art—we see it as a crime—but they view it as art just as a car thief may consider himself to be an artist of auto theft. Different programs are tried to get people to stop doing illegal graffiti. In downtown Las Vegas, we have people involved in what is called aerosol art. They use spray-paint cans to paint large murals. Then, every now and again, there will be someone who says he has an idea that has never been tried. If we give them some place to do it legally, they will not do it illegally. That is a person who does not understand the mentality and motivation of a graffiti vandal. They do not want to do legal art; if they did, there are many avenues for it. They can go to any business in the downtown Las Vegas area and ask if they can put up a mural, which they will be allowed to do. There are hundreds of businesses. They do not get the thrill from that; they enjoy breaking the law and defacing people's property.

Chairman Hansen:

Anyone who would like to testify in favor of the bill please come forward. If you have something new that addresses the bill, please feel free to speak. If you have points that have already been said, we would appreciate some me too's.

John T. Jones, Jr., representing the Nevada District Attorneys Association:

We are here in support of this bill. I want to address a few questions that were brought up by the Committee. With respect to Assemblyman Thompson's question about what types of services we have in place, it is not uncommon for someone with a graffiti charge to be referred to impulse control counseling. We also have the graffiti abatement program where they spend time cleaning up graffiti so they can see the result of graffiti in the aggregate.

With respect to the third conviction, we have systems in place where a third conviction really is not the third conviction. It is not uncommon for offenders to use their first offense in the system to get what is called deferred adjudication. Ultimately, if they complete all of the terms set by the court, the offense will be dismissed or completely taken off of their record, which would obviously not count toward the three convictions. We have processes in place like that which give people that first chance. We support the bill.

Eric Spratley, Lieutenant, Legislative Liaison, Washoe County Sheriff's Office:

We support A.B. 244.

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

We would like to add a me too.

Chairman Hansen:

Is there anyone else who would like to testify in favor of the bill? [There was no one.] Is there anyone down south? [There was no one.] We will now move to the opposition testimony. Is there anyone who would like to testify against A.B. 244?

Steve Yeager, Deputy Public Defender, Clark County Office of the Public Defender:

We are in opposition to this bill. We feel that the law as it currently exists—and you can see the entirety of the bill in front of you—is adequate already. To address a couple of examples, we heard when someone tags an overpass it costs \$13,000 to clean up. That already is a felony under existing law, which can be found on page 2 at the very top—section 1, subsection 1, paragraph (c). The damage is over \$5,000 so that is already a felony. When we are talking about a misdemeanor conviction—even for repeat offenders—as this Committee

knows, misdemeanor convictions are punishable by up to six months in county jail. I would find it hard to believe that someone with a dozen convictions did not spend a significant amount of time in jail. In addition, looking at the bill, we see that you have to do community service for various convictions. Most judges in this type of case are going to order the offender to actually clean up the graffiti. If my calculations are right, the individual who has 14 convictions for graffiti was ordered to do 4,200 hours of community service, which would be 24 hours a day for 175 days. I would think, no matter how many times he placed graffiti, that is probably a net gain if those hours were spent doing graffiti cleanup.

The current statute requires restitution. If it is a juvenile, parents can be required to pay the restitution. Significantly, on page 3 at the top—section 1, subsection 6—if you are over 18 years old and have convictions for graffiti, your driver's license is suspended for at least six months and up to two years.

We just changed some of these laws in 2013. The Clark County Public Defenders' Office was in support of the change to the law that added the protected site language that is at the bottom of page 3. Since Red Rock was already a protected site, when we heard about the graffiti it was already a felony offense.

My last point is that we submitted a memorandum ([Exhibit E](#)) that talks about the various bills that have been introduced this session that either create new crimes or enhance penalties, versus the bills that decrease crimes and penalties. I will not go into detail on that, but between the Assembly and the Senate, we have already seen 31 different bills that either increase penalties or create new crimes, contrasted to 12 bills that either decrease penalties or negate crimes, and most of those tend to be in the firearms or weapons areas. When we look at this bill, we do not see a fiscal note. The Department of Corrections says that it is negligible, and there are not many offenders who will be affected. I would caution this Committee that when we step back and look at all of the bills that have been introduced, even negligible fiscal impacts of individual bills certainly have the ability to be aggregated to create a lot of cost. As I have told this Committee before, with the current prison projections and assuming no new legislation, Director Cox says we will be in a position to need to reopen Southern Nevada Correctional Center within five years at a cost of \$7 million to \$8 million to open it, and \$18 million a year to run it. Keep that in mind.

Sean B. Sullivan, Deputy Public Defender, Washoe County Office of the Public Defender:

I echo the sentiments of Mr. Yeager. I, too, believe the real teeth of this statute is contained in NRS 206.330, subsection 3, paragraph (c). The real bite is

making these offenders go out and perform up to 300 hours of community service, clean up and do the public abatement, and pay restitution for the private abatement. This is where you are going to grab the attention of these offenders. I appreciate the comments from Assemblywoman Diaz and Assemblyman Thompson that we should be looking into diversionary-style programs. Just like driving under the influence (DUI), you have a person for a first felony DUI that may receive the first misdemeanor, a second misdemeanor, and then the third misdemeanor turns into a felony. We have a DUI court where they are doing three, and up to five, years. They are gainfully employed, perform community service, go to counseling, and this is what we should be looking at. Simply warehousing these individuals does not work and these are the arguments that I continually strive to make before the district court judges. Going from a category E to category C is not going to have any deterrent factor at all.

Getting back to Assemblyman Nelson's comment, even on a category E, and even if it is a mandatory probation case, a judge still has the discretion to put that person into county jail for up to a period of one year as a condition of that probation. So, again, that shows what I am talking about within the current measures of the statute having even more bite. If you do not clean it up and do not abate it, do not do the community service, and do not do any ordered counseling, you will go back to jail. That is what is going to grab the attention of this small group that simply is not getting the message. The statute, as it is currently drafted, works and the teeth are in there to enforce graffiti abatement.

Vanessa Spinazola, Legislative & Advocacy Director, American Civil Liberties Union of Nevada:

I agree with the comments of my colleagues. I can add that there is little to no evidence that increasing penalties deters crime. We have seen that over the last 20 years in this country. We have continued to incarcerate people and crime rates have not gone down at the same time. There is a report by the Sentencing Project from 2005 that notes that. I quickly looked at the National Collateral Consequences website. There are many collateral consequences to felonies. For example, if you are convicted of a felony in Nevada you cannot operate an ambulance, become a peace officer, work at a child protection agency, or work at a college. That is only the first 2 pages of the 48 pages that come up when you look at felonies. If we want people to be gainfully employed and not work on graffiti, convicting them of a felony is not the way to get them to work in Nevada.

As for juveniles, upping this to a felony will encourage and sanction the police to go after them. We believe that contact with the juvenile justice system sometimes lead youth down the road to more crime instead of less crime.

We have talked a lot about alternatives, and we have folks here from the Rainshadow Community Charter High School in Reno who have detailed experience with graffiti abatement programs.

Assemblyman Jones:

We heard about the 13 or 14 offenses with no jail time. Since you are concerned about jail time, in the real world—not just theoretically—what happens? Are people going to jail or not? If they are not going to jail, it goes against your argument. If they are going to jail, it goes against the police officer's argument. As a business owner, I know what it is like to get tagged and if people are not going to jail, it is very frustrating. I have to pay to have it cleaned over and over again. I drove through North Las Vegas last weekend and it is a blight on our community. There is tagging all over the businesses. One of the gentlemen that I talked with said the taggers come through every other week and hit him. There is graffiti all over the front of his building and whiteout where he tried to block it off, but then they put a new one on top of that. It is not fair to the business owners.

Steve Yeager:

I understand the frustration. In my experience, I have only seen a handful of first-time offenders, and then I do not remember anyone going to jail. They worked the program and did community service. They either have a conviction for graffiti or, in some circumstances, had it dismissed. I have not seen anyone with multiple offenses. I do not know about this 14-time offender, and would be shocked if he did not do some jail time. It would be surprising to me, and I do not know if that is an issue of judicial discretion or of good negotiating. If the Committee is having issues with that, maybe we need to change it to say some jail time is mandatory on a third offense. I am concerned about mandatory prison time versus county jail time.

Sean Sullivan:

I agree it is a blight on the community. We all live in this community and no one likes to see this stuff as you are driving in to work. I had an offender who was convicted of two gross misdemeanors and the judge put him on probation, suspended it, and made him do community service and counseling. I brought studies to show what he was doing and he perceived that what he was doing was art. There was a place in Washoe County where he could go and do spray-paint murals because a gentleman had provided an area for it. Unfortunately, this offender continued to engage in these inappropriate activities and he lost his liberties. He spent two years in the Washoe County jail on two gross misdemeanors. The judge got fed up with his not channeling it in the right direction and made him do two years. It still bothers me to this day

because I do not want to warehouse these people. I want to get them out working and cleaning this stuff up rather than giving them three hots and a cot.

Assemblyman Gardner:

It seems that your earlier arguments that increasing these penalties does not deter people is an argument that we should not have any type of penalties. Is that what you are saying? If we do not increase penalties, how do we stop these people from doing this over and over again? You talked about diversionary programs, but do we have any proof that diversionary programs work?

Vanessa Spinazola:

We believe the law as it stands is sufficient. We do not think increasing this to a category C felony is a good idea, particularly with the collateral consequences that I mentioned earlier.

Assemblyman Araujo:

Mr. Yeager, I am trying to wrap my head around the potential implications that this bill could have on our youth. Again, we are talking about a category C felony for folks who commit three or more graffiti violations regardless of the value. You have a juvenile who commits two crimes and is convicted when he is 17 years old. One day after his eighteenth birthday, he is caught again and convicted of graffiti. Does this mean he could potentially be charged with a category C felony?

Steve Yeager:

The amendment that Metro brought forward calls for three convictions. We would not be talking about juveniles because juveniles—unless they are certified as an adult—are not going to have convictions on their record. If you have a juvenile who is 17 years old and is out spray-painting Red Rock, is there a chance he will be certified as an adult? I cannot answer that. The scenario that you brought up could happen when someone is 18 years old. For instance, if an 18-year-old went on a spree and tagged three or four different things over a period of three or four days, that could result in three or four separate case filings against that person. In the real world, we would probably look at those as a package and negotiate something less than a felony conviction. Without having a value amount tied to the actual graffiti, you could be in a situation where someone who did minimal damage could end up with a felony conviction. I would hope that the district attorneys and public defenders, defense attorneys, and judges would look at that with appropriate discretion; however, the way the bill is proposed anything could happen.

Chairman Hansen:

What was the name of the group that you have here?

Vanessa Spinazola:

Rainshadow Charter High School.

Chairman Hansen:

I would like to have Rainshadow find one person to be the spokesman for the group. I cannot have everyone testify. Detective Black, is there anyone down in southern Nevada who intends to testify in opposition to the bill?

Scott Black:

No, sir.

Chairman Hansen:

We will come back up to Carson City.

Pan Pantoja, Rainshadow Community Charter High School, Reno, Nevada:

I have been running these art programs for well over ten years. We have helped many young adults and juveniles. We work with the police and the juvenile system to help these kids have something else to do. We have had great success with it. Wedekind Road was heavily infested with gangs, and one of my close friends was shot while working on walls. What we did was to paint one-quarter mile of that road and it has not been tagged since. It has gotten a lot safer there and anyone who lives on that road would agree. I think it has to do with these programs as opposed to sending someone to jail or making the penalties worse. Programs like this are much more beneficial. They clean up an area and make it safer. It allows these people to have somewhere else to go with their addictions—yes, it is an addiction. We have had several people completely stop. We pay these people to do this. It is better to get paid than it is to be charged with restitution or go to jail for doing this.

Assemblywoman Diaz:

I do not know if there are any girls that do this. What you said really points to the need of a diversion program such as the one you are running to help people get over this addiction. While you are working with them, what are they saying to you? Why do they say they do this? Can you share a little bit about their life experiences, where they are coming from, and why they do it?

Pan Pantoja:

I am very close to all of them, and in a different way than the police are. I thank the police for doing what they do because it is a rough job. These guys are not going to be as straight with the police as they are with me. They do it

out of frustration, out of the lack of respect that they feel, and they feel they do not have a voice. This is their way to have a voice, and this way is better.

I was asked to start similar programs in Las Vegas, as well. I was down there recently and they do have quite a problem. There are better ways to deal with that problem than to increase the penalties.

Assemblyman Jones:

The problem is that it is art when it is in a section where it is allowed, but not art when it is on private property, even though it is the same thing. The property owner does not think it is art; that is where the problem comes in. Your program is awesome, but we need to address those people who do not go to your program or to the designated areas and violate other property. That is the problem.

Pan Pantoja:

I agree 100 percent. Someone took me aside once. It helped me a lot when that person took me aside and told me my work was good, and that I should get paid to do it. I am trying to pay this forward. It is more fun to get paid, and I know that from my friends, and I know that will help a lot.

Assemblyman O'Neill:

Who pays them? Where does the money come from?

Pan Pantoja:

I ran the Wonder Well Art Gallery, of which you have pictures ([Exhibit F](#)). That was wholly paid for by the art. That was not on a grant, there was no money coming in from anywhere else, and that program ran for five years off the art. The landowner raised the rent far too high and that is why we had to move. We have earned commissions from the city for murals—I have done very well with my art career—and get paid well when my name is on a project. Getting a big project like that funds ten projects. I can get one big project that the city and private investors pay for to make their area look nice, and then I use that to run up to ten projects with these kids and pay them.

Chairman Hansen:

Is there anyone else who has something new to add in opposition to the bill? Seeing no one, is there anyone in the neutral position? Seeing no one, we will close the hearing on A.B. 244, and open the hearing on Assembly Bill 337, which will be presented by Speaker Hambrick.

Assembly Bill 337: Revises provisions governing the dissolution and annulment of marriage. (BDR 11-77)

Assemblyman John Hambrick, Assembly District No. 2:

Nevada is known as the marriage capital of the world. People come to our communities to get married, but sadly not all marriages last. People come into our state for divorces, too. Individuals come in seeking to dissolve their marriage. As people come from around the country, particularly from the East Coast, and come in on a Thursday with the documents that would satisfy the various county clerks, I would like to make this a profit center for our communities. Please remember that this has to be an uncontested divorce and we will not entertain a prolonged process in court. The dissolution of the marriage must be by mutual consent. We could accomplish that very quickly.

The bill does not address fees, which I did purposely since this could be a money maker for any of the communities. The clerks could increase fees on these things. It is a very simple bill to try to address an issue that I feel has gone unaddressed. Sadly, divorce is out there, so I think the communities could increase their funding and address other issues on this matter.

Assemblyman Jones:

Is there a legal definition of residency right now? What are the requirements in the state of Nevada? Do you have to get a driver's license? What do you have to do to be considered a resident?

Assemblyman Hambrick:

I have checked with the Legal Division and there is a definition of residency. Individuals would have to come in to the state and stay here for a literal few days. After the divorce process, one of the parties would have to remain a few more weeks to establish some type of residency. It would probably be 60 days. The bill does not address what happens after the divorce; it addresses prior to coming in and during the process itself. I am trying to avoid that. The Legal Division thought the bill was okay as it addresses that, but one of the parties would have to maintain some type of residency after the fact. It would be relatively short-termed compared to the days gone by.

Assemblyman Nelson:

You mentioned that it has to be a consensual divorce; however, when I looked at *Nevada Revised Statutes* (NRS) Chapter 125, I do not see that it is in the bill or the statute that way. The way I read the bill is that either party could do it unilaterally.

Assemblyman Hambrick:

You are correct; that is not in the bill. What is in the bill is that it must be uncontested. The minute you have one of the parties raise a question, the intent of the bill goes by the wayside and it goes back into the standard divorce proceeding. This is when both parties come in to avoid the consequences. I am trying to stay away from the legal language because the more we have in there, the more the attorneys can raise questions. I am trying to make this as simple as possible. The minute there is a question, it is no longer an uncontested divorce, and it would go back to the standard procedures.

Assemblyman Nelson:

My concern is that it would also allow for annulments on a unilateral basis. That concerns me. I know you do not want to complicate the bill, but that is an issue.

Assemblyman Hambrick:

I spoke to Legal specifically about that when the term was mentioned. We are going to go back to the classic definition and requirements for an annulment. The marriage would not have been consummated, but I do not know how we would prove that. The annulment is another part of the bill if they can satisfy that process. I am not sure whether there would be an independent hearing to grant an annulment. The annulment would not be considered a divorce.

Chairman Hansen:

Is there anyone else who will testify in favor of this bill? [There was no one.] Is there anyone who wants to speak in opposition to Assembly Bill 337? [There was no one.] Is there anyone who is neutral?

Margaret Flint, representing Chapel of the Bells and Arch of Reno Wedding Chapel:

In defense of what Mr. Hambrick is doing, it is not uncommon for us. I grew up in this business, and I have been in this business since 1962 when my parents first moved us to Reno and opened what is now Reno's longest surviving wedding chapel. It is not uncommon for us to have couples come through our door who were married a month or six weeks ago and say that they should not have done this, that it is not the right time. They want to know if there is an easy avenue for them to undo it. Unfortunately, the way the law is written right now, there really is not a way. They have a six-month residency requirement. My only question with this bill is, what establishes residency? It does eliminate the six-week residency requirement, but it still says that you have to be a resident. I think there needs to be some clarification on that. It would be nice to help these couples who admit they should not have gotten married. Maybe their parents found out and they are in trouble, so they want

to do this very quietly. If the Speaker would like to sit down and chat, I would be happy to work out some language that would help these clients.

Chairman Hansen:

It looks like there is no opposition to this bill and no one else to testify, so is there anything else you would like to wind this up with?

Assemblyman Hambrick:

I have said my peace on this matter. The intent is strictly to facilitate people who come into our community from around the country who might want to dissolve their marriage. I also think it might be a moneymaker for the counties that are the most affected.

Chairman Hansen:

We will close the hearing on A.B. 337 at this time. We will open the hearing on Assembly Bill 239. The bill will be presented by Assemblyman Anderson.

Assembly Bill 239: Regulates operators of unmanned aerial vehicles in this State. (BDR 44-8)

Assemblyman Elliot T. Anderson:

I am here to present Assembly Bill 239, the Homeowner Privacy Protection Act. If you are looking at the Nevada Electronic Legislative Information System (NELIS), I have provided some slides that I will follow along with ([Exhibit G](#)). Many of you have undoubtedly heard of unmanned aerial vehicles (UAV). They are an exciting innovation in aircraft, and technology in general. [Read from written testimony ([Exhibit H](#)).]

I have provided a comprehensive list of states that have or are considering regulating UAVs ([Exhibit I](#)). [Continued to read from written testimony ([Exhibit H](#)).] I have also provided studies from the University of Nevada, Las Vegas ([Exhibit J](#)) and ([Exhibit K](#)). With technology developing at such a rapid pace, it is becoming more affordable to own a small UAV. A small UAV can actually be purchased for about the price of an iPad 3 Mini at any Apple Store.

With that, I would be happy to walk through the bill. It looks large, but it is easily digestible. We also have a mock-up of the proposed amendment ([Exhibit L](#)). [Continued to read from written testimony ([Exhibit H](#)).] I have talked with most of you before today to walk you through the bill. There is, on NELIS, a section-by-section breakdown with the citations for sections 1 through 16 ([Exhibit M](#)). Legal counsel may get more into the preemption issues, but we

are very confident that, in general, the constitution of this law is our prerogative as a state government. [Continued to read from written testimony ([Exhibit H](#)).]

On slide 9 [of ([Exhibit G](#))], I get into section 18, which prohibits the weaponizing of UAVs and operation of a weaponized UAV. Lethal and non-lethal weapons attached to a UAV are left for combat zones and not a civilian environment. Slide 10 gets into trespassing. I would note that we have a right to regulate property rights, whether there is an explicit altitude in the section or not. We determine property rights in this state. The reason there is an altitude requirement in there—and I amended it to 250 feet—is to ensure that operators have a way to comply and can fly over people's houses without triggering potential civil liability. A UAV flying less than 250 feet over a property could be considered trespassing and could lead to civil liability. However, a person who is seeking to sue someone under that section would need to have warned the trespasser. This section also has several exceptions, and I am open to adding more if it gets in the way of industry operating in our state. It will not be considered trespassing if the UAV is lawfully in the flight path for landing at an airport, airfield, or runway, is taking off or landing, was under the lawful operation by a law enforcement agency, or is under the Federal Aviation Administration (FAA) license exception that I have amended. [Continued to read from written testimony ([Exhibit H](#)).]

Moving on to section 20, which is homeowner protections from the government, it abrogates the plain-view doctrine for the curtilage of a residence for aerial observation by a UAV. A warrant is required for any UAV surveillance of a place a person has a reasonable expectation of privacy, which is current Fourth Amendment law. This section also slightly expands and creates a slightly stronger rule than existing Fourth Amendment law by explicitly including the curtilage of a residence, which in laymen's terms is your backyard. This will generally apply only to a residence or the backyard of a residence. It is tightly controlled to ensure we are not getting ahead of ourselves and not going beyond homeowners. We do not know what all of the practical implications will be outside of the home. This is something that 83 percent of Nevadans can agree on. Almost all of us here can understand because we all want to feel secure in our homes. [Read from slide 11 ([Exhibit G](#)).] I want to be very clear about the penalty for violating section 20 because there have been some comments that if law enforcement does not satisfy section 20 they would be subject to a felony. That is wrong. The only thing you would have for violating section 20 is that it could not be used in court. Section 20 does not prohibit law enforcement agencies from flying; even violation of this section does not create criminal liability for law enforcement. The only intent is the exclusionary rule, which is a well-articulated rule under current Fourth Amendment law. This piggybacks on that rule for the provisions of the section.

Now, that being said, I recognize that under section 20, subsection 3, several exceptions will be needed because I am not seeking to let criminals off on technicalities. I am seeking to balance the needs of our law enforcement agencies with the needs, privacy, and liberty of our homeowners. To that end, I have worked with law enforcement in order to make sure that this bill does not get in the way of legitimate law enforcement needs. I have worked on this section for almost 1 1/2 years at this point.

I will go over the exceptions of section 20, subsection 3. In paragraph (a), no warrant is required if there is probable cause that a crime is being committed, is about to be committed, and absent any circumstance that make it impractical to get a search warrant. I would note that this is a well-worn exception that is understood by law enforcement. It is the hot-pursuit doctrine and an emergency-type doctrine. It is allowed for law enforcement to prevent the escape of a suspect and to prohibit evidence from being destroyed. Written consent is also included in the bill for the gathering of information.

I want to talk about search and rescue. One of the great benefits for law enforcement with this technology, and for Nevada, is that these platforms are much more versatile than helicopters. They can go into smaller places. It is a huge benefit for our state that they can use these for search and rescue. I am not seeking to punish innocent uses that are good uses. I am only seeking to punish potential abuses, dragnet-type surveillance, or 24/7 footage over someone's house. That is all that this bill seeks to prevent; just the abuse, not any innocent uses. If law enforcement picks up something on the way to a search and rescue call at someone's home, it would be admissible under this bill because that is an innocent use—a technicality—and I do not want to let criminals off for something like that. There is also an imminent threat to life or safety section to ensure this bill does not cost anyone his life. All that law enforcement would have to do to take advantage of that generous exception is to file a declaration under the amended version of this bill within two business days to create a record that the exception was used.

Additionally, there is another exception in case the governor needs to declare a state of emergency, or if there is a natural disaster, to ensure the platform can be used to maintain order in case of riot or a natural disaster of another kind. That is a legitimate use of these platforms, so I am not seeking to create needless technicalities.

Sections 21 and 22 deal with public agencies other than law enforcement agencies. I want to explain why I made the distinction. Law enforcement has needs that are different from other public agencies. Law enforcement is there to keep us safe from terrorism and may need some confidentiality in what types

of platforms they have. That distinction recognizes that, under the amended version of the bill, section 22 requires public agencies to list what they are using a UAV for with the Department of Public Safety to the extent resources are available. That was done because I feel people have a right to know what their government is doing. Section 22 recognizes that all state agencies would be able to use UAVs as long as the Department of Public Safety creates regulations to determine how public agencies can use the platforms.

I also want to go over the amendments very quickly for your understanding. Section 8 of the mock-up is amended to include hobbyist aircraft, since those are the only UAVs flying right now. It does not make sense for them not to be in there. Those are the platforms, quite frankly, that I am most worried about. I am not worried about the commercial operators who are licensed by the FAA and know what they are doing, and have a business reputation on the line. I want to be very clear while I am on the subject that if anyone has an amendment that will help their business operate, I have been more than willing to entertain them. I have not gotten many and I have had this bill out for at least two or three weeks now. I am more than willing to take those concerns into account.

Section 9 is amended to explicitly include the protection of First Amendment activities, which, under the *United States Constitution*, are always protected, but I wanted to make that explicit. Section 17 is amended to include "under 250 feet" and also tightens the requirements necessary to have a claim. The 250-foot language was done at the request of an unmanned aerial vehicle company that said this would be an easy way to comply with this section. If I gave them an altitude that they could fly at so they did not have to worry about potentially violating it, it would be a compliance measure. That made sense to me. I want to make it easy for people to comply, while protecting homeowners. That was one of those amendments that I felt would work well toward that end. Section 19 is similarly amended to take the requirement from 400 feet to 250 feet. Section 19 is also amended to include protection from trespass claims for those UAVs engaged in lawful land surveying or delivery operations that do not interfere with existing use of the property, and that the operator is licensed by the FAA. A couple of businesses have come to me, including Amazon, which is one of those that was specifically included to ensure the bill would not get in their way once the FAA approves them for that type of operation. This would exempt them from civil liability. That section is open to amendments in order to help businesses because I want to ensure they can comply without exposing themselves to civil liability. Section 20 is amended to change from 48 hours to two business days to ensure law enforcement could not be punished for the court not being open. That was a clarification measure. To the extent resources are available, section 22 is

amended to provide that there is not a fiscal note. To be honest I have not even looked to see if there was one, but either way it is not my intent to force anyone to do it and to spend money on it immediately because there are not a lot of people flying yet.

To wrap up, this bill is an attempt to create new rules for new technology, technology that is more capable than any technology we have so far. There is an argument that UAVs should not be treated any differently than aircraft. I understand the feeling. I would respectfully disagree; UAVs are different from helicopters. Helicopters generally have to stay at 300 feet and can only move down when it is safe. UAVs can go in smaller areas and have a much greater potential for abuse considering they are cheaper and your average citizen can buy platforms at the Apple store. Platforms will keep getting more and more capable.

It is not just me, it is not a Democrat thing or a partisan thing. I want to end with a quote from a highly respected jurist who understands this type of law better than anyone in this room, including me.

Many forms of modern technology are making it easier and easier for both government and private entities to amass a wealth of information about the lives of ordinary Americans. . . . In light of these developments, it would be very unfortunate if privacy protection in the 21st century were left primarily to the federal courts using the blunt instrument of the Fourth Amendment. Legislatures, elected by the people, are in a better position than we are to assess and respond to the changes that have already occurred and those that almost certainly will take place in the future. [*Riley v. California*, 573 U.S. (2014)].

That was Justice Samuel Alito, a George W. Bush appointee to the Supreme Court of the United States. I would note that it was a unanimous opinion setting greater limits on modern technology for the government. I believe we can get a good balance between our privacy, our liberty, and the economic and physical security of our state.

Chairman Hansen:

About 25 years ago, I first saw Google Earth and zoomed in on my own backyard. I was shocked to see my kids' bicycles and everything. When I was down at city hall, we were talking about a guy who put up a shed in his backyard without a permit. They were going to go nail him. It turns out they found out about it by having a Google Earth picture of the man's backyard one year, and then had a new one the following year and saw the new shed.

I thought it was interesting at first, but then realized they were actually spying on everyone's backyards. I am highly sympathetic to this. It is going to be a very interesting hearing because this is such a new law and there are so many angles to it.

Assemblyman Wheeler:

I am concerned with section 15, subsection 1, paragraph (c) where it says, "Drop any object from the unmanned aerial vehicle." I am sure it is not your intention to stop deliveries by unmanned aerial vehicles, but would that not cause a problem or two with that language if UPS or someone starts using drones 10 years from now to drop off packages and take off? We are a test state, so I am sure that is where we will be testing. Does that language preclude that from happening?

Assemblyman Elliot T. Anderson:

Before I answer your question, I would first note that it is current law under NRS 493.100. If this bill were to fail, that would already rope in any type of aircraft. That being said, I totally understand what you are saying and I am open to making the distinction for UAVs considering the economic benefits it could have for our state.

Assemblyman Nelson:

I feel like Assemblywoman Kirkpatrick when she says she has 20 questions and I will try to cut them down. I do have a lot of questions about this bill. The most important one that I have is in section 11. It says "all crimes" and then down at the end of the section, "must be determined by the laws of this State." I know you discussed the federal Supremacy Clause and you admitted that there are certain laws—both criminal and civil—which are governed by federal law, the FAA regulations, and things like that. Is the intent of the bill to say that all crimes are governed exclusively by state law? That is what it seems to say to me.

Assemblyman Elliot T. Anderson:

That is a conflict of law clause from the Uniform State Law for Aeronautics. Like Mr. Wheeler's question, it is based on NRS 493.080 and ensures there is certainty in cross-border situations. That is meant for the conflicts of law scenario where people are traversing over borders. Aviation necessarily crosses borders. If you have a tort, or another crime that is violated, this says that we consider Nevada law to be an important policy goal that should be determined by our conflict of laws. If another court has a case that involves an incident that happened in Nevada, that would ensure that our laws would be used to govern that incident rather than the other state's laws.

Assemblyman Nelson:

What about federal law? Federal law operates quite a bit already in this area. Are you saying that the federal government cannot enforce its own criminal laws?

Assemblyman Elliot T. Anderson:

This is an existing law, so it would already apply under NRS Chapter 493. That being said, the bill under section 9 also says that the provisions of this chapter must be interpreted and construed to effectuate their general purpose and to harmonize such provisions with federal law. Under the areas that we regulate under our scope under the Tenth Amendment, it is my argument that we constitutionally control those. If the FAA is regulating within the scope of their constitutional authority, then their constitutional authority would obviously trump ours under the Supremacy Clause and under section 9 of this act. This is for conflicts between state laws, not federal laws.

Assemblyman Nelson:

In section 13, it seems to me that you are establishing strict liability. You are presuming in subsection 2 that both the owner and the lessee are liable for anything that happens. Then in subsection 3 the presumption can be rebutted. First, is that a correct interpretation? Do you think it is proper that the owner should also be liable? For example, I lease my car. If I go out and get into a wreck, should the owner of the car from whom I am leasing it also be liable?

Assemblyman Elliot T. Anderson:

Allow me to explain why these sections are in blue text to begin with. When I went to the Legal Division I said to explicitly include UAV in the definition of aircraft under NRS Chapter 493. When they came back with the measure, they said that, as a drafting measure, that would not make sense and would be confusing. They literally cut and pasted half of these provisions. That is another provision that is already the law for aircraft under NRS 493.060. This is already law and has been cut and pasted into a new chapter for compliance sake. That to me is saying *res ipsa loquitur*. When you have something like that, it speaks for itself. Obviously, the person on the ground who got hit is usually not going to be at fault for an aircraft falling. If the Chairman were to bring out his gun and shoot one down, that is where you could rebut the presumption and say *res ipsa loquitur* does not apply.

Chairman Hansen:

You brought up a very good point. What sections of the bill are verbatim from NRS Chapter 493? I thought this was all new law. What sections are just copied from existing statute?

Assemblyman Elliot T. Anderson:

It is sections 9 through 16 that are almost wholly cut and pasted from NRS Chapter 493, and I have provided the citations on a section by section breakdown ([Exhibit M](#)). I realized we would have this confusion and that is why I spent the time creating the breakdown to provide those citations. I compared them section by section when the bill first came out. There are a couple of differences in section 14. Section 14 creates a misdemeanor penalty rather than civil liability because it is not practical to have it be a civil liability because of the proliferation of hobbyist aircraft. I am not sure that we will need that enforcement power to ensure it. They will be more prolific.

Additionally, there is a new five-mile airport provision in section 14. That is to prevent people from flying hobbyist aircraft into another aircraft and potentially causing accidents. I have seen papers from the FAA to law enforcement talking about creating a partnership to ensure those types of things do not happen. Right now, it is only civil liability for violating FAA regulations. Beyond that, sections 10 through 16 are wholly based on NRS Chapter 493 and section 9 has been changed some.

Assemblyman Nelson:

We have talked about the differences between UAVs and traditional aircraft, which I understand. For example, section 15 talks about a UAV should not perform a trick or acrobatic maneuver over a heavily populated area. Obviously that should apply to a 747, but I do not know if it applies to one of these small drones. And what does a heavily populated area mean? Does that mean all of greater Las Vegas? Some of these drones that do acrobatic tricks are not allowed to do that anywhere over Las Vegas?

Assemblyman Elliot T. Anderson:

My intent is for these provisions to be interpreted consistently with the existing law. I would also note that the UAV industry wants to be treated the same as other aircraft. I realize that this bill does not wholly do that. As far as that section goes, UAVs would be treated exactly the same and that is what the industry wants. That being said, I recognize that UAVs are not the same as 747s. If you are in a park doing tricks as a hobbyist, I would expect that it is not a big deal. It is meant to ensure that you are not causing damage to someone's house, or creating risk to life or limb.

Assemblyman Nelson:

I hope you do not take this as I am against privacy concerns. I think there is a bit of overreach in some portions of the bill.

Assemblyman Jones:

First of all, you are biting off a big chunk of the apple on this bill. You obviously put a lot of effort and work into it. You did a good job. I see that it is broken into three basic areas: hobbyists who can get into trouble doing things they should not do, the commercial area which is not yet explored, and law enforcement and criminals. I am concerned with the commercial aspects of it as a businessman. Thinking forward to your Amazons and others, I do not know if you have totally fleshed out the difference between the FAA and what is going to happen. Amazon is waiting on the FAA rules and what the overlap will be. Without getting into detail, practically, how do you see this really working with commercial ventures of delivery services when we have 50 or 100 drones flying around? Is that potentially going to happen? You kept saying that a person could operate, et cetera, but what about an entity? What about Amazon? Our military flies in zones. How is that going to work out looking forward to creating opportunities for commercial expansion—in a general way without getting into the weeds?

Assemblyman Elliot T. Anderson:

First, I would point you to section 10 which states that, "Except as otherwise provided in this chapter, the operation of an unmanned aerial vehicle over the lands and waters of this State is lawful." That is the general rule. In addition, this bill only purports to regulate property rights, tort law, privacy rights, and our criminal law. It does not seek to say what commercial operations can be done. I understand that when you regulate trespassing, for example, it can get in the way of business. Let me be clear, I gave the Governor's Office of Economic Development a week's lead time in terms of a draft and this bill has been out for two weeks ([Exhibit N](#)). If there is anything in this bill that is getting in the way of commercial entities, I want to fix it. I have worked with the amendments that I have received, so if you are worried about commercial entities, all you have to do is come to me and I will work to take care of the issue. I have already taken care of a few issues, and I realize with a measure like this you cannot be tied to the first draft because you need to let the topic sit and make soup. As this continues to simmer, we can continue to flesh out the amendments and hopefully get the balance that I am talking about, balancing our privacy and liberty with our economic and physical security.

Chairman Hansen:

I am interested in another angle. My biggest concern is the privacy rights and the criminal law side of it. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches is the crux of the meat in this to me. As this technology develops, we have to protect the people. This is George Orwell all the way when you start thinking about the possibilities. On the other hand, we want to ensure we do not damage our new

drone industry that is taking off. There are some very delicate concerns that everyone is juggling right now.

Assemblyman Elliot T. Anderson:

I would like to bring law enforcement forward. There are going to be some people who are concerned about critical infrastructure. I am not opposed to those amendments. It is just not within my original intent, so I have asked them to come up and present their amendments. They have touched on important issues that the Committee needs to consider.

**Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department:**

We are here in support of A.B. 239. I appreciate Assemblyman Anderson's working with us and soliciting information and feedback on how this impacts law enforcement and public safety. As this technology grows and develops, it will increase its use and will become a double-edged sword. On one hand, we see cases of misuse and potential danger to public safety. On the other hand, there are legitimate uses of this technology for law enforcement. Our hope in providing feedback to Assemblyman Anderson was to address both sides of that.

I will give you some examples of what we see occurring across the country. Just Google it and you will see multiple hits of cases. In Idaho, there was a case not too long ago where an individual threatened suicide and he was out in a body of water waist-deep and he was saying he was going to kill himself. Law enforcement was there trying to coax him out of the water and get him to surrender so he could get help. Someone was flying a drone over the top of the person while all of this was going on. It became such a distraction the law enforcement officers were more concerned with the drone and how it was being operated than the safety of the individual.

In another case in California, firefighters were using aircraft to fight the wildfire. Operators of some drones were trying to photograph the fire and got in the way of the California firefighters trying to put out the fire.

There was another case recently in New York City where a police helicopter had some drones flying in its flight path. To cite one more case, there was an incident in Ohio where a traffic accident occurred and someone at the scene of the accident needed immediate medical assistance. A flight-for-life type of helicopter was trying to air evacuate that person to a medical facility, but someone operating a drone—trying to take pictures of the accident—interfered with the helicopter's mission.

When folks listen to police scanners and hear that an incident is occurring, they often operate drones near the scene, which can be very problematic, especially if it is a crime scene.

The bill addresses several of our concerns. First is the operation of these aircraft in a way that potentially endangers the public. For example, a New Year's Eve celebration where there are 80,000 people on the Strip and someone flies one of these aircraft over their heads in a manner that might endanger them. Another problem is interfering with law enforcement operations or tactical operations, but this bill gives law enforcement the ability to take action.

Another concern is critical infrastructure. For instance, the Department of Corrections has had people try to fly these UAVs into the prison yard to drop off contraband or other things for prisoners. It is disconcerting from a Homeland Security standpoint when drones are flying over potentially critical infrastructure like power plants, chlorine plants, dams, or other public facilities where we would want to restrict this type of aircraft from flying over.

Finally, there will be some folks who will probably tell you that there is no need for this bill, that the FAA already has guidelines in place for law enforcement. As Assemblyman Anderson stated, the problem is that those guidelines are civil in nature. In section 2 of the FAA guidelines it says that the tools the FAA has for dealing with problems that occur are warnings, letters of correction, and civil penalties. As a matter of fact, the report gives 24/7 phone lines that an officer in the field could call; however, the FAA has stated that they are very restricted on manpower. It is not practical for an officer in the field dealing with a situation to try to call an FAA representative to respond to the scene—if there are any nearby. It is only a federal civil infraction. There is nothing that a law enforcement officer can do when someone has been endangered by one of these incidents.

We would like to see a permitting process in the populated areas like Las Vegas when we have an event like the Electric Daisy Carnival or a sporting event and someone wants to utilize this type of aircraft at those events. That may be beyond the scope of this bill. We would like to see some type of permitting process where the permittee would need to have insurance and take steps to ensure the safety of the people at the events. That could be done through the local government jurisdictions—city or county.

Eric Spratley, Lieutenant, Legislative Liaison, Washoe County Sheriff's Office:

I am here in support of A.B. 239. I want to thank Assemblyman Anderson for bringing this bill forward and for the additional provisions and protections

for homeowners, people of this state, and visitors and yet provide this new technology to be used by law enforcement to save lives and provide for public safety in the future. At the Washoe County Sheriff's Office, we have a relationship with the UAV industry and the University of Nevada, Reno, to develop and use UAV technology at our agency for missions such as search and rescue and other public safety concerns. There are uses we have not even realized yet; we cannot even imagine how we can use this technology in the future. We want to be able to use it. We realize there are concerns about how we would use them, and we welcome those concerns. We are aware of those concerns and we think this bill addresses them.

We do not want to stifle the UAV industry. We have a partnership with them and want to continue in that partnership, so we would not support regulations which are burdensome or too restrictive. We worked with the Assemblyman for several months before session started and continue to work with him to craft the language we have here—mostly in section 20—that provides necessary protections for people, yet allows law enforcement agencies to use these UAVs for all public safety matters. In discussions with Assemblyman Anderson, he has assured us that the intent of the proposal is not to limit the use of UAVs by law enforcement in any part of this bill, but to have the provisions of section 20 provide the framework for which we may use them for evidentiary purposes.

I had discussions with a few people regarding section 20 and how that and other parts of the bill are not good for law enforcement. Our frontline officers could be unwittingly committing felony crimes if it is determined that they were outside of the provisions of section 20, and that is not an argument that I can get my head around. It seems that we worked out what would be good for our citizens and good for our law enforcement agencies, so I will defer to them for any arguments they may bring up to build that foundation. We welcome discussions to arrive at good public policy for all of the parties involved.

When it comes down to practical uses of these drones, there are provisions in this bill that limit dropping objects, but, if we are using them for a lawful purpose, we can drop items from a UAV. For instance, if we have stranded people out on Lake Tahoe, which is not a populated area and no one is there to help rescue them, it is conceivable that we could use a UAV to bring some type of floatation device to those persons until an actual marine vessel could get there and rescue them. Additionally, you may have lost hikers up in the woods. We would be able to locate them and drop an item—a splint or first aid kit or whatever—to sustain them until we get actual people there. It takes about 15 minutes, if our Regional Aviation Enforcement Unit (RAVEN) helicopter is on the flight line and ready to go, to spool it up, get it in the air, and then get it headed toward its destination. At the Washoe County Sheriff's Office,

we envision utilizing smaller aircraft to be a much faster process. We need to get eyes on a situation, subject to the limitations in section 20, to provide first aid or search and rescue. We really see the benefit of it and look forward to working with the industry on this bill and it becoming good public policy all the way around.

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

I have to mirror the comments made by my counterparts. I believe they have pretty much covered everything. The Nevada Sheriffs' and Chiefs' Association got involved with this process when we received a request from the Legislative Counsel Bureau to express our concerns and what needs we may see regarding the use of drones. We realize that this is new technology and it is not our position to attempt to prohibit or slow down any of the commercial uses of it or to get involved with the private sector. The information that we provided dealt strictly with the law enforcement issues that we had concerns about.

Chairman Hansen:

I have a quick question and my concern is civil liberties. In the use of these things as law enforcement officers, how do you prevent potential abuse? I do not like neighbors spying on neighbors, and I do not like the idea of policemen randomly being able to watch everyone all of the time in some aerial fashion. While there are provisions in the bill that would make the evidence collected in such a manner not usable, it is still the Big Brother concept that disturbs me.

Chuck Callaway:

I believe Assemblyman Anderson has done a great job in balancing section 20 of this bill. What we see in this bill are the same criteria that we see for search warrants. Unless those exigent circumstances exist, that type of activity is prohibited. We cannot fly this into your backyard to watch what you are doing unless there are exigent circumstances that are listed in section 20. I believe the bill has a good balance.

Chairman Hansen:

I always obey the speed limit, but for those who do not, is there any danger that the highway patrol could send up drones and present us with a ticket later?

Chuck Callaway:

I certainly do not want to speak for the highway patrol, but we often see the signs on the side of the road that say speed is enforced by aircraft. I would assume there is state law that says you cannot use cameras for enforcement purposes unless they are actually manned by an individual. I would assume that, if the highway patrol acquired this type of equipment and an officer was out there operating it, they could potentially use it to do traffic enforcement.

Eric Spratley:

I want to reiterate that we have the RAVEN helicopter in our jurisdiction and we fly it a lot and save a lot of lives, and solve a lot of crimes with the use of that piece of equipment. It is fantastic for the citizens of Washoe County. They certainly have their program in the Las Vegas metro area as well. We are not seeing the same things. I understand that the UAVs can get to a lower altitude, but they are not quiet. The ones that I have seen are very loud so you would know they were out there. We work for the people and we recognize that. The laws are here to limit what we can do. This bill takes care of that. It has the scope and framework that we can operate under and we will certainly abide by that.

Chairman Hansen:

So you see the bill as a good balance between public safety and civil liberties?

Eric Spratley:

Absolutely.

Chairman Hansen:

Is there anyone else who wants to testify in favor of A.B. 239 at this time?

John T. Jones, Jr., representing the Nevada District Attorneys Association:

We, too, want to thank Assemblyman Anderson. We have been working on this bill with him since before the beginning of session. We also feel that this is a good balance between civil liberties and law enforcement's ability to investigate crime. We have also reviewed the criminal justice sections to ensure that all of the elements of the new crimes that are created are provable. We have had a few conversations with Assemblyman Anderson, and we have a level of comfort with the bill. I wanted to express our support for A.B. 239.

Judy Stokey, Vice President, Government and Community Relations, NV Energy:

We are also here in support of the bill. We want to make sure that people realize we support the drone industry in Nevada. Our concern is specific to the critical infrastructure that Mr. Anderson mentioned earlier. We did include an amendment regarding the protection of that critical infrastructure ([Exhibit O](#)). The top two categories of our nation's critical infrastructure according to the federal Department of Homeland Security are the electrical grid and the electronic communications systems. Significant damage to or outages could really impact the security of our nation. Our amendment is specific to our infrastructure in Nevada: our power plants and transmission facilities.

E.K. McDaniel, Deputy Director, Department of Corrections:

We also support A.B. 239; however, we would like to offer an amendment to that bill. [No amendment was submitted on the record.] Our research tells us that unmanned aircraft have been used in several states to facilitate dropping contraband, cell phones, drugs, weapons, and all kinds of light things into correctional facilities to provide them to prisoners. Recently in North Carolina, a privately owned aircraft was flown into the facility with a large quantity of drugs. It fell into the yard and the officers were able to recover it. Many states are currently going through the same process, so we want to make sure we submit an amendment that would prevent UAVs from flying near correctional facilities and/or jails so we can eliminate that problem.

Chairman Hansen:

We have eight or nine people who have signed up in opposition, so we will have to limit the time in the interest of fairness.

Steve Yeager, Deputy Public Defender, Clark County Office of the Public Defender:

We are in support of the bill and I want to note briefly that section 20 of the bill talks about lawful purposes for law enforcement's use. We are particularly pleased that the plain-view doctrine—as it pertains to yards and houses—has been expanded here. Under the current law, if it was extended to drones, drones could actually fly into your yard and see what is going on in the front or back yard, even where you have a large fence or other obstruction. What section 20 says is that, in this particular case with drones, law enforcement would not be able to do that without a warrant. That is an extension of Fourth Amendment protections as it pertains to your yard, which is legally known as curtilage. We appreciate that movement forward and support the bill.

Alex Ortiz, Assistant Director, Clark County Department of Administrative Services:

We have a proposed amendment ([Exhibit P](#)). This proposed amendment pertains to section 22 of the bill that authorizes a public agency to operate an unmanned aerial vehicle. The amendment suggests that we would like to include specific purposes for the adoption of regulations. The purposes are to provide for fire services, emergency medical services, protecting public property and infrastructure, conducting search and rescue operations of persons and property in distress, and responding to unforeseen events or circumstances where immediate action is needed to prevent the loss of life or property. This amendment would focus more on our fire department and the Clark County Water Reclamation District, which is considered a critical infrastructure in the state.

Tim Shestek, Senior Director, American Chemistry Council:

We are a national trade association of chemical manufacturers. I, too, want to reiterate the concern that this technology has started to raise with our member companies here in Nevada and elsewhere over the potential unauthorized surveillance of our facilities. We would encourage the Committee to look at adding critical infrastructure provisions to the bill. Other states are doing so. The state of Louisiana has recently enacted a law dealing with critical infrastructure in this area, and I have provided a copy of their statute ([Exhibit Q](#)). With that, we support the intent of this bill and encourage the Committee to look at the critical infrastructure question. [Submitted but not discussed is ([Exhibit R](#)).]

Chairman Hansen:

I see people sitting down south. Is there anyone there who has testimony to add in favor of the bill?

Bill Reynolds, Business Development Manager, Unmanned Systems Inc.:

I want to take a moment as an industry member to say that we support this bill. Unmanned Systems is a small unmanned aircraft company in Henderson, Nevada. We would like you to support this bill. It is not going to interfere with business. We would like to see the amendments that were proposed today by Assemblyman Anderson. We would like to thank his efforts and the time he took to make the amendments that we recommended. We are in support of this bill.

Chairman Hansen:

We will now go to opposition testimony.

John Dunn, representing Drone America:

I am an investor in and do business development for Drone America. We have our headquarters, design, manufacturing, and support operations in Reno. We pursue purpose-built commercial use airframe system solutions that will pass FAA certification, not only for the airframe use but also for the application use. We totally avoid the hobbyist, private use sector. We think that is a problematic sector. [Read from written testimony ([Exhibit S](#)).] We consider law enforcement, first responder, fire safety, and even ambulance services as agencies. We are working with an international company that sends ambulances into hazardous areas. They want some eyes-in-the-sky to tell them it is okay to go in.

Point one: I am hearing today that there are some changes in process that have been made and more, hopefully, to come. I will have to reserve judgment until I see all of those to determine if I should change an opinion. [Read from

written testimony ([Exhibit S](#)).] For some reason there are people out there that just either do not know or do not care or are so enthralled with social media type activities that they go for anything. [Read from written testimony ([Exhibit S](#)).] Some people in this use sector will be virtually impossible to control. It is going to be happening, mistakes are going to be made, and it is likely—what we worry about as a manufacturer of commercial products—by association, the word drones is going to get a bad name. Nevada does not need airborne paparazzi intruding into normal people's lives. We do not worry about law enforcement or first responder use because most of the area units have great protocols in place already.

Point 2: [Read from written testimony ([Exhibit S](#)).] In particular, we are concerned about the wording of the dropping or falling of any object therefrom. We talked a little bit in the discussions today about it. The FAA is going to deal with this aspect, not only from the airframe itself, but for rules of application. [Read from written testimony ([Exhibit S](#)).] You can imagine the FAA heartburn with cloud seeding, which is normally done by regular aircraft. It is dangerous to fly, so you want to do it remotely piloted of course, and the FAA has to deal with pyrotechnic devices being fired out of a drone. You think we have issues; they have issues, too.

What I am saying is that there are a lot of benefits. Through testing evolution, new concepts will arise. Not a week goes by that we do not get a call from someone in the nation or abroad asking if we can do different things. We do not even know what the use extendibility is going to be until we get in and do it. It is going to be a great opportunity for Nevada.

In closing, we suggest a careful review of what is going on and, as a manufacturer of such devices, we would be happy to participate or at least be able to give you an opinion from our perspective. Maybe it will be helpful. We need drone companies to stay in and come to rather than avoid Nevada.

Assemblyman Ohrenschall:

I want to clarify that section 8 in the mock-up and the proposed exclusion for model aircraft has actually been brought back. They would be covered. Alaska and Texas have also been selected as test sites. Do they have similar laws to what we are proposing? Is it working all right in those jurisdictions?

John Dunn:

I am not familiar with what Texas is doing. The business conditions this past week have been hard. I only got a copy of the proposed revision yesterday at 4 p.m., so I have not had a chance to go over it. I understand that Assemblyman Anderson is working on making changes. From today's

discussions there will probably be even more changes. It is good to hear that now there is more emphasis being placed on the model aircraft/hobby individual use side. We think that is where the problems are going to be. We have more confidence in law enforcement because the airborne protocols are in place by most agencies. As the representative for Drone America and Airborne Law Enforcement Association, I get the chance to meet and talk with a lot of agencies that have airborne units in play right now. They generally have good protocols and are concerned, and I see that they do not want to screw up. They want protocols and they are happy to do it because they serve us and have a difficult job.

Steven Hill, Director, Office of Economic Development, Office of the Governor:

To be clear, I am neutral, so if we are still in opposition testimony, that is not me.

This is an important and complex subject and Assemblyman Anderson has done exceptional work. I would like to thank the members of the Boyd School of Law because much of what is in our presentation came from their work ([Exhibit N](#)). We have been working on this topic for a number of months.

I would like to briefly point out a couple of things in there. Most of these have been addressed. On the third page, we discuss the current flight status for the four areas of consideration. Hobbyists can currently fly below 400 feet. The commercial industry cannot; it is illegal. The FAA has recently published draft rules for the industry. That has begun a process that we think will take between 18 and 24 months before the commercial industry can fly. The rules that are proposed are drafted in such a way that they do not open up the skies for the commercial industry. You cannot fly over a person other than the operator of the UAV. You have to stay within visual line of sight. The adoption of those regulations will not open up the skies to package delivery.

A note on Amazon. You may have recently seen that they were given special dispensation from the FAA, but that simulates a private test site for experimental purposes. They are confined to a remote area away from people. They have the ability to test their vehicles and their service within an experimental test site area. That does not extend beyond that.

Additionally, on privacy, the White House Administration recently appointed the National Telecommunication and Information Administration (NTIA)—an organization that most people have not heard of—as the overseer for the federal government on privacy issues. [See ([Exhibit T](#)).] I met with the NTIA several months ago and they have started a process to develop privacy policies at a federal level that we probably will be able to learn from. It will be a very

inclusive process. We think that process will take a similar amount of time, 18 to 24 months, before conclusions are reached, so we are probably looking at some time during the next session or following it for both the FAA to act on the commercial side and the NTIA to act on the privacy side.

Law enforcement, from a flight standpoint, is considered a public agency, and public agencies can currently only fly if they receive a certificate of authorization, which is for each individual flight or series of flights in specific air space at a specific time. That is all that is permitted currently.

Page 4 at the top ([Exhibit N](#)), points out an important distinction. The FAA says that UAVs are aircraft. Assembly Bill 239 says they are not. That distinction causes us some level of concern and how we think about those two things separately. Frankly, we would lean toward including UAVs in the definition of aircraft. We will get to that in just a minute. Assemblyman Anderson has very well defined the role of the FAA in the states in this area.

I provided a summary on page 5 of current laws in Nevada that affect privacy rights. Eavesdropping, stalking, and Peeping Tom laws are already covered regardless of the mechanism for performing those acts. Photography is a little more vague in how that is dealt with.

The rest of the presentation you can read at your convenience. It deals with trespassing and warrants. You have heard from law enforcement on warrants and we will defer to them on that area.

As I said in my first specific comments on A.B. 239, we lean toward including UAVs in the definition of aircraft. As Assemblyman Anderson pointed out, sections 8 through 16 in the bill copy language from current aircraft statutes for the most part. If UAVs were included in the definition, those provisions would likely not be necessary in A.B. 239.

That leads to a foundational issue on our tendency to deal with the actions that we are trying to prevent rather than the method for performing those actions. If we do not want a UAV or any aerial vehicle to perform dangerous acts, we would like to see laws that prohibit those types of dangerous acts. In fact, section 16 addresses that already. If a UAV was an aircraft, it would be prohibited from performing dangerous acts that would potentially cause harm to people or property. Many of the examples that we heard about today concern the use of UAVs and there is potentially a question as to whether it is currently considered an aircraft. Therefore, the enforcement of what is currently in NRS Chapter 493 may be in question. If that is true, that should be clarified.

The enforcement aspect of most of this bill is something that we should all give some consideration to because, in many cases, it will be difficult.

The other area in the bill that I would like to point out is in section 17. It sets up the difference between the technologies used to commit an act that we do not want to be committed. A UAV is prohibited from taking a photograph, but a person with a camera or phone would have that same capability. This sets up a situation where you could take a picture with a camera or phone, but it would be a criminal act if you took the same picture with a UAV. Those are the types of things that we would like to avoid. It is also the type of messaging that we would like to avoid giving to the UAV industry. The act itself we understand. The method for committing that act can be treated as a package.

I completely understand and agree with the privacy concerns that individuals may have. I understand that the issue with hobbyists is problematic, both how to craft the laws correctly and how to enforce those laws once they are in place. I am not sure that we have actually made progress in protecting privacy. The conditions that are precedent to this new law calling out a violation continue to be consent or a reasonable expectation of privacy. In most of the conversations that I had, and maybe all of the conversations that I have had with citizens who are concerned by the privacy aspect, boils down to whether they have a reasonable expectation of privacy in their backyard. They have it in their home, a hospital, or a restroom, but in public they generally do not. It boils down to the backyard and particularly if the backyard is fenced in a way that it is not easily seen standing on the ground. Do they have a reasonable expectation of privacy? It probably depends on a number of things, but I do not think the bill addresses that topic.

Chairman Hansen:

I am sorry but I have to speed up the process. Do you have any specific amendments that you are recommending? Can I get you two together and see if you can work these things out?

Steven Hill:

Certainly. I appreciate Assemblyman Anderson's willingness to work with us. We just saw the draft a couple of weeks ago. We were coming at the thought process from the direction of including UAVs as aircraft so we are catching up with that. We saw the amendment yesterday and I appreciate it.

Chairman Hansen:

I would like to have all three chairs occupied by opponents of the bill at this time. Please come forward. We will start in the north and then go down south.

Peter Krueger, representing Silver Springs Airport:

This Legislature is moved to do things that I feel would essentially empower and embolden the Trial Lawyers Association to a level that we have not seen or heard since the days of construction defects. I see this as a bonanza for those people who are on the trial bar to take advantage of this very crafty bill that encourages and enforces that. I met with Assemblyman Anderson and we talked and he included a treatment of the hobbyists that was heretofore not in the original bill, and for that I thank him.

Kay Bennett, Owner/Manager, Silver Springs Airport LLC:

I speak to you today as a private citizen and a woman who has been in private business for 25 years as the owner/manager of the Silver Springs Airport. [Read from written testimony ([Exhibit U](#)).]

Chairman Hansen:

In the interest of time, I would like to have people keep all of the seats occupied by anyone who wants to testify in opposition to this bill.

Ben Griffith, representing Nevada UAS Network:

You have my written testimony ([Exhibit V](#)) and ([Exhibit W](#)). We have many concerns about A.B. 239. I agree that section 15 does not explain what public gatherings includes. The entire state of Nevada is a test state, and that is unique. The other test states do not have this luxury. North Dakota is trying to expand to have more of their land to be test-worthy, but our entire state is a test site.

Another issue that has come up is the privacy aspect. The problem with that is we already have privacy laws on the books. Under NRS 200.603 we already have anti-Peeping Tom laws. Under NRS 200.604 we have laws against taking pictures of people in private residences. Under NRS 207.200 we have antitrespassing laws. I called the FAA regarding airspace and there is a Supreme Court Ruling, which is *United States v. Causby* 328 U.S. 256 (1946), that allows property owners to maintain reasonable airspace of their own property. We already have these privacy laws on the books. Our concerns rose with sections 21 and 22. It is my understanding that state agencies already have to register with the FAA and they are allowed to be granted exemptions under certain circumstances. North Dakota has an exemption and they have caught criminals because of their exemptions and being able to use their drones to find people who are hiding out in corn fields.

In conclusion, we feel this bill not only harms individual purposes, but also extensively harms industry uses.

Vanessa Spinazola, Legislative & Advocacy Director, American Civil Liberties Union of Nevada:

We support the regulation of drones. There are some amendments that we are working on ([Exhibit X](#)). We would really like to see these changes in the bill because we do not believe it achieves the civil liberties balance that we would like to see. We believe drones are different from aircraft. Drones can have high-power zoom lenses that see much farther than a law enforcement officer could see from a helicopter flying over your backyard. Drones can be equipped with night vision, which is not the same as the human eye. There is also see-through imaging technology with which you can see through ceilings and walls. This is much more than an aircraft that is not manned by a human being.

In section 17, which has to do with the First Amendment, we appreciate Assemblyman Anderson changing that "or" to an "and." We are concerned about the media. We are concerned about animal rights or environmental rights groups that might want to serve as government watch dog groups to the court. We also think that the gross misdemeanor is too high. We would like to see that go down to a misdemeanor. We noted, as has been stated before, that many crimes like stalking would probably fall under this. You would not need a specific drone stalking statute. The NRS is cited on the footnote of my testimony.

In section 18, right now it is a category B felony for merely weaponizing a drone, and we would like to see that broken into the weaponizing and the actual firing of a drone. We believe both of those categories could be a lot lower, perhaps a category D and E.

Section 20 has to do with law enforcement. There are a couple of sections in here that we would like to see revised. We disagree with law enforcement that this achieves a civil liberties balance. For example, we appreciate that the curtilage is included in this bill. That is a good privacy protection that is not currently under Fourth Amendment law. We are concerned about drones. You get in your car, drive out of the driveway and down the street. Now you are out of your home. The type of information about you that law enforcement could collect could then be collected by a drone, similar to GPS tracking. Under this section, if the purpose is to gather evidence for a criminal investigation, a search warrant should be required in those circumstances. Drones should not be able to follow us around without a search warrant, gather information about our whereabouts, and use that in a later criminal investigation. We believe this should go further. We also added some language that is very clear that those types of searches are Fourth Amendment searches.

Moving down to the number of days for which a search warrant should be available, we actually had gone from 30 to 15 days, but while in this hearing I researched and NRS 175.075 currently indicates that 10 days is the usual length for a warrant. We would be overriding and extending current Nevada law if we permitted the 30 days to continue.

We also want to get rid of the exigent circumstances only in committing a crime, not in the loss of life. I have a footnote here. Right now, police officers are able to get a warrant within an hour telephonically, and there is currently a bill proceeding through the Legislature that is going to permit search warrants to be available via email, which will be nearly instantaneous. We do not think there should be an exception for a search warrant for people committing a crime.

We are concerned about data collection with both law enforcement and public agencies. At the bottom of the third page of my testimony I have some information about how long the data should be collected by drones and when it should be purged. We would like to see that.

Generally, in section 21, there are public agencies that do have law enforcement authority, for example, the Department of Motor Vehicles, the Department of Wildlife, the Contractor Licensing Board, and those who go out and light ordinances. They have law enforcement officers within their agencies. We want to make it clear that these law enforcement rules do apply to those people even though they are public agencies. We would like to see the data collection added to public agencies as well. [Submitted but not discussed is [Exhibit Y](#).]

Chairman Hansen:

I am sure Assemblyman Anderson will be delighted to work with you in resolving these issues as well.

Robert Dunbar, Private Citizen, Carson City, Nevada:

I have been a hobbyist for 28 years and hope to do this commercially. I am fundamentally opposed to the bill on the timing and technology. As of now, the FAA rules are coming out within the next two years. I would propose, at this point, that a chair or committee be created to look at this with all of the stakeholders involved—including hobbyists, industry, and law enforcement—and study this for the next couple of years. We are attacking this early.

If this goes through, there are a few comments I would like to make on the bill and the amendments. Section 14 regards operators getting consent from local or public airports. I am working on my private pilot's license. At an airport like

Stead, you do not need a radio to come in and land; no consent is needed. In section 336 of the federal 2012 reauthorization act—FAA Modernization and Reform Act of 2012—it states that, if hobbyists fly within five miles of an airport, you must notify air traffic control. That is more important than notifying an operator at an airport. Air traffic control will know and they can inform other pilots versus letting the airport operator know where it may never go any further to the people flying.

In section 15 of the bill, regarding aerobatics over populated areas, a hobbyist could interpret it—when you are flying acrobatically in Las Vegas over the radio controlled airfield doing loops and rolls—that it is illegal. I am looking at the unintended consequences.

I appreciate Assemblyman Anderson meeting with me and being open to amendments.

Chairman Hansen:

There are three chairs open. Is there anyone else who would like to testify in opposition to the bill at this time?

John D. Abbey, Private Citizen, Incline Village, Nevada:

I have lived in Nevada for 17 years. I am here representing the general interests of law enforcement. I am a retired police chief and have worked both in the Los Angeles metroplex and Silicon Valley. I have the unique role of being a law enforcement futurist. Back in 1984, we began a group called the Society of Police Futurists International. Futuristics is the structured study of emerging trends and cross impacting events. For all of these years, we have been working on emerging technologies. This started with the FBI in Quantico and has grown to be a mainstay of law enforcement across the country.

I would like to focus on just the law enforcement impact. I think the speakers who preceded me have done an excellent job of pointing out the pros and cons of this legislation. Looking at it from a futuristic standpoint, and the emerging trend that we are talking about today, is the unmanned aerial vehicles or, as I like to call them, remotely piloted vehicles. I do not think anyone has stated the common misperception in the public that these are devices that are out there flying on their own. The days of robotic UAVs are way in the future. These are piloted vehicles; they are basically the same as a police helicopter.

In the interest of cutting this short, the first thing I would like to do is to talk about the comments of law enforcement. I want to point out that I do not have a conflict with my colleagues in law enforcement. We just have a different focus. There is no question that we need enforcement capability in the illegal

operation of a UAV. In most cases, the reports of UAV problems are either hypothetical or not really substantiated.

Chairman Hansen:

If there is a specific section of the bill that you would like to address, please do that because we are beyond being able to go over the generics of the entire concept.

John Abbey:

The section that I have the biggest problem with is section 20. Basically, section 20 puts unreasonable codified restrictions on law enforcement. This is something that has been testified to before, and has been tried and been successful in some cases, and tried and been unsuccessful in other ones.

I want to address law enforcement's comments. Mr. Callaway had very good points in some areas and I have no problem with those. However, Mr. Callaway brought up nothing that indicated there is a problem in law enforcement that we need to have a law to tell law enforcement officers what to do. Every day law enforcement officers go out and make judgments, and they make them based on their training and strict policies and procedures of their agency. The idea that is conveyed that law enforcement is going to go willy-nilly about using these technologies is in conflict.

I agree with the other two law enforcement speakers. There was not one word about how law enforcement is going to abuse this process. My basic position on this—and I hope that the Committee understands the issues here—is that I have been in this business for over 45 years and over the course of that time, I have deprived people of their liberties. In fact, I worked capital cases that went further than that. Over the last 45 years law enforcement is engrained with the rules of the Fourth Amendment and the hundreds of thousands of pages of appellate cases that they have to consider. The idea of taking discretion away from law enforcement agencies—the elected sheriffs and the police chief who works for the city council—is not going to stop the innovation of these technologies.

Chairman Hansen:

Your concerns will be duly noted by Assemblyman Anderson, who is sitting right behind you. We will go down south quickly.

John Ridgeway, Private Citizen, Las Vegas, Nevada:

I have four areas that I would like to mention quickly. On page 4, section 9, subsection 2, you said it does not apply to several things. On the restrictions, I believe that the agencies of the Department of the Interior should absolutely be

restricted in their ability to use these drones. Certain agencies in the department have had convictions brought against some of their members for abuse of power. The agencies need to be tightly restricted and controlled. The State needs to exercise its Tenth Amendment rights and, when they do that, it protects my Ninth Amendment and Fourth Amendment rights.

My next area of concern is in section 19 on page 7. It is lines 16 through 22. I own real estate in the state of California and here in Nevada. I own from the core of the earth to the starry heavens above. What has happened here is that someone has allowed public trespassing on private property to the level of 400 feet.

Chairman Hansen:

I am going to have to cut you off. I understand, but that is not accurate. Thank you for your testimony and please submit that in writing and I will have Assemblyman Anderson review it and we will go through it. At this time we are going to move to the neutral position and we only have eight minutes left to conclude this hearing.

John Griffin, representing Amazon:

We are neutral on the bill right now. We appreciate Assemblyman Anderson's working with us with revisions to section 19. I think the amendment as he has prepared it, addresses Amazon's concern. If there is going to be future work—I have not read the 7,000 different amendments that are posted—we would be interested in continuing to work on the bill. We have a slight problem with existing language, which is the undefined definition of "drop" and would like to be able to continue working on that issue.

Dylan Shaver, representing the Nevada Mining Association:

We are neutral on this issue. Similar to Mr. Griffin's concerns, we have concerns about the undefined use of the word "airport" in the bill. Additionally, we have concerns in sections 17 and 19 whether the bill is applicable to the operations that we are conducting out in rural Nevada, which is a little bit of a gray area right now. All of that said, we appreciate Assemblyman Anderson's willingness to cooperate with us and work with us as he has unrolled this bill, and we look forward to continuing to work with him as it goes forward.

Barry Smith, Executive Director, Nevada Press Association:

I signed in as neutral on the initial bill that was submitted. I wanted to speak in support of the amendments, specifically in two areas that ensure this language is not in conflict with legitimate news gathering activities, and I think he has covered it in the amendment.

Chairman Hansen:

Is there anyone in Las Vegas who would like to testify in the neutral position at this time? Seeing no one, Assemblyman Anderson can wrap this up for us.

Assemblyman Elliot T. Anderson:

Everyone on the Committee allowed me to meet with them before the hearing to go through this. I appreciate all of the questions today. It is my intention to get a balance between our privacy, liberty, economic security, and our physical security. I believe that the bill is there. Law enforcement has vetted this; they feel good about the balance. I appreciate the concerns of the American Civil Liberties Union of Nevada. My intent is to wade into this area and not go too far out of the gate, so I appreciate that it has not gone as far as they would like. I believe this provides some good protection.

As far as the commercial entities, I have made it clear that I am willing to work with any company in this state to ensure that this bill allows them to operate. What I have heard is a lot of concerns about perception, but what I did not hear is what parts of the bill could stop them from operating. Should companies come to me with specific concerns about how I can fix this language to help them operate, I am totally on board. I want to get there. I put this out a week early before I introduced it so the economic engine of our state could get their heads around it and hopefully come here with amendments. I have not seen many as of yet. The ones that I have received I have tried to incorporate. Let us be sure that this discussion does not get about perception. What governs is the actual law, not the perception. If there are rules that are stopping our businesses from operating, I want to fix them. All they need to do is come to me with an amendment, and they can probably write it. I am not saying I am going to automatically agree to it, but as long as it does not infringe and stop people from having their privacy protected, it is workable.

I want to address a couple of points. You heard a lot of specific statutes that were mentioned like NRS 200.603, the Peeping Tom law, and that requires a physical trespass and entry. A UAV does not require an entry so that would only apply if the UAV was actually on your property. Then NRS 200.604 only covers up-skirt pictures, pictures of your private areas. The language is based on that but it gets rid of that language and applies to all pictures. That language would only cover it if it was within a private area.

Chairman Hansen:

That should cover it and you need to work on the amendments. We are out of time. I thank you for an excellent presentation and I thank everyone on both sides for being respectful of conflicting opinions. [Submitted but not discussed are ([Exhibit Z](#)), ([Exhibit AA](#)), ([Exhibit BB](#)), ([Exhibit CC](#)), and ([Exhibit DD](#)).] At this time we will close the hearing on A.B. 239.

We will open it up for public comment north or south. Seeing no one, we will close public comment. Is there any Committee business that we need to bring up at this time? Seeing none, this meeting is adjourned [at 10:57 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman Ira Hansen, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 24, 2015

Time of Meeting: 8 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
<u>A.B. 244</u>	C	A.J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department	Proposed Amendment
<u>A.B. 244</u>	D	A.J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department	Graffiti pictures
<u>A.B. 244</u>	E	Steve Yeager, Deputy Public Defender, Clark County Office of the Public Defender	Memorandum
<u>A.B. 244</u>	F	Pan Pantoja, Rainshadow Community Charter High School, Reno, Nevada	Artistic Expression in Nevada, Alternatives to incarceration
<u>A.B. 239</u>	G	Assemblyman Elliot T. Anderson	The Homeowner Privacy Protection Act Slide Show
<u>A.B. 239</u>	H	Assemblyman Elliot T. Anderson	Written Testimony
<u>A.B. 239</u>	I	Assemblyman Elliot T. Anderson	State Comparison Chart
<u>A.B. 239</u>	J	Assemblyman Elliot T. Anderson	Study on UAVs from University of Nevada, Las Vegas
<u>A.B. 239</u>	K	Assemblyman Elliot T. Anderson	Study on UAVs from University of Nevada, Las Vegas
<u>A.B. 239</u>	L	Assemblyman Elliot T. Anderson	Proposed Amendment Mock-up

<u>A.B. 239</u>	M	Assemblyman Elliot T. Anderson	Section by Section Breakdown of Bill
<u>A.B. 239</u>	N	Steven Hill, Director, Office of Economic Development, Office of the Governor	PowerPoint presentation
<u>A.B. 239</u>	O	Judy Stokey, Vice President, Government and Community Relations, NV Energy	Proposed amendment
<u>A.B. 239</u>	P	Alex Ortiz, Assistant Director, Clark County Department of Administrative Services	Proposed Amendment
<u>A.B. 239</u>	Q	Tim Shestek, Senior Director, American Chemistry Council	The State of Louisiana's Statute on UAVs
<u>A.B. 239</u>	R	Tim Shestek, Senior Director, American Chemistry Council	Letter of support
<u>A.B. 239</u>	S	John Dunn, representing Drone America	Written testimony
<u>A.B. 239</u>	T	Steven Hill, Director, Office of Economic Development, Office of the Governor	Memorandum from the White House Office of the Press Secretary
<u>A.B. 239</u>	U	Kay Bennett, Owner/Manager, Silver Springs Airport LLC	Written testimony
<u>A.B. 239</u>	V	Ben Griffith, representing Nevada UAS Network	Letter in opposition
<u>A.B. 239</u>	W	Ben Griffith, representing Nevada UAS Network	Analysis of the Bill
<u>A.B. 239</u>	X	Vanessa Spinazola, Legislative & Advocacy Director, American Civil Liberties Union of Nevada	Proposed Amendment
<u>A.B. 239</u>	Y	Vanessa Spinazola, Legislative & Advocacy Director, American Civil Liberties Union of Nevada	Protecting Privacy from Aerial Surveillance
<u>A.B. 239</u>	Z	Mario Mairena, Senior Government Relations Manager, Association for Unmanned Vehicle Systems International	Letter in Opposition

<u>A.B. 239</u>	AA	Mario Mairena, Senior Government Relations Manager, Association for Unmanned Vehicle Systems International	Overview of Small UAS Notice of Proposed Rulemaking
<u>A.B. 239</u>	BB	Gregory McNeal, Brookings Institute	Drones and Aerial Surveillance
<u>A.B. 239</u>	CC	International Association of Chiefs of Police Aviation Committee	Recommended Guidelines for the Use of Unmanned Aircraft
<u>A.B. 239</u>	DD	Brendan Schulman	Letter of Opposition