

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office

March 16, 2000 LB 1004

reasonable person, if you were trying to ascertain what the truth was, what efforts you'd use to do that. I don't know if there's anymore to it than that. I do think that, if you're going to ask them to do this search, we owe it to the people who are going to make the system work to just know what the rules of the game are. That's all I ask, if this record is clear enough that they know what the rules of the game are, because all these cases will get litigated at one point and another. There is enough driving under the influence cases, there's enough counsel out there who are looking that litigate almost every one of these things that we do, and so ultimately the courts will look at this discussion and decide what it's going to be like. But all I ask is that we know what the rules of the game are. And then we have to make some decision, as legislators, whether those are fair or not, but I think in this case this discussion was necessary to give them some direction of what the rules were. It is the...it doesn't go to the underlying conviction, but if they...if they don't do the diligence to look at the records, what do we do to that person? I think Senator Bromm talked about you could sanction the county attorney for, you know, if it's a habit. In an individual case I don't think you're going to get anybody sanctioned, but if it becomes a habit or a way of doing business, yes. I assume that there could be an ordinary mistake where the prosecutor is going to say, police were going to do it, police are going to say, oh no, the prosecutor was going to do it, it didn't happen, but what happens in that case is I assume that sentencing doesn't occur that day and that they have to come back, and that the judge may not sentence until this is completed. Now, that would be a remedy that I would think is appropriate. Now that delays it, but the delay is then on the burden and the shoulders of the county attorney. So if there's another conviction in another state and you...and you're in a hurry to get them convicted and you've skipped some steps, you don't get to use this as a prior conviction because a sentencing hasn't occurred. And I would offer that as one of the remedies. And I won't punch my light on again, but I'd yield my time to either Senator Bromm or Senator Chambers. Senator Chambers, I'll give it to you.

SENATOR CHAMBERS: Thank you.

PRESIDENT MAURSTAD: Senator Chambers.