



NEVADA LEGISLATURE JOINT INTERIM STANDING COMMITTEE ON JUDICIARY

(Nevada Revised Statutes [NRS] [218E.320](#))

MINUTES

June 10, 2022

The sixth meeting of the Joint Interim Standing Committee on Judiciary for the 2021-2022 Interim was held on Friday, June 10, 2022, at 9 a.m. in Room 4401, Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 4100, Legislative Building, 401 South Carson Street, Carson City, Nevada.

The agenda, minutes, meeting materials, and audio or video recording of the meeting are available on the Committee's [meeting page](#). The audio or video recording may also be found at <https://www.leg.state.nv.us/Video/>. Copies of the audio or video record can be obtained through the Publications Office of the Legislative Counsel Bureau (LCB) (publications@lcb.state.nv.us or 775/684-6835).

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Melanie Scheible, Chair
Assemblywoman Rochelle Nguyen, Vice Chair
Senator Dallas Harris
Assemblywoman Shondra Summers-Armstrong

COMMITTEE MEMBER PRESENT IN CARSON CITY:

Assemblyman Philip (P.K.) O'Neill

COMMITTEE MEMBER ATTENDING REMOTELY:

Assemblywoman Elaine Marzola

COMMITTEE MEMBERS ABSENT:

Senator Keith F. Pickard
Assemblywoman Lisa Krasner

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Patrick Guinan, Senior Principal Policy Analyst, Research Division

Diane C. Thornton, Senior Principal Policy Analyst, Research Division

Julianne King, Assistant Manager of Research Policy Assistants, Research Division

Eric Robbins, Principal Deputy Legislative Counsel, Legal Division

James Malone, Senior Program Analyst, Fiscal Analysis Division

Items taken out of sequence during the meeting have been placed in agenda order.
[Indicate a summary of comments.]

AGENDA ITEM I— CALL TO ORDER AND OPENING REMARKS

Chair Scheible:

[Chair Scheible welcomed members, staff, presenters, and the public to the meeting and went over housekeeping measures.]

We will begin by calling roll. [Roll call is reflected in Committee Members Present.]

[Chair Scheible reviewed virtual meeting and testimony guidelines.]

AGENDA ITEM II—PUBLIC COMMENT

Chair Scheible:

I will start with public comment. Is there anybody in Las Vegas wishing to make public comment in person?

John Etzell, Executive Director, Boys Town Nevada:

My name is John Etzell, Executive Director, for Boys Town Nevada in Las Vegas, which is a nonprofit that does quite a bit of work on the wraparound services side. My testimony today is regarding the summary evictions and the impact we are seeing as a provider working with families who are already experiencing some challenges, folks who are coming to us with either some child abuse or neglect or some potential Department of Juvenile Justice (DJJ) involvement.

So far, in 2022, we have seen a higher number of what we consider closing cases, and some of them are coming from families who have experienced summary evictions and have been given seven days' notice, and there are not nearly enough available options for housing types in Las Vegas right now. These families are already facing some challenges with Boys Town working to support them to get back on their feet, and then they are served with a notice and suddenly have to make decisions as to whether they sleep in their car, move into a parking lot, or leave Las Vegas altogether.

Oftentimes, we have workers who are out in the community and are very well-connected with the social supports that typically are holding these families up. Right now, there are simply not enough of those opportunities for these families, and they are being forced into situations that we do not want. They often end up leaving the city because they are looking elsewhere for additional options for better housing. Boys Town wants to be on the record for supporting a moratorium or a pause on summary evictions in total because of the negative impact it is having on our most vulnerable populations.

James Bean, Member of the Public:

My name is James Bean. I am retired and on Social Security. My brother and I moved here from Los Angeles three years ago. At the time we moved, you could not find a single apartment in Los Angeles for less than \$1,500 a month. Rents have risen significantly since then. In Los Angeles, you have massive tent cities and working people living in their cars because they cannot afford an apartment. Inaction has led to a housing crisis there. When we moved to Las Vegas, we were able to afford a two bedroom, two bath apartment for

about \$900 a month. This was affordable on our combined Social Security incomes. My brother was even able to buy a car.

Then the pandemic hit, and around the same time, I had some health setbacks not related to Coronavirus Disease of 2019 (COVID-19). When the moratorium ended, rent prices started going through the roof. After two years of paying our rent on time—never late—they hit us with a lease renewal that included a 60 percent increase. If we had opted month to month, our rent would have doubled. We managed to renegotiate a lease and stay in our apartment for another year. Otherwise, we would have been homeless.

Our lease is up in November. I have no idea what we are going to do after that. Gasoline, food, and medicine all keep going up and up and up while Social Security saw a modest 5 percent increase in January. I am currently looking for affordable senior housing, but the waiting lists are months, if not years, long. I am here because my story is like a lot of other seniors living on a fixed income. There is no place for us to go. If I were evicted in as little as seven days, as the summary eviction process allows, my brother and I would be homeless. I cannot be homeless. Because of my health and age, it would kill me.

The summary eviction process is allowing people like me, who are already struggling, to be tossed out in the street with nothing to do and with no alternative. If this is what you want, look at Los Angeles. There are sprawling tent cities and people living in their cars. Crime is rising because working people have no place to go, all of this to protect the rights of landlords. What about our rights?

Angel Lazcano, Representing Somos Votantes:

Somos Votantes is a Latino-lead, Latino-focused organization aimed at engaging and empowering Latinos to bring prosperity and hope in our communities. I am going to be speaking on the summary evictions. It does not take much to see that our neighbors are suffering as a plethora of hardworking Latino and immigrant families in Las Vegas take blow after blow. With the pandemic and the rising cost of living, summary evictions loom as a harbinger of ruin for these families.

Our summary eviction process is the epitome of systematic inequality, putting an excruciating burden on tenants by letting the most vulnerable or by letting landlords to set aside due process and throw the most vulnerable of us into the streets to further endure hardship. It is important to note that undocumented immigrants face considerably higher risk due to language barriers, research barriers, and the potential threat of deportation from coercive landlords who put profit over the lives of Latino and immigrant families across the valley.

It is a fact that 40 percent of Nevadans are renters, and of those 40 percent, two-thirds are people of color. Ending summary evictions will give black and brown families a chance to contact community resources, translate their notices, and a fighting chance to maintain some semblance of security. Please consider my comments and any other testimonies when deciding on summary evictions. You have the power to stop letting Nevada and families unjustly go homeless.

Chair Scheible:

We will move on to Carson City. Is there anyone there who wishes to give public comment?

Heather Matthews, Member of the Public:

My name is Heather Matthews, and I moved to Carson City from Reno a few years ago. I bought a recreational vehicle (RV) so I would have more choice in my housing. I moved into a camp in town in Carson City, and from the beginning, I had my RV rammed into. My RV was broken into multiple times, and there have been two times where somebody has deliberately run their diesel truck for up to 45 minutes at a time causing my allergic condition a lot of distress. I asked the owner, Ivan LaPierre, to do something about it. He did not handle it adequately as he did not all the other times. I believe it has to do with a lawsuit that I had going with California State University involving the publishing of a book that they were interfering with. It went all the way to the United States Supreme Court and has not seen the inside of a courtroom because I cannot afford a lawyer, which I do not think is due process.

However, because my health was suffering, I finally called code enforcement and the police, and four days later, I received a no-cause eviction notice on my RV door. I talked to the owner, and they could not give me a reason why I received the eviction. I have always paid my rent on time; I am an exemplary citizen; I am well-educated; and I have helped with community events. I do not think it is fair to just give a senior citizen a no-cause eviction and put them out necessarily into the street or have trouble finding affordable housing. I think that Nevada should put forth just cause that you must give a reason—and a bona fide reason, especially for seniors—to try to evict somebody, because it is a lot harder for seniors to find affordable housing, especially to find another RV park to move into.

I had two situations already in Reno where funny things started happening, and I believe they are taking bribes at camp in town from California State University; there has not been an investigation even though I have written to all kinds of officials about this, including Governor Steve Sisolak and the Nevada Supreme Court, of which I did not get an attorney either to represent this. I hope that there can be, as I mentioned, just cause and a moratorium on no-cause evictions. It is not fair to people to be put out of their homes for no reason, especially seniors.

Farrah Downey, Chief Executive Officer, JF Downey Realty Consulting and Advisory Services:

I am here today because I am an expert in this space, and I want to provide some context for you that may help in your decision-making. I have developed a program called the Emergency Eviction Prevention Program of Northern Nevada (EPPNN) that has successfully provided services to hundreds of tenants and landlords regarding evictions and crisis relocations on behalf of the Reno Housing Authority (RHA). We are a unique program that utilizes many techniques and do not hold any funding source of our own, and our motto is to "obtain, retain, or sustain permanent housing." Unlike any other eviction program out there, we do not just pay someone's rent or guide them to legal consultation. Going into our second year with RHA, we have really seen the impact an eviction can have on an individual in a family.

Let me share a story with you regarding a very real eviction. For privacy reasons, we will just call her Sarah. The EPPNN was alerted to a lockout by a compassionate officer who knew that Sarah needed resources other than jail when she refused to leave her apartment, which led to trespassing and her arrest. She was able to live independently, but was incapable of understanding her tenancy rights, let alone due process. Sarah became catatonic in our jail and started to exhibit extreme distress. She would not engage staff and would not eat, and seeing this rapid decline, the sheriff's department transported Sarah to

the hospital for immediate care. Let me tell you that the body follows the mind, and Sarah has never recovered after being hospitalized. She is no longer with us.

I am not here to fight against evictions or say that they are unnecessary because they are, and we cannot change the business of contracted housing, but you all hold the power to change the way that it is done. I am proud to say that there is a solution, and this is in the form of what we call an "eviction evaluator." When a landlord files a notice, it will trigger an evaluator who will be notified, and within 48 hours, that tenant will be contacted, and an assessment will be conducted to evaluate the situation surrounding the reason for the eviction. This will work simultaneously to the already existing procedures as to avoid disruption to the flow of due process. This can lead to mediation, resources, or crisis relocation, all which give stronger tenant rights and options for eviction diversion.

An evaluator can evade homelessness and save taxpayers hundreds of thousands of dollars each year. Statistics show that keeping a family in their home saves taxpayers approximately \$70,000 per year in shelter cost. Therefore, eviction prevention and changing the process with a complimentary step is a solution I think that Democrats and Republicans can all agree on. We all see in our experience that tenant rights are being stifled in the process, and it should be no surprise that the legal system is not conducive to the average person and incredibly difficult to navigate, especially in times of crisis.

In addition to the social impacts, evictions lead to increased government spending, affecting capital budgets, and causing reduced expenditures on other important programs. With data and feedback from many of our partners, we believe that adopting proactive interventions to avoid evictions is more psychologically beneficial and cost effective. I will leave you today with a seed that I am willing to help any of you grow and welcome the opportunity to do so.

Chair Scheible:

We will go to the phones. Broadcast and Production Services (BPS), is there anyone there who wishes to give public comment?

BPS:

If you would like to provide public comment, please press *9 now to take your place in the queue.

Tonja Brown, Advocates for the Inmates and the Innocent:

On behalf of Advocates for the Inmates and the Innocent, we are submitting our solicitation of recommendations to this Committee ([Agenda Item II A](#)). We ask that you please accept our recommendations for your consideration. I believe in March, I provided our recommendations, and I have resubmitted them again.

There are four recommendations. One is a petition for factual innocence posthumously. This will give the families the opportunity to continue forward where their loved ones have left off due to their untimely death. We also are looking at changing the discovery, which would be the statute of limitations, particularly with newly discovered evidence being found even years after one's death. Recommendation number four would be compensation for those loved ones and the families they have left behind.

Nathan Noble, Member of the Public:

I am a student at the University of Nevada, Reno (UNR). I am a senator for the College of Liberal Arts, and for the months of October and November 2021, I lived without a home. I am here today to talk to you about the experience of not having a place to live, because I lived precariously on the goodwill of my connections, and some nights, I did not know where to go. Everything became more difficult. My physical and mental health took a sharp decline, and quite frankly, I am far from the only one who has had this experience. I was lucky that for me, it was temporary. For others, this reality is permanent once they are evicted.

Right now, the University's on-campus housing prices are up almost 27 percent over the past decade and off-campus rent prices are at an all-time high. This has happened as the same people who constantly talk about education and students stand idly by while we are denied the most basic resources that we need to learn. This is a student issue, too. It is no wonder that many of us must choose between paying tuition and paying for a roof over our heads. Some of us couch surf, some of us live in our cars, but some of us do not have those options or anywhere else to go.

This is not an issue anyone has the luxury of ignoring, because by needlessly condemning our peers and our neighbors who live on the streets, we not only degrade ourselves and them, but we weaken the fabric of our community. This is a completely avoidable problem. There have been many solutions that have and will be mentioned, but are any of them free? No, of course not. Nothing is free. But instead of thinking about cost as a burden, I implore you to think of it as an investment in students like me and the future of Nevada. Because if you do nothing, this problem cannot go away. You cannot make unhoused people disappear; policing cannot solve homelessness. Only affordable housing does.

Today I ask you to please do something about the eviction crisis that is happening, because this is a crisis, not of the homeless, but of the system that is failing them. I implore you now, for the strength of our state and the lives of the people that you are elected to serve, please address this crisis now ([Agenda Item II B](#)).

Naomi Duerr, Reno City Council Member:

I am a Reno City Council Member covering the area generally from Moana to Mt. Rose Highway. I want to give you three quick examples of the issues we are facing as council members. One is an example of a very nice, well-established apartment complex established in the 1970s. A 90-year-old woman reached out to me because she was facing \$1,000 increase, which is a 100 percent increase. I reached out to Susy Vasquez at the Nevada State Apartment Association, who was able to help me speak to the portfolio manager. I was able to negotiate a \$350 increase instead of \$1,000 increase. I think what this says is that there is room to move within these price increases, but she could not afford it. Obviously, she had no additional \$350 or \$1,000.

For my second example, I am working with a group of residents who are seniors. They called me a year ago, and I put together a meeting with Nevada Legal Services, Washoe Legal Services, the RHA, and Reno staff. We looked at all the options. They were very worried that they would be evicted with the new owner. A year went by, and slowly evictions began to come. Currently, they are in a situation where many of them are receiving eviction notices so that the new owner can rehab, although in some cases the apartments have already been rehabbed, and they are then looking at the need to requalify with a 70 percent increase. An example is \$1,100 today going to \$1,760, a \$670 increase

for these seniors. The bottom line is that many of them cannot do it and they are moving out.

I want to give you the example of an affordable, brand new, three-year-old senior housing project. Folks moved in. They established the rents and some qualified for Section 8. However, right now they are receiving rent increases that range from \$100 to \$200. I was surprised to find out that subsidized housing can have rent increases based on the amount that the U.S. Department of Housing and Urban Development (HUD) says the area median income (AMI) has changed. Reno pay has been increasing so that the average income is rising, and that gets translated to the seniors.

Finally, I have some recommendations. One of my recommendations would be that for people who are in subsidized housing, which is money both from the federal government and the state through the home funds, perhaps we should look at longer leases, so that if rent increases are justified, they would come at a later term, not within one year of moving in. And secondly, perhaps there should be limits on those rent increases. These folks have been getting small increases each year and now they are looking at average rent increase of about \$150; many of them have already had to turn in their notice because they cannot handle that.

I am counting on you, Legislature. I know you are in an elected position as I am. There are no easy answers, but I am telling you that it starts right here on the ground floor, right at your cities, right at your counties where we are being asked to help individuals. I really think we need an answer at the state level on some process improvements. I work a lot with Farrah Downey, who you heard earlier. She is a phenomenal advocate for seniors, but she is one person, and I am one person. We cannot do this one by one. We really need your help with a more regional, statewide solution.

Jennifer Richards, Attorney for the Rights of Older Persons, Persons with a Physical Disability, Intellectual Disability or a Related Condition, Aging and Disability Services Division (ADSD), Department of Health and Human Services (DHHS):

I hold the office of the Attorney for the Rights of Older Persons, Persons with a Physical Disability, Intellectual Disability or a Related Condition under [NRS 427A](#) and serve at the pleasure of the Governor. I also serve as the federally designated legal assistance developer for Nevada under the Older Americans Act (Pub. L. 89-73, 79 Stat. 218 [1965]) and oversee our legal services grants for persons over 60 years of age.

In 2017, the Nevada Supreme Court conducted a civil legal needs study and the data compiled did not even include housing as a top five issue for older adults. The report outlined that the access to justice barrier in Nevada continues to remain high with 76 percent of the needs going unmet as low-income Nevadans and older adults fight to protect their families and their homes without legal help.

Now, in 2022, housing continues to be our largest service type across the state, with upwards of 30,000 evictions filed last year. From July 2002 to March of this year, our Nevada 211 program, which connects people to services across the state, had over 75,000 contacts for housing and shelter needs. Older adults and persons with disabilities are disproportionately impacted by evictions and represent the fastest growing segment of the homeless population, with nearly half of all older homeless people becoming homeless for the first time after age 50.

The latest data from the 2021 [Elders Count Nevada](#), which is a partnership between the UNR School of Medicine, ADSD, and the Office of Analytics, DHHS, indicates that in northern Nevada, almost 16 percent of children live with their grandparents, and in southern Nevada that number rises to 75 percent.

Today, you will hear about the impact of evictions on children. The ADSD provides critical services to babies and toddlers through Nevada Early Intervention Services and children through our Autism Treatment Assistance Program. Our programs have had many families affected by housing and stability and eviction that are moving from motel to motel or couch surfing and it has negatively impacted the continuity and efficacy of the services for these children.

For seniors and persons with disabilities, housing insecurity can have a devastating effect from which they may never recover. They face loss of access to necessary medication, access to health care, access to important documentation, and they are also at a higher risk of being hospitalized and subsequently institutionalized.

The current summary eviction process in our state puts the burden on the tenants to initiate court proceedings. For individuals who are already plugged into the aging network, our social workers are not able to obtain information on the evictions or verify the filing. Often clients may have cognitive issues or other disabilities and the very service network that is designed to help them is undermined. In my professional experience as an attorney, including practice in other states, I am not aware of any other state that requires the tenant to initiate the court action by a filing. In conclusion, if we can connect individuals to services, it will help ease the burden on crisis resources throughout the state.

Eric Butler, Member of the Public:

I live in Las Vegas Nevada. Today, I want to share my housing story with you, and I ask for an end to summary evictions. In November 2021, a landlord served me a summary eviction due to falling behind on rent. In 2020, while I was working as an operations manager, I was diagnosed with multiple sclerosis, and it transformed my life. I was able to keep working for six months, but after that I was physically and mentally unable to work anymore. I managed to keep up with rent until the summer of 2021 thanks to the Child Tax Credit before I was dug into a financial hole.

At that time, I did everything I could to make rent payments, paying a little bit here and there, but with the stress of trying to make rent and my health, I was on a downward spiral, and I ended up in the hospital. During the time I spent in the hospital, my landlord could not reach me, and I got served an eviction notice. Thanks to the support of Make It Work Nevada, I was able to file an answer, and because of [Assembly Bill 486](#) (2021), I was able to stay my eviction with my pending checks application, but not every person is so lucky to get to support. I would not know what to do without Make It Work Nevada. I would not have been able to navigate this process.

The eviction process should not be so complicated for tenants. They deserve due process and an eviction hearing. My landlord should not be able to kick me out on such short notice when I am dealing with hardships and in the hospital. The Legislature needs to take action to address these issues by banning summary evictions and ensuring that Nevadans like me can always have a roof over their heads and a safe, stable home for their families.

Unidentified Caller:

I am a social worker in Las Vegas who assists both seniors and disabled individuals who are either receiving in-home services to remain independently within their homes or are in the process of discharging from a long-term care setting. I would like to share the experiences of some my clients as it relates to summary evictions. Many of my clients have multiple medical diagnoses, which require in-home supportive services, or are living alone in rental properties within Clark County with the goal of continuing to live as independently as possible with those supportive services.

There are times when my clients need medical attention and are then transported to hospitals or rehab facilities for their care. As such, these individuals are then out of their homes without the ability to pay their rent. On some occasions, these individuals are not able to return home because the eviction process has begun while they are hospitalized. While in the hospital, my clients do not have the ability to leave the facility to either participate in the eviction process, pay their rent, or remove their belongings within their apartments. The individuals are then left with no options of discharging back to the community because they do not have the ability to locate independent housing. They cannot save for deposits or first month's rent, and they have lost all their belongings and their apartments, as it has been often cleaned out after the eviction has taken place.

The summary eviction process often results in needlessly high hospitalization costs, which are often paid for through Medicare and Medicaid insurance programs, and it also contributes to the continued medical decline of these clients. I ask for an overview of the summary eviction process, a stay of the eviction summary process and alternative options for these specific individuals.

Ed Green, Member of the Public:

I live in Nevada in the council member's district. Our apartment complex was purchased by a California LLC just over a year ago. It used to be a senior apartment building with approximately 65 units. Over the last year, they only raised rent approximately \$100, but since then, they have now started evicting senior citizens that live here. The average age of the seniors who live here is approximately 70 years old and it goes up to about age 97. We have residents that have been here over 30 years who are now being kicked out of their apartments. There is absolutely no reason for this to happen to these people.

I personally have no more skin in the game. I am leaving town. I am moving out of state. This is a problem that should have been taken care of a long time ago. Now is the time for action. Our state legislators need to look at this issue, stop this eviction process, and get affordable housing. If that is something that you cannot do, let us change the laws so that the counties and the cities have more power, and of course, that involves changing the *Nevada Constitution*. Give them more powers where they have more control over the cities and counties so we can move forward and do something not only for the seniors, but the residents in general. This is a problem. You are either chasing people out of town or you are putting them on the streets. Now is the time for action.

Michelle Sanders, Member of the Public:

I am a resident of Las Vegas, Nevada, and I have resided here for the past 11 years. I moved from Chicago in 2011 to give my sons a better life, and throughout the years, I have had a few financial hardships that forced me to seek assistance. The application process for rental and utility assistance is lengthy and unsuccessful in Vegas. It is very hard

to get the assistance that you need in a timely manner. A lot of times, I would go to certain places, and I would leave in tears.

I was able to overcome many obstacles and maintain my finances, but I have had such horrific experiences. I was given an eviction notice, and in two days, I had to leave. I have never experienced anything like that. I was not even offered to go to court, and I was forced to move to a much cheaper and much less [unintelligible] place. Every month, I still fear not being able to pay my rent because of the slumlord housing complex, and I fear that if I am not able to pay my rent every month, I would be unhoused. I work with a lot of different organizations that fight for rights and serve those who are unhoused, and my biggest fear is that I will be unhoused and unable to get the assistance that I need. I think that it is very important that we [unintelligible] summary eviction.

Megan O'Farrell, Member of the Public:

My name is Megan O'Farrell. I live in Washoe County, and I am calling today to ask you for some policy changes to the eviction from our state. I recently lost my housing earlier this season to a family from California who purchased our home so that they could turn it into an Airbnb so they did not have to pay to vacation when they come to visit. I live in this community. I work for a nonprofit farm as a farmer, and I cannot afford to live in this town.

Thankfully, I have not experienced an eviction process because it sounds terrible, and as you have heard from the folks before me, it is affecting children, elderly folks, students, and large swaths of our population. Given the current circumstances with how we treat folks who are unhoused, this is only going to increase the amount of people who are experiencing homelessness.

We do not have the appropriate services to address homelessness now, and we absolutely cannot afford to increase that population by unnecessary means, such as these eviction processes. I encourage you to work with local policy makers and local elected officials as well as the community experiencing these kinds of traumas to come up with legislative policy that can support everyone in our community. We deserve to have access to housing. It is a basic human right.

Annemarie Grant, Advocates for the Inmates and the Innocent:

I am requesting you support our recommendations from Advocates for the Inmates and the Innocent, particularly our petition for factual innocence posthumously ([Agenda Item II C](#)). We understand wrongful convictions happen with the recent cases such as Demarlo Barry, Kathy Woods, and Kirsten Lobato. When an innocent person dies in prison, the heartache and pain does not end for the families. The stigma they live with due to the wrongful conviction continues. If Demarlo Barry had died in prison, would we have said, "So what?"

Families of those that have passed away in prison while maintaining their innocence should have the opportunity to clear their name. Currently, the law has no path forward for these families. I have witnessed the repercussions living family members have endured due to fighting for changes and not backing down from the truth. With public records requests, families of those who have passed away wrongfully convicted are now finding newly discovered evidence via the public records requests. We are asking that you support petition for factual innocence as well as our compensation recommendations.

Now I would like to come in as a private citizen. Mr. Thomas Purdy was murdered by Reno police in the Washoe County Sheriff's Office on October 8, 2015, during a mental health

crisis. In 2021, 31 community members died during interactions with police in Nevada, and 467 since the year 2000 per fatalencounters.org.

Memorial Day just passed, and we know that many of our houseless community members are veterans suffering from untreated mental illness. In the state of Nevada, I have identified 15 community members who proudly and bravely served our country. They could survive war, but they could not survive police in Nevada: David Lee Kuhn, Efren Eloy Trujillo-Soriano, Erik Scott, Francis Lamantia Spivey, James Wayne Pease, John Paul Humbleton, Kenneth Stafford, Lloyd Gerald Napouk, Rex Wilson, Robert McKinney, Ronald Neal Joseph Jr., Stanley Gibson, Tabanico "Tommy" Ysidrio Pirtle, Tommy Lee Gest, and Owen Earl Barton.

Kimberly Ireland, Member of the Public:

I work as a dispatcher on the Las Vegas Strip and have been a Culinary Union member for 12 years. Back in March 2020, when the COVID-19 pandemic hit, it was a tough time for my family. I did not have a lot of money saved up, and I quickly burned right through my savings. During the pandemic, I was trying to work as much as possible. I did not get a lot of employment, and I fell behind on rent.

Since 2017, I have lived with my family. I am a single mom and head of my household, and while I have not been physically evicted and still occupy my residence, I am possibly facing a 30-day notice from my landlord to vacate. From 2020 to the present, my landlord has filed twice to evict my family and I, and twice the Clark County CARES Housing Assistance Program (CHAP) has helped us pay back rent, and most recently, as of a couple of weeks ago, CHAP sent my landlord money, but the landlord does not seem like she is willing to work with me anymore. I am very grateful for the funds that Chap came through with, but I have now exhausted CHAP funds.

Earlier this year, I got COVID-19, and since I have not been feeling well enough to work, I have fallen behind on my May and June rent. I worry that once my landlord gets the CHAP check, she will evict me. It has been a constant back and forth with my landlord. She served me with a no-cause eviction notice, and if that process goes through, it is going to put us in a bind.

Soon, I hope to feel better enough to go back to work, but even with a steady income, it has been hard to find an affordable place to live. Rent is ridiculous, and my family and I are stressed. Currently, we pay \$2,500 a month and I worry that the landlord will increase the rent. If that happens, we will not even be able to afford to stay. With everything that is been happening between the pandemic, my illness, and now facing an eviction notice, it has been a lot to deal with. I hope something can be done to protect renters more.

Leisa Moseley, Member of the Public:

We cannot talk about the issue of summary eviction without talking about the issue of real estate investment trusts. I live in the city of Las Vegas, and all around me, new housing developments are going up at rapid rates. It seems like a great idea, but the problem is investors are coming in and buying these homes for cash, often pricing out everyday families that are looking to purchase a home.

This creates a rental market; not only are these investors purchasing new single-family homes, but they are also purchasing apartment complexes and condominium complexes. These apartments and these homes are overseen by landlords that are corporations, not

your everyday landlord. Oftentimes, the cost of maintaining these properties is passed onto the tenant. The corporations take no responsibility for maintaining these homes. I do not believe the Nevada statute dictates an order in which rental payments must be applied; therefore, if a tenant has any late fees or outstanding fees, landlords can take any money paid for rent and apply that money to these first, leaving tenants with a balance of rent that the landlord can now begin eviction proceedings for if the rent is not paid. This creates a greater possibility that we will see evictions increase in our future.

To solve this eviction problem, I think our Legislature must look at limiting the number of properties that investors can purchase here in Nevada. We must investigate this issue of real estate investment trusts and new home purchases and existing homes, condominiums, and apartments being placed in these real estate investment trusts. This ultimately lines the pockets of investors and pushes everyday families and people who are looking to have a roof over their heads every day out of the market.

Chair Scheible:

Is there anyone else wishing to provide public comment?

BPS:

At this time, the line is open and working, but we have no additional callers for public comment.

The following written testimony was submitted for the record:

- Dennis Faulkner, Member of the Public ([Agenda Item II D](#)).

Chair Scheible:

We are going to move on to the next item on our agenda.

AGENDA ITEM III—APPROVAL OF THE MINUTES FOR THE MEETING ON MAY 6, 2022

Chair Scheible:

The next item on our agenda is the approval of the minutes from the May 6, 2022, meeting. I understand that the minutes did not reflect that Assemblywoman Summers Armstrong was present, so we need to make that correction. Her comments were included in the body of the minutes, but we missed her name up at the very top.

Is there any other discussion on the minutes? Any motions to approve them with the change?

VICE CHAIR NGUYEN MOVED TO APPROVE THE MINUTES OF THE MAY 6, 2022, MEETING WITH THE ADDITION OF ASSEMBLYWOMAN SUMMERS ARMSTRONG TO MEMBERS PRESENT FOR ATTENDANCE PURPOSES.

ASSEMBLYWOMAN MARZOLA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Scheible:

Before we move on to the next item on our agenda, I want to mention a couple of things. One is that our invitation to submit recommendations and proposals is still available. It is an exhibit to our previous meeting. It is a fancy way of telling you that if you have items you would like to be considered for a bill draft request (BDR), we must get those as soon as possible. We will be reviewing all our BDRs in August and voting formally to request certain bill drafts. Please make sure that you follow the directions on that document to submit your proposals in as complete a form as possible; we understand that we are writing proposals, not bills here. I wanted to make sure everybody was aware of that.

The one other thing that I wanted to mention to the Committee, but also for those of you who are listening in, is that we may be receiving a study from the Legislative Commission ([NRS 218E.150](#)), which is meeting this afternoon after us. There was a bill during the last session that we heard about crisis call centers, which is a centralized way for us to look at dispatching first responders to different kinds of emergencies, be they criminal or mental health in nature. That study needs to be assigned to a committee. We are anticipating that it will be assigned to us, which will give us the July meeting to review that study. I wanted to make you aware of that today so you can be thinking about it. Keep your eyes on the Legislative Commission and expect to see that added to our agenda for the July meeting, which will be our last meeting with presentations and discussions. Our August meeting will be the bill drafts and then we are finished; then we get started on the 82nd Session meetings.

I might have some more information on that at the end of this meeting, but I just wanted to make everybody aware of that. Assuming the study does get referred to us, we will be having the stakeholders come to the July meeting to discuss the crisis call centers. You can expect to see those on the agenda, and if you are a first responder, member of law enforcement, or an interested legislator, please reach out to us and we will be sure to include you in that conversation.

We are now ready to move on to Agenda Item IV.

AGENDA ITEM IV—PRESENTATION BY THE PEACE OFFICERS’ STANDARDS AND TRAINING COMMISSION—GENERAL OVERVIEW, UPDATE ON IMPLEMENTATION OF LEGISLATION PASSED DURING THE 81ST SESSION, AND LEGISLATIVE PRIORITIES

Chair Scheible:

Next, we have a presentation from the Peace Officers’ Standards and Training Commission (POST).

Mike Sherlock, Executive Director, POST:

I know many of you know who we are, but I cannot pass up the opportunity to remind everyone what we do, what our mission is, and try to help those who are confused and sometimes think POST is a magazine or a mailroom or something along those lines. As of this last legislative session, POST is comprised of 11 members; 9 are very specific peace officer representatives, and they represent the different disciplines under POST jurisdiction in Nevada. Each category of peace officer is represented on the Commission. In addition, both large metropolitan police agencies must be represented on the Commission as well as our rural law enforcement agencies. During the last legislative session, two community

members were added to the Commission, and those members have very specific requirements.

Our mission and statutory mandates are to develop the minimum standards for appointment, certification, training, and continuing education requirements for peace officers in Nevada. We strive to increase the professionalism in policing in Nevada and ensure the public safety and security of all Nevada citizens. The purpose of the experts on the Commission is to develop regulations to accomplish those specific goals. I encourage the members of this Committee, as you look at BDRs or when they are developed, to please utilize our expertise in policing and our regulatory purpose expertise. We are here for you.

I worked on many bills with Assembly Speaker Jason Frierson, now United States Attorney for Nevada, over the last two sessions, and I believe that process was extremely productive—obviously more on some issues and other issues, but productive just the same.

These last two sessions have seen many changes in mandates related to policing. At the start of this session, we were still working on changes from the prior session. You must understand that for every change in a criminal statute definition, the severity of a crime, the punishment of that crime, has a domino effect on our operation. Our statewide basic training curriculum must be updated and changed, and our advanced training curriculum must be updated. Performance objectives are changed. For instance, the crime bill from the previous session, [AB 236](#) (2019), reduced the penalty or severity of nearly every crime. It made changes to longstanding definitions of crime and changed certain aspects of the laws of arrest, et cetera. From that same session, [AB 478](#) (2019) mandated specific training topics from annual maintenance training for peace officers, and this completely changed how agencies and individuals complied with POST requirements. This session [2021], more changes were made to that specific area.

What seems to be the trend right now is the Legislature is making changes and mandates POST to conform regulations to those statutory changes, so we do see some confusion or lack of understanding of the process. Once the Legislature passes a bill and the Governor signs that bill into law, our work begins. Where we are mandated to update our regulations, we begin the rulemaking process and look at everything from the legal aspect of that change to where it would fit in our chapter of the regulations of the *Nevada Administrative Code* (NAC).

Rulemaking then requires a workshop to develop language, even though the Legislature may have already mandated the language. We have no discretion. We still are required to have a workshop and go through the process. Once that is done and the Commission votes to continue the rulemaking, the language is sent over to the LCB to ensure that the language is consistent and properly placed in the regulation. We are then at the mercy of the LCB, and they make their recommendations and get that language back to the Commission.

Once that is done, we are then required to have a public comment hearing, which means we must give a 30-day notice in advance of the hearing. Then the Commission—again, for the purpose of these bills—votes to adopt the regulation; even though the legislation may have taken away any discretion, we still must go through the process. Once it is adopted, the language goes back to the LCB for publication. From our perspective, our job is done at that point. The regulation is adopted and enforced by POST.

We see confusion, take complaints, or are blamed for inaction because you cannot pull up our new regulations in the NAC, and it is assumed that the Commission did not move

forward with the legislative mandate, even though we had done so. We have no control over what is going on with LCB. The COVID-19 issues and workload have been excessive for LCB, and our language getting back to us is often delayed. We have seen our regulations not get back to us for up to a year before we can get the final public comment hearing done. Once the Commission has adopted those regulations, they are on our website, and for all intents and purposes, we enforce those regulations whether they are published or not.

Let us talk a little bit about the last session. The Legislature passed some 250 bills that touched on policing in some way. We continue to review the bills' language and intent to ensure our operations comply with the legislative intent. I want to want to talk about the bills I was asked about in my invitation today and then I will do a quick overview of some of the other issues.

First, [AB 304](#) (2021) mandated that the annual training requirement for peace officers include crisis intervention. What often happens to us is the belief that we do or do not do certain things that match up with reality. Previously, [AB 478](#) (2019) required training in dealing with those with behavioral health issues. That is essentially in training and crisis intervention, so we were already doing that. I worked with Speaker Frierson on this bill, and he felt that it should be clear that this training includes crisis intervention, and the bill was passed with that language. This requirement went into effect January 1, 2022.

We completed the workshop and continued the rulemaking in November 2021. We have recently received the language back from LCB, and we have scheduled the final public comment hearing in a couple of weeks, and at that time, our regulation will reflect what the statute already requires. And on that subject, I will add that POST is rolling out some training that we will deliver across the state. With our newest grant acquisition, we have purchased a state-of-the-art virtual reality system. We are currently finishing curriculum that will include decision-making, communication, de-escalation, and crisis intervention. We will be delivering that training throughout the state and permanently on our campus here in Carson City. Again, this was made possible thanks to a federal grant and supports both AB 478 from the previous session and many of the bills passed this session.

The next bill I was asked about is [AB 409](#) (2021). This bill mandates that background investigations of prospective police officers include an inquiry into implicit bias. A couple of things from the perspective of discriminatory acts based on bias—this obviously was already part of the preemployment investigation and truth verification process required by POST today and the hiring and recruitment activity of peace officers. This bill requires that to be explicitly stated and it is now in statute. This is something that was already being done, but we have added that language to the regulation; we are going through that now with a workshop and the Commission had meeting last summer on that issue. The LCB has gotten the language back to us now, so we will have the final comment hearing in a couple of weeks

The next bill and, frankly, our biggest challenge, was [AB 336](#) (2021), which is due to go into effect January 1, 2023. This bill requires an annual behavior wellness visit for every peace officer in the state; it also includes an inquiry into their ability to carry out their duties as part of this visit. It mandates POST to create a standard. The mention of "visit" along with the "ability to complete their duties" is a bit of a challenge for us. The courts are clear that an employer cannot arbitrarily mandate every officer under their employ to visit a mental health professional to determine their ability to perform. This would be construed as a "fitness for duty issue" and from a court standpoint from our research, that requires a specific trigger or event to mandate that.

That said, we are all on the same page when it comes to our concern for individual officers' well-being. I just returned from a conference of police regulatory leaders across the country. I found that no state has that specific language, mostly due to the reasons I just mentioned. A couple states do have behavioral wellness statutes and regulations, but it appears they get around the court issues and the fitness for duty issues with some language changes. Specifically, the statute in those two states says that an annual officer wellness check-in must occur. They do not mention fitness for duty, minimum standards of fitness, or specifically a visit, but it is simply a check in.

Our goal at POST is to carry out the intent of AB 336 while not embroiling the state or POST specifically in litigation. We also know that many agencies across the state have already implemented plans, programs, and policies that truly carry out what we believe is the intent of this legislation, and we want to make sure that our regulations or requirements are broad enough to ensure agencies have the flexibility to continue the programs they are already using and to determine what works best for them.

Regarding other issues with that bill, we have determined that the wording of us establishing a standard is simply a directive to create a requirement of an officer wellness program. It is clearly not a standard as to what wellness means for an individual. Obviously, that would be subjective and truly impossible for us or anyone in our area to do. I will not get into that further, but I can answer questions if needed at the end of my presentation. We do expect the workshop to be completed and the rulemaking will be continued and go to LCB for final language by sometime next month.

[Assembly Bill 315](#) (2021) requires agencies to make mental health resources available. This coincides to some extent with AB 336, and although POST is not mentioned in AB 315, we are looking at compiling resources for agencies in this area. Regarding other bills, we believe that we are up to speed on those changes and have made conforming changes to our curriculum, to our performance objectives, and to our operations. This includes everything from changes in the definition of the use of deadly force to juvenile rights issues.

I know this is not a fiscal committee but let me briefly talk about how we are affected by the bills that become law. I know I harp on this a lot, but POST is nearly 100 percent funded by court assessment fees. Frankly, when I look at how other state policing, regulatory, and training entities are funded, Nevada is way behind—both in what we receive and how we are funded. You must understand that things like Megan's Law, the intent is great, but it hurts our budget.

We are very concerned about [AB 116](#) (2021), which makes traffic violations civil in nature. It removes any sort of incentive to pay or a deterrent for not paying fines for traffic violations. In specific instances we understand that, but a vast majority of our funding is related to traffic violations, and we believe this will have a direct impact on that funding source. Again, we get no tax dollars. We are concerned because we have been in trouble for some time, but over the COVID-19 shutdown, we lost a considerable amount of funding and that has not yet recovered. It is not even close in terms of our fiscal budget. We have no access to General Fund, yet we have a duty and a mandate to ensure Nevada policing is the best, that we carry out the mandates the Legislature passes, and that agencies have the regulatory backing to recruit, hire, train, and certify the best officers. That requires funding. Our state deserves this and frankly, we need to address our funding.

I will yield back and can answer any questions the Committee may have.

Chair Scheible:

I normally save my comments and questions for the end, and I probably will have a few them, but I want to cover a couple quick things before I turn it over to the members of the Committee. First, I want to ask whether POST was included or invited to participate in the conversations about this legislation as it was being discussed during the most recent legislative session.

Mr. Sherlock:

Generally, we attempt to track those bills that we know will have an impact on policing in Nevada, but we are not always successful with that. As I mentioned earlier, I worked with Speaker Frierson on these bills. We made fiscal notes where it was appropriate and spoke to sponsors quite often on the bills.

Chair Scheible:

Okay. It sounds like you still were not pleased with the outcome of pretty much any of these bills.

Mr. Sherlock:

I do not know if that is a proper characterization. Some of them were redundant, and as you can imagine, we are a small agency; we get a lot done with few people and redundancy is sometimes unnecessary work. Working with Speaker Frierson, for instance, with crisis intervention, we as a profession understand that responding to behavioral health issue calls for service is crisis intervention, but we also understand the legislation's intent to make that clear in the statutes. We understand that. But I do not know that that is a fair representation. Nobody wants extra work and maybe that is what I am putting across.

In terms of AB 336, we had a lot of back and forth. I made suggestions on what we believed could help with that language. I think there were some attempts to fix that language, but I am not sure that we got where we need to be, and we worry about litigation.

Chair Scheible:

Were there other policy considerations or proposals that POST wanted to see implemented in the last session that did not make it through or that were not adequately vetted?

Mr. Sherlock:

I do not think so. I think that outside of fiscal issues, when we are talking about operational issues, as you know, it was a very busy session for policing bills, so we were spending more time dealing with the BDRs that were already proposed, rather than going the other way. The number of bills was overwhelming.

Chair Scheible:

This is a comment, and you do not have to respond. You mentioned the LCB a couple of times and your experience in working with them. We have all worked with the LCB and I think I can speak for the whole Committee in saying that we have the utmost respect for the members of LCB and all the legislative staff who work tirelessly with us to help turn our ideas into good, workable pieces of legislation. I have never been at their mercy, but I have always had the utmost gratefulness towards them and appreciation for them.

If you or anybody else ever feels like you are at the mercy of LCB or has any kind of problem, I would encourage you to come and talk to me personally to let me know if you know there is something we can do to help or if there is ever an issue. I have never seen one in my career at the Legislature. They are the utmost professionals. They are the smartest and the brightest bunch that we have in the building and that includes the legislators, and if anybody does not have that experience, I want to hear about that immediately so we can address it.

I will now ask our members if they have any questions.

Senator Harris:

I have a clarifying question. I believe I heard you say that assessing the mental fitness of officers is something that you all are simply unable to do. Is that a fair characterization of your statement?

Mr. Sherlock:

I do not think that it is. Clearly, I am not qualified to assess the mental health of an officer, but that is not what I mean. It is more about a legal issue of what, in our profession, is called a "fitness for duty exam" and there are very specific issues related to a "fitness for duty visit." That is the only thing I am saying. When we talk about creating a standard for what is "mentally competent," from our research on this issue, it is unlikely we could create a check box system like we would with physical fitness. It is not about whether we could determine if an officer is fit. It is the legal issue of forcing an employee to go to an exam, if that makes sense.

Senator Harris:

It does. I understand what you are getting at, but it is not really you all who are forcing them, it is the Legislature who is forcing them to get that check. We can have plenty more conversations about this, but I would like to think there is some way to ensure that for our officers who are dealing with things that we as regular civilians cannot think about on a regular basis, there must be some way to ensure that they are regularly keeping up with their mental health, just like we would want them to keep up with their physical health. I would love to have further discussions on maybe how we can get that done.

I am an attorney; I am licensed by the bar; and I am sure that if at some point my mental fitness was not equipped to serve a client, the bar has some mechanism to determine that and probably suspend my practice. And I would imagine there must be some way that POST can put some mechanism in place to ensure that officers are mentally fit and if they are not, they are taken off the streets given the gravity of the situations that they deal with. I hope we can continue to have discussions on that.

You touched on it lightly, but I wanted to see if you could give us a little bit more about officer training on the use of force. One thing that concerns me is not only the number of use-of-force incidents, but also the disparity and how use of force is employed amongst Nevadans. Can you tell us about the training on use of force? What does POST do regularly to ensure that that gap is being closed, that officers are not going to be more likely to use force on certain folks than on others. I just want to hear about what you are doing to be proactive while focusing on that.

Mr. Sherlock:

Obviously, there are a lot of things we do. Our goal is to find that area where the need for use of force is reduced so officers can control the situation without the use of force. I speak about this quite often and I am very passionate about it, but one of the most important tools and training mechanisms is to train officers in the ability to make decisions under stress.

We strive hard in the basic training programs to create an environment where we are measuring their ability to make legal, ethical, and moral decisions under extreme stress. As you can imagine, we get blowback that we should not be putting our trainees under stress, but the research is clear. Frankly, in my neighborhood, I want an officer I know can make good decisions despite the stress. We work hard on that.

Use of force, specifically, is interwoven throughout basic training—from communication techniques, to scenario-based training, to calls for service response, and our community-based training programs. De-escalation is integrated into every training scenario or reality-based training program that we operate. Annual maintenance training requires yearly training in de-escalation and use of force.

As I mentioned earlier, we are getting ready to go on the road with a very expensive but top-of-the-line virtual reality training system that we just purchased where we are incorporating decision-making, communication, and de-escalation into that program and we will be taking that across the state. It is interwoven into nearly every training program that we operate.

Again, I think we would ask that you always take input from the experts. We know, for example, that the number one indicator or deterrent to the need for use of force is command presence. If your community is confident in that officer and your police department and respects that police department, you have fewer uses of force. Period.

We try to integrate all these things into every training program and every training that we put on across the state, but I will caution you that POST is mandated with establishing the minimum standards. We encourage agencies to go beyond the minimum, but we want a threshold that we cannot fall behind in terms of recruiting, hiring, certifying, and training our officers. That is what POST is here for, if that helps.

Senator Harris:

I appreciate that. I hope I am not alone here, but I think there might be some folks who think that some of the things I am asking about should be the minimum required of the officers that we are putting out on our streets. Could you speak to the second part of my question? What is POST doing to ensure that officers are not more afraid of me than they are of, say, Senator Scheible?

Mr. Sherlock:

In terms of our efforts to weed out the “bad apples,” I think we do a pretty good job of that. We participate in the national decertification index.

Senator Harris:

Hold on. I am going to stop you right there. I am not talking about bad apples. You do not need to be a bad apple to be more inherently afraid of me than of someone who does

not look like me. That is not the question I am asking. I am not looking for you to answer about getting rid of suspected members of white supremacist groups. I am talking about what is well-documented to be an inherent thing in our society where some folks are more afraid of people who do not look like them. When that implicit and inherent bias manifests itself through policing, it leads to more serious consequences than, let us say, my home not being appraised at the same price or me not being able to get a small business loan.

I think I have the answer to my question, and it is probably that you are not doing as much as I would like, but I want to encourage you at this moment to take that disparity very seriously because we have to do everything we can to train that out of officers. It is about acknowledging that bias that we all have. It is not good, not bad; it is just there. It is.

Unless we are intentional about trying to address it, it is only going to continue. I am sure this is a much longer conversation than we can have here at the dais, and I appreciate everything that you are doing and you being here and speaking with the Committee, but I implore you to make this a priority for the training of the officers we are putting out on the streets in the state of Nevada on behalf of all Nevadans.

Vice Chair Nguyen:

While I agree with you that we should do better, or we should adequately fund our government agencies appropriately and not off the fees of traffic tickets, I noticed that you were not at any of the tables in those hundreds of meetings we had over probably the last ten years regarding AB 116, which you mentioned. I encourage you to look at that because it will show you that the research and the evidence shows that we will collect more money and fees, and I welcome you to the table any time we do talk about revenue to adequately fund our courts as well as POST and other agencies in our state.

As a follow-up question, I would like to ask you about the implementation of the new members to POST. Can you give a more specific update on how that is coming along?

Mr. Sherlock:

Again, this bill was not specifically mandating POST staff to really do anything. I am trying to think specifically what the wording was. As I recall, regarding the community members, one is appointed by the Assembly speaker, one by the president of the Senate, and I think one is from the north and one is from the south with an emphasis on a person of color, experience, community-based organizations, that sort of thing. We are not consulted on that in any way.

We have one who has already been appointed, Ms. Tiffany Young. She is a great addition to the Commission. She is well-known here in the north, and I think it is a positive thing for our Commission. We have no part in the legislative side rather than the Executive Branch of the legislative side where these two positions are derived. I cannot speak to where we are, but we do have Tiffany Young currently, and we believe she is a great addition.

Vice Chair Nguyen:

Have all those new members been added to the Commission?

Mr. Sherlock:

To our knowledge, no. There are only two and one has been added, but we have not heard on the second member.

Vice Chair Nguyen:

You talked about the mental health evaluation or the mental health check-in and referenced your legal research. Who is doing that legal research for you and telling you that implementing the legislative mandate in statute is not lawful?

Mr. Sherlock:

Let me be clear—the concern is with the language. We have not sought an official Attorney General (AG) opinion on this at this point, so we are only looking at the regulations. We believe that we will be able to craft a regulation that meets the intent of the legislation. I just want to be clear that we must be careful, and in our opinion, when you get into things like fitness for duty, that is a very specific area.

We have done our own research, and some of the research I mentioned is from informal conversations with our legal counsel and from my meetings on the national level looking at what other states are doing and what they have done. These states have crafted it as an annual check-in rather than a visit and have not created some baseline standard for what passes and what does not. That is all I am saying.

In terms of the bill, we believe we will craft a regulation that will comply and meet the intent, and frankly, we want to. We have looked at some very promising programs out there that are extremely effective and inexpensive that would fulfill some of the language that we have come with up for this regulation. Please do not misunderstand. We want to make sure that we do not overstep or cause issues in the employee-employer relationship or get into any areas that deal with employment law.

Assemblywoman Summers-Armstrong:

My question is a follow-up to what Assemblywoman Nguyen was asking earlier. In your discussion, you said that you all have yearly training in de-escalation and that someone was concerned about the amount of stress that you put your folks under when they are in the academy. I think you are implying that you use that to determine whether someone has the emotional and mental capability to work under duress to do the job.

Conversely, would that be part of an annual examination to determine whether your current officers are able to function yearly under the same type of duress? Why would that not be part of your yearly evaluation? That could also show you whether someone was of a mental state to be able to continue in this stressful work. Can you speak to that?

Mr. Sherlock:

I would agree 100 percent, and I appreciate your characterization of the training because I think you are correct. Yes, it is. Both AB 478 from the prior session and our mandated training before that require certain things—for instance, firearms training, use of force training, those kinds of things. When we talk about the mandate that officers be updated annually on de-escalation, that is often a reality-based training session that includes de-escalation. In fact, that is what we are doing with some of our newest virtual reality training equipment, which naturally puts them under stress with a variety of issues and forces them to make a decision under that stress.

The short answer is that this is occurring and is part of the mandate simply in the topics that are required, including training on implicit bias as Senator Harris mentioned. Those

things look at decision-making since our policing decisions are often made under extreme stress. That is what this training is designed to measure.

Assemblywoman Summers-Armstrong:

Part of what I am trying to clarify for myself is, why can this not be part of your mental evaluation? If you have an officer who is not functioning well in de-escalation or in implicit bias, therein lies a mental situation, and whether you have a standard checkbox delineated in your rules, I think it implies to those who are being tested that an issue exists that may mean they are not properly equipped to be law enforcement.

I am not going to be as nice as Senator Harris. I am going to tell you straight out—for those of us who are in the black and brown community, in the homeless community, or the lesbian, gay, bisexual, transgender, or queer (or questioning) (LGBTQ) community who do not look like others and may present in ways that are not standard, these things really matter in relation to how we interact with the police and our outcomes, which often mean physical harm or death. We want to ensure that people are ready.

I was a military wife for many years, I have friends who are military people, and I worked for the U.S. Army for a significant amount of time. I know those folks were tested yearly on their fitness, both physical and mental, and I think there must be some type of system available for you to put these things in place that do not impinge upon people's right to work. I am a union person, so I believe in that, but even as an administrative person, my job had requirements for me. I had to be able to lift certain things. I had to show up at work. I had to make decisions. I had to perform my duties to keep that job, and we are asking that you find a way to put this law into effect that ensures that the folks who are supposed to be doing these jobs can do them in a way that keeps our community safe.

I do not think I have met you before, but I am a little bit surprised that we are having this conversation, and I wish that we were a little bit further along here. We want to support you all, and you need to tell us what you need and then come back to us with information that is based in fact and legal research, not necessarily some casual conversations. If there is some law out there that is prohibiting you, tell us. We have plenty of lawyers around here, as well as the LCB, so we could do what needs to be done, but to stall on implementation on casual conversations is kind of sad and disappointing.

Mr. Sherlock:

Please do not misunderstand; this bill is effective January 1, 2023. We are simply stating that we are being careful with the language. It will be implemented. There is no issue there at all. In terms of the implementation, it is more about the language that will be used to do that. For instance, in our basic academy, we lose more, or we have more failures in the reality-based, performance-based areas of the academy than we do say for academic reasons. I hope you understand, I cannot say that these people are removed due to mental health issues, but they are removed because they failed the decision-making required under a stress program, and that is the reason that they are removed.

If I gave the wrong impression, let me clarify that we are not dragging our feet on AB 336. It does not go into effect till next year. We want to be transparent; we are looking at the best language that fits the needs of the entire state, and we will get it done. We are looking at some very good programs that deal with behavioral health, and we want to get those available to the agencies as well. I am sorry if it came across that way, but there is no dragging our feet. We are well within the requirements now.

Chair Scheible:

Does anybody in Carson City have any questions?

Assemblyman O'Neill:

I have a couple of questions, but you may not be able to answer the first one. Within their groups, do most agencies now have peer-to-peer counseling and recognition to deal with officers or even civilian staff who may be suffering through trauma that has affected their job performance, not just mentally, but overall?

Mr. Sherlock:

We have not done a formal survey, but my sense is that a vast majority of the agencies do have peer support programs. I know Washoe County has a very prolific program dealing with behavioral health. They are out there, and I would say a majority. Our concern, though, is to make sure that everybody has that opportunity.

Assemblyman O'Neill:

As I recall, in their annual evaluations of their subordinates, supervisors look at performance measurements like how they are dealing with stressful situations, how they are dealing with interactions with any person, whether they are black, brown, red, green, yellow. I do not care. It is all taken into consideration in the supervision, and they are trained as supervisors to look at that for their personnel. Would that be a reasonable statement?

Mr. Sherlock:

Yes. I would agree with that. Again, looking at it from a decision-making standpoint, yes, certainly, that is part of the annual evaluation to my knowledge.

Assemblyman O'Neill:

When a critical incident does occur, specifically a shooting, very often, time with a mental health expert is offered to ensure that the person is still fit for duty.

Mr. Sherlock:

To my knowledge, most, if not all agencies have policy—and this goes back to some of the labor relation laws and rules—that when there is a trigger event, the employer then can mandate these things. That is true. When there is a triggering event, you can certainly mandate that they see a behavioral health specialist to assess the effect of that event on their mental well-being.

Assemblyman O'Neill:

To me, mandating every officer to come in and do this would be unnecessary without a regular triggering event. If you do go to a mental health specialist in your annual evaluation and you are taken off the street, where do you go? For law enforcement, what is "off the street"?

Mr. Sherlock:

I am not sure I understand your question.

Assemblyman O'Neill:

If I take an officer off the street, what am I doing with them? Am I going to put them in janitorial services—a police officer and pay him those wages? Are you not saying, “You are dismissed.” There is no off-the-street job.

Mr. Sherlock:

There are some very specific rules on that. I am also an attorney, out of full disclosure, but I am not here to give legal advice. Typically, in my experience working in policing, if someone lacks the necessary skills, we would put them in noncitizen contact positions, such as working in the communication center or with records. There are specific labor rules with that; we cannot have them making officer wages while they are doing a records clerk job. There are also ethical issues. There are a lot of issues with that.

Assemblyman O'Neill:

Also, when you talk de-escalation, use of force is based upon compliance. You use such force that is necessary to gain compliance from the individual. If they do not comply, you must go to the next level. It is really driven by the individual, not by the officer. Would that be a fair statement?

Mr. Sherlock:

I would say in many cases that is an accurate statement.

Assemblyman O'Neill:

If I wanted to visit and see some of this training you are giving, I am invited at any time. I do not know if you are still using the Firearm Training Simulator (FATS) system. As I recall, it was mobile enough that it was brought here to the Legislature and all the legislators were invited to participate in that simulation training to understand some of the training and the stress that officers face during various situations.

Mr. Sherlock:

We encourage you to please do that. We have what is called MILO (multiple interactive learning objectives), which is like the FATS system you are talking about, but the next generation. We have two of those permanently set up at our campus in Carson City. I would encourage you to contact me any time to come over and let us run you through use-of-force scenarios. A lot of these scenarios are designed not to use force but rather stress and decision-making measurements, in addition to our virtual reality system. We welcome anyone from the legislative body who would like to come and do that; we find it eye-opening for those who have not worked in policing. We encourage it.

Assemblyman O'Neill:

I was talking with a couple of members of the Commission. They indicated to me that you were suffering a budget shortfall of close to \$1 million dollars due to COVID-19 when people were not traveling, et cetera. Citations were down and you were promised \$800,000 coming in the [American Rescue Plan Act of 2021](#) (ARPA) (H.R.1319 of the 117th Congress) and have not received that. I do not know what your overall budget is, but no matter what it is, to me, a \$1 million shortfall would be a significant impact to your delivery of training. How is that being addressed?

Mr. Sherlock:

Yes, that is correct. We operate much like your checkbook; we go through the normal budgetary process, and we are authorized a specific amount of around \$2.7 million. For a General Fund agency, budgeted money comes in July 1. For us, the authorization is approved July 1, but we depend on the court assessments as they come in and what we call cash on hand, so we have seen a significant reduction in the amount of cash coming in, to the point that we have run out of money a couple of times.

This fiscal year, we projected that our court assessments were down about \$890,000. We originally applied for ARPA money for that amount, but for various reasons, that was not approved; I think we ended up with around \$240,000 or \$290,00. With our incoming court assessments and that infusion, we should make it to the end of the fiscal year. It looks like we are not going to make authorization, but we will be able to make it to July 1.

Assemblyman O'Neill:

Finally, as you said, you only provide minimum standards. You do not do the training for all agencies. The Las Vegas Metropolitan Police Department (Metro); the Nevada Highway Patrol (NHP), Department of Public Safety (DPS); and DPS all have their own academies and training, correct?

Mr. Sherlock:

That is correct.

Assemblyman O'Neill:

I wanted to clarify that.

Chair Scheible:

I want to ask a couple of follow-up questions about the training facility in Carson City. I think you suggested that it is a simulation or virtual reality type of training. Can you tell us more about what that program is and how it works?

Mr. Sherlock:

We have a couple systems, one of which is called MILO. It is an interactive system that projects scenarios on a large screen and allows the training officer to manipulate what the officer sees on the screen based on the officer's reaction. We think it is a good tool. We have two rooms set up at our Carson City campus where we use that system for communication scenarios, use-of-force scenarios, community relations, all kinds of scenarios.

Chair Scheible:

I want to ask you about the MILO system. There are multiple scenarios you can run somebody through. Is that correct?

Mr. Sherlock:

Yes, that is correct.

Chair Scheible:

Ok. You invite us to come up and go through one of those scenarios, which I think some of us will accept. Can you just give us an example of a use-of-force scenario that you would run a new officer through?

Mr. Sherlock:

We have literally hundreds, so it may be training issues that occur.

Chair Scheible:

Can you think of an example of one of the scenarios that you utilize?

Mr. Sherlock:

One of the issues is a mistake-of-fact shooting where the officer sees an object in a suspect's hand and perceives it to be a firearm when in fact it is not. Based on that officer's reaction, we can run a scenario where it is a firearm and where it is not a firearm and try to work on mistake-of-fact use-of-force incidents.

Chair Scheible:

That is a great example. Do you run officers through those scenarios where the person with the object in their hand is sometimes black, sometimes white, sometimes Hispanic, sometimes Asian?

Mr. Sherlock:

Absolutely.

Chair Scheible:

Do you keep records of the officer's reaction?

Mr. Sherlock:

I want to be careful about that. Yes, we do for training purposes.

Chair Scheible:

Are you looking for bias in an officer as they go through these scenarios?

Mr. Sherlock:

Let me be clear. In the basic training environment, if they are unable to successfully make proper decisions, they will be removed from the academy. From that standpoint, we absolutely do keep record.

Chair Scheible:

Are you saying that if an officer in the simulation takes a shot when somebody is holding something that is not a gun, they are immediately dismissed from the academy? They receive no training. They are done.

Mr. Sherlock:

It depends on what point we are at in the academy, whether they should have, and from a constitutional standpoint, we must be clear.

Chair Scheible:

Okay. I think that we are sufficiently versed in the *Constitution*. You are talking to a panel of lawyers, who I think are all good lawyers. In that scenario where you are training people for use of force or mistake-of-fact shootings, are you accounting for the implicit racial bias of the trainee officer? Your presentation tells me that you have not even thought about it.

Mr. Sherlock:

Let me put it this way. We are not recording the race of the officer or the perpetrator in evaluating their decision-making. They either made the right decision or they did not, regardless of the race.

Chair Scheible:

They could go through the simulation ten times and take the shot five times, not take the shot the other five times, and that would be a 50 percent accuracy rate. You are telling me that whether the five times they took the shot and the five times they did not were random or whether the five times they took the shot, it was a person of color, and the five times they did not, the person was white. You would not have any idea which of the two scenarios happened.

Mr. Sherlock:

I would not characterize it that way. We have a training officer in the room. Those are things the training officer is trained in recognizing, so if that occurred, yes, we would record that, and we would know that. Do you see what I am saying?

Chair Scheible:

I do, but it still sounds like you are saying that it is not mathematical. It is based on the training officer standing there watching me and saying, "Oh, I think you tend to take the shot when you are looking at somebody who is a person of color," but not "I tallied it up and you took the shot three out of five times when the person was a person of color and zero out of five times when the person was white."

Mr. Sherlock:

I am not sure of the capabilities of MILO specifically. It might be able to do that, but I have not been involved in that technical aspect of that particular use-of-force system.

Chair Scheible:

Understood. Thank you for your clarifications and follow-up.

Assemblywoman Marzola:

I have a couple questions to aid my understanding because I am not familiar with this space. We talked about the fitness for duty exam. Can you tell me how often that happens?

Mr. Sherlock:

That is not something we track. I assume you mean when someone is mandated to attend a fitness for duty exam.

Assemblywoman Marzola:

No, they do not have to be mandated. Does the exam happen on a regular basis?

Mr. Sherlock:

In terms of behavioral health, AB 336 requires an annual assessment, but currently there is no behavioral health annual requirement from POST.

Assemblywoman Marzola:

Earlier you talked about a fitness for duty exam, correct? Or did I misunderstand you? Is that what you called it?

Mr. Sherlock:

Yes. Our concern was that the regulation we put forward could be construed as a mandated fitness for duty exam, and I am simply saying that we are working on language to ensure that it is not construed that way, but rather a behavioral health check-in for the officer.

Assemblywoman Marzola:

Right now, is there a physical fitness for duty exam?

Mr. Sherlock:

To be certified in Nevada, you must pass a physical readiness test. Yes.

Assemblywoman Marzola:

Okay. Does that exam ever happen again after the initial certification? Does it occur once a year to make sure the officer is still physically fit?

Mr. Sherlock:

Thank you for the question, because this comes up quite often and we are hoping to clarify that area of our regulations. Currently, Nevada POST is certifying that when you receive your basic certificate, you have the physical ability to complete those critical tasks that may occur based on a job task analysis we had a few years ago. At this point, it is at the point of certification, not annually.

Assemblywoman Marzola:

Okay. Do you have any annual tests for the officers?

Mr. Sherlock:

We have annual certificate maintenance training requirements and perishable skills proficiency requirements that must occur every year. These are things like training in

implicit bias, de-escalation, and all the perishable skills like less lethal weapons, firearms, and arrest control techniques must be demonstrated annually.

Assemblywoman Marzola:

That is an annual exam or testing or requirement. Can you tell me if you have an annual mental health fitness exam?

Mr. Sherlock:

No, but AB 336 requires an annual behavior wellness visit, and that goes into effect in January 2023.

Assemblywoman Marzola:

Prior to that, you did not have any requirement?

Mr. Sherlock:

That is correct.

Assemblywoman Marzola:

I am not familiar with this space, so this is where my questions are coming from, but how did you keep track of the officers' mental health if anything was or was not happening? I do not think there needs to be a triggering event for there to be a mental health issue. These officers are working on the streets daily. Am I making sense?

Mr. Sherlock:

I would agree with you. I am specifically talking about the fitness for duty issue, but we would agree with you. We think that is a good thing. You get into a whole different area when you talk about establishing a standard for acceptable behavioral health limits. That is a different issue, and obviously something that we have not gotten into. It is a different issue than when you are talking about a job task analysis for physical requirements. We did a full study on what those physical requirements are and that is a different issue.

Assemblywoman Marzola:

The physical requirement is a different issue than the mental requirements?

Mr. Sherlock:

Correct.

Assemblywoman Marzola:

You do not have one for the mental requirements, correct?

Mr. Sherlock:

A standard? No.

Assemblywoman Marzola:

Okay. For the initial certification that the officers must go through, is mental health included?

Mr. Sherlock:

Well, [NAC 289.110](#) requires very specific things in terms of a background of a prospective peace officer in the state of Nevada. One of those things is a psychological exam, but it also includes truth verification and a personal history statement, and a lot of those areas deal with what could be considered mental health issues. They are mandated.

Vice Chair Nguyen:

To make it clear, you as POST, make a distinction between mental health and physical health. You do not just see that as health care.

Mr. Sherlock:

I do not know how to characterize that; I suppose so. Under the regulations and the statutes, it is a separate issue.

Vice Chair Nguyen:

Secondly, you indicated that there is that initial requirement through NAC 289.110 about the psychological assessment. Is that done through the agencies or through POST?

Mr. Sherlock:

It is a requirement in NAC 289.110, and we are tasked with ensuring that law enforcement agencies across the state comply with those mandates. We do not do the test ourselves, but we audit agencies to ensure that they are doing these things. I will add that the psychological exam includes a requirement that they inquire into any implicit bias on the part of that prospective officer. It also includes a requirement that they do a truth verification exam, like a polygraph or Computer Voice Stress Analyzer (CVSA) test, and a personal history investigation on the individual who is prospectively going to be hired.

Vice Chair Nguyen:

As it currently stands, you have that initial assessment, and POST verifies that it has been done through the corresponding agencies through audits. Come January 1, 2023, there will now be this minimal mental health check-in process. Is that correct?

Mr. Sherlock:

We look at what is currently happening across the state. I would not characterize it as minimal. I used Washoe County as an example before, and they have a very extensive program dealing with behavioral health and behavioral health visits on the part of their officers. We are looking for that regulation that allows some flexibility so that agencies can continue using what works for them right now, but also helps the other agencies that do not have a robust program to go out and get that. I have looked and there are some very good programs out there, at minimal cost, that agencies will be able to utilize in terms of behavioral health. We are excited about it. We think it is much more than minimal because

agencies are already doing it—I think most do—but for those that do not have a full system or program in place, this will be the catalyst for them to move into that.

Chair Scheible:

Thank you again for your presentation and to the members of our Committee for engaging in such an important conversation. That concludes Agenda Item IV on our agenda for today. We will now move to Agenda Item V.

AGENDA ITEM V—PRESENTATION BY THE NEVADA SHERIFFS’ AND CHIEFS’ ASSOCIATION—GENERAL OVERVIEW, UPDATE ON IMPLEMENTATION OF LEGISLATION PASSED DURING THE 81ST SESSION, AND LEGISLATIVE PRIORITIES

Chair Scheible:

Next, we have a presentation from the Nevada Sheriffs’ and Chiefs’ Association, who appears to be in Carson City.

Pamela DelPorto, Executive Director, Nevada Sheriffs’ and Chiefs’ Association:

I have been in this position since January 1, 2022. I want to describe the Association a little bit. You probably are all familiar with it, but the Association has been in existence since 1953. It is only one of three combined sheriffs’ and chiefs’ associations in the United States, but it is different than the other two associations in that we also include members of the sheriff's office, the police departments, State of Nevada agencies, tribal police, and school police. That names a few but not all of them.

When I was asked to provide an update on implementation of the four bills from the 81st Legislative Session, I reached out to the agencies, and please keep in mind that these agencies vary in size from Las Vegas Metro to Humboldt County. I would like to introduce to my right, Mike Allen, Sheriff, from the Humboldt County Sheriff's Office in Winnemucca. I can speak in generalities of the agencies that responded. Most of the agencies I spoke with had compliance with the bills prior to their passage, so there is little or no impact.

I will go into each bill and describe them separately. [Senate Bill 50](#) (2021) generally talks about the no-knock arrests, and all the agencies that I had discussions with had passed laws prior to the session, so there was no impact on the agencies. They did, however, review the policies to make sure they were in compliance.

Regarding [AB 396](#) (2021) and deadly force and the verbiage of “imminent,” I did not receive any reports of an impact to the agencies that responded to my inquiry because they have policies and practice already in place.

With [AB 186](#) (2021), as with the previous two bills, it was reported to me that agencies do not have policy requirements for a certain number of traffic citations or a certain number of arrests over any period, otherwise known as “quotas.” This bill, as reported to me from agencies that responded, has no impact. However, I will say that Sheriff Allen does have some comments he would like to put on the record.

[Senate Bill 212](#) (2021) is a very lengthy bill that consists of many facets. Most of the agencies indicated there was little to no impact from this bill with most of the compliance being attained through implementation of policy and practice revision. Regarding the section

on agency reporting data on the number of uses of force, responding agencies currently report to or through the National Use-of-Force Data Collection of the Federal Bureau of Investigation (FBI).

However, regarding agencies reporting to the Central Repository for Nevada Records of Criminal History, I spoke with Erica Souza-Llamas, Administrator, Records, Communications and Compliance Division, DPS, who said her office has not obtained the funding necessary to implement the Use-of-Force Data Collection as required under Section 3.3, subsection 1 of SB 212. They are planning to go to the August meeting of the Interim Finance Committee (IFC) ([NRS 218E.400](#)) for funding so they can begin work on this project. Erica is present today via phone if you have any questions for her.

One of the first priorities that came to my attention from a discussion with Senator Harris and Assemblyman O'Neill is the long-term care and treatment for continuity to stabilize the mentally ill to reduce the number of mentally ill incarcerated within detention and correction statewide.

A second priority is effective legislative action to assist in the reduction of the number of catalytic converter thefts occurring statewide. I am not an expert at all on catalytic theft but in my recent research, there are several states that have implemented laws that would limit who can legally buy or sell catalytic converters, the processes of how they do that, and what documentation is necessary. The other area that came to me was to increase some penalties for persons in possession of more than three or four catalytic converters without a license to buy or sell.

The third priority would be to work with legislators to lower the threshold for trafficking and sales amounts of Fentanyl and include higher penalties due to the increased number of overdoses and deaths in Nevada communities. The U.S. Drug Enforcement Administration (DEA) currently states that two milligrams of Fentanyl can be a lethal dose. Obviously, that depends upon the person's size, weight, and their use history. There are 1,000 milligrams in one gram, and to put it into perspective, a gram of Fentanyl is about the equivalent of a quarter teaspoon of sugar. Divide that into 1,000 milligrams and that is an incredible number of possible overdoses or deaths.

Those are the three priorities for law enforcement that have been reported to me.

Chair Scheible:

Sherriff Allen, did you want to weigh in on the Sheriffs' and Chiefs' implementation of last session's bills?

Mike Allen, Sheriff, Humboldt County Sheriff's Office:

Yes, I would. I appreciate this opportunity to speak in front of you. Sometimes, we in rural Nevada feel that you only see one county in this state, and sometimes two. There are 17.

I would like to share a little bit about Humboldt County. We are located in northern Nevada and Winnemucca is our county seat. We are encompassed by 10,000 square miles with a population of about 17,000 people. My agency, the Humboldt County Sheriff's Office, has about 65 total staff with about 35 sworn. I want to be able to put that in perspective.

My law enforcement career ranges over 40 years. As a matter of fact, Director Sherlock, who just spoke, and I went to the same academy in 1984. I have seen a lot of changes

throughout my career. I have worked throughout northern Nevada during my career, and I used to work for the Investigation Division of DPS.

I want to address some earlier comments that I heard Director Sherlock discuss. When we train, we train on the threat, not on the individual. If somebody has a gun, we are going to try to use the appropriate force to counter that threat. As Assemblyman O'Neill stated, the threat itself is dictated by the individual we encounter, not on their color.

Senator Harris:

Can I stop you for a second? I must emphasize the importance of understanding that the perceived threat differs based upon the skin color of the individual. If an officer is more likely to be afraid of or perceive someone as a threat—whether they are in fact more a threat or not—and the complete basis of the use of force is the officer's perceived level of threat, that puts certain citizens at a higher risk than others. That is the problem I really wish we would stop pretending does not exist and focus on fixing, because as officers, you all are legally allowed to assault people. If I told you that you were more likely to be assaulted by your government than someone else, I think you would want some action and acknowledgement as well.

These are undisputable issues that I do not want to argue in front of the Committee. It is a fact—people perceive people who do not look like them as a threat more often than people who do look like them, and that will manifest itself in policing. Let us get away from this idea that every person who has a use of force against them from an officer deserves it. That just is not true. It has been demonstrated time and time again, and I just cannot hear any longer that if people comply, then use of force will go away. We know that is not true. We have seen folks of color who have died while calling the officer "sir." That was not here in Nevada, but it is a real thing. Let us stop arguing, please, over the facts of the matter and figure out how we can all do better.

Mr. Allen:

I have an example I wanted to share that I encountered through my career. One day, I was traveling on Interstate 80 outside of Lovelock, Nevada, probably about seven or eight miles out, which is very a desolate area. There was an individual on the freeway trying to stop traffic. I could tell that this individual was in a mental health crisis. I was going the opposite direction, but because I am a law enforcement officer, I felt it was my duty to turn around to ensure the safety of that individual as well as the other motorists on the road.

I stopped my vehicle and put on my bulletproof vest because I was not wearing one at the time; I am in a plainclothes assignment. I turned my vehicle around, and I concealed my vest. By the time I got to the individual, NHP was there. And this is one thing that Director Sherlock stated about command presence, sometimes command presence alone is enough to de-escalate. So, you have one person there in uniform and another who is in plain clothes.

The individual on the freeway immediately took a dislike to the person in uniform, and we were both using what I would call de-escalation techniques. He took an immediate liking to me because I did not have that command presence or the uniform to intimidate, but we come across all these types of situations and no certain situation is the right choice all the time. I think that sometimes the uniform alone is enough to set a person off.

I do appreciate your comments, Senator Harris, and you have more experiences about this than what I have seen. I do agree that training in that area would go a long way for us in Winnemucca, or in Humboldt County, but I did want to touch on that.

We were asked to go over the bills, which the Executive Director discussed. There has been no impact with SB 50 regarding no-knock warrants. During my 40 years of being in law enforcement, I have only seen this used twice. Other areas are different, but we use the guidelines set forth by the law.

I do have some thoughts on Section 3.7, subsection 1 of SB 212, pertaining to impacting use of force, which states:

In carrying out his or her duties, a peace officer shall not use deadly force against a person based on the danger that the person poses to himself or herself, if a reasonable peace officer would believe that the person does not pose an imminent threat of death or serious bodily harm to the peace officer or another person.

I would like to ask you a question on clarifying the legislative intent of this. I am familiar with case law that states law enforcement does not have duty to protect an individual against himself. Are peace officers to stand down if the threat is only against himself or herself? I would direct this question to you, Chair, or anybody on the Committee who could answer so I can clarify this.

Chair Scheible:

It is a little unorthodox for the Committee to take questions from the presenters during their presentations, but I am open to new ways of facilitating discussions, and we have a volunteer here to answer your questions.

Assemblywoman Summers-Armstrong:

There is a significant video record of the discussions on this bill that we were before both the Assembly and Senate Committees on Judiciary. I spoke at both of those, I brought witnesses, and the imminent danger specifically relates to an incident that happened here in Nevada, where someone was shot in the back while running away from the police. The imminent danger had to do with whether that person posed a significant threat immediately at that moment to a police officer. If you need more clarification, those were significantly long, detailed, and drawn-out hearings. If you review them, I think you will get to the crux of the issue, and you can get an answer to your question and the intent.

Senator Harris:

I will speak to the question about using deadly force on folks who only present a danger to themselves. I believe the intent there is not necessarily to completely stand down, but as we just mentioned, this is about the use of deadly force. I hope we all can agree that an officer should not kill someone who only poses a threat to themselves as opposed to the officer or a third party. Anything short of deadly force is not prohibited by this law, and I am sure you are aware there is a wide range of a force between nothing and deadly force. All of that would be appropriate under the law, but please do not kill anybody who only is a threat to themselves.

Mr. Allen:

I appreciate those clarifications, and I will change up my information and not ask any more questions, but you will see that there are some questions here. Furthermore, Section 4, subsection 3(c) of SB 212 states that "The peace officer informs a member of the medical staff that a restraint chair will be used," while subsection 3(d) states that "A member of the medical staff conducts a medical evaluation of the person immediately before and immediately after the person is placed in the restraint chair." I know we are not the only one, but at an agency like Humboldt County does not have 24/7 medical staff on hand. We were fortunate enough, through COVID-19 money from the [CARES Act](#) (H.R.748 of the 116th Congress, to be able to hire a nurse for four days a week at 10 hours a day per shift, but this limits our ability to protect the individual.

I am going to go back once again 40 years. On the first arrest I was ever involved in, the arrestee became violent and at that time, the standard was a straitjacket. He was extremely violent. He had to be put in a straitjacket, and we also had to put place a helmet on his head because he was banging his head against the cell door. We still see this type of behavior where people are banging their head against the cell door or putting their fist through some glass on the cell doors. We have not used our restraint chair for some time, but the restraint chair is a good tool that we can use. Under this law, it is almost like we cannot use it because we must have medical staff on hand. I am confused on how the medical staff conducts an evaluation if the person is combative, like I just described, because he is out of control. It is very difficult to conduct a medical evaluation on somebody who does not want to have that done. The restraint chair is a good tool to assist jail staff in limiting injuries to both jail staff and the person being booked or detained in a jail.

Regarding quotas and citations or arrests, we do not have a quota at our agency, but we are experiencing pushback from our employees to go out and do their job. I feel like it comes down to the definition of *quotas* and *citations*; it is not just traffic stops or citations but their activity level that we use to evaluate people. I feel this interferes with our operations and the ability of law enforcement agencies to properly evaluate people to ensure that they are not just going out and driving around in circles during their shifts. We are getting pushback on this from employees and are starting to see the "tail wagging the dog" theory.

We have no problems with AB 396, as Executive Director DelPorto said.

I am sure you are all aware that overdose deaths are on the rise, and these have been on a steady increase and now a drastic increase since about 1999, according to the Centers for Disease Control and Prevention (CDC). A few years ago, Governor Brian Sandoval had an opioid summit in Las Vegas that placed a lot of the onus on doctors overprescribing opioids and the pharmaceutical companies, but now, we still do not see a slowdown. Once again, I have been in law enforcement for about 40 years, and I personally believe a "tough on crime approach" will help reduce the overdose rates, drug experimentation, drug use, drug sales, and drug trafficking.

Another thing that that came up is mentally ill people in jail. We do not incarcerate due to someone being mentally ill; we incarcerate because someone has probable cause to believe that a certain person committed a certain crime. It turns out a lot of time that people who commit crimes suffer from some sort of mental illness. Rural Nevada does not have sufficient resources to sustain programs that can help the mentally ill. We have rural residency programs for doctors or physicians to come into our community, but once they fulfill their requirements, they leave the area. We have some unique challenges on our own

out in the rural areas, but there are a couple of things that are taking place. We are moving to telehealth services in our jail, and the state received a grant for a telehealth program for our patrol deputies who are out in the field.

One program that comes up a lot is the Stepping Up program. A few years ago, the National Sheriffs' Association flew me to Washington D.C. to discuss this problem. As a result, more grant funds were supposed to be released to help treat the mentally ill in jail or to help people stay out of jail. However, if you look at the Stepping Up program, as I see it, the sheriffs are supposed to refuse to take anybody who is incarcerated or who has been placed under arrest into their jail. In Nevada, we have a law that sheriffs cannot refuse a booking from anyone, so that program does not fit for Humboldt County, and I can only speak on behalf of Humboldt County. It requires some resources like clinicians, psychologists, and psychiatrists that we do not have in Humboldt County. We hope that the program that the DHHS is pushing out for rural areas might have an impact for us. I am happy to take any questions that you may have.

Chair Scheible:

We will go ahead and open it up for questions for both of our speakers on this topic, do we have questions up here in Las Vegas?

Vice Chair Nguyen:

In the first presentation, you talked about catalytic converter theft, and I did file a personal BDR around that. I look forward to working with you all, so you can reach out if you would like to participate in that process.

Ms. DelPorto:

Thank you. We certainly will do that.

Chair Scheible:

Are there any questions from members in Carson City?

Assemblyman O'Neill:

I just learned within the last few days that Washoe County has taken a very aggressive position on catalytic converters, offering to the public the serializing of catalytic converters, which looks like an inexpensive solution to the problem. You are never going to stop it entirely, but at least it may reduce it somewhat, and like I said, the expense looked like it was minimal.

Sheriff Allen, I am going to phrase this as a question because it is difficult. When you are on patrol in uniform or in your investigative experiences, do you go to work to serve your community no matter what their color and their social, racial, and financial aspects are? Is it fair to say you are there to serve them and you instill that in your officers?

Mr. Allen:

Yes, yes. To serve the community.

Mr. Allen:

In your experience in law enforcement for 40 years, would you say that is the norm of police officers that you have run into, that they look to serve their community in the best ways they can and not based upon social, racial economic situations, gender, et cetera? That they are there to serve?

Mr. Allen:

Absolutely.

Assemblyman O'Neill:

Have you ever seen an officer put his or her life on the line to serve a person who is not of the same nationality, et cetera?

Mr. Allen:

Yes, I have.

Assemblyman O'Neill:

I appreciate those answers.

Chair Scheible:

Do we have any questions from our members online? It does not look like it.

I would like to let everybody know in case there is confusion moving forward, everybody who sits on this Interim Joint Committee also sat on the Judiciary Committee in their respective houses before we got to the interim, and both of those committees heard numerous presentations from all kinds of community organizations, law enforcement organizations, members of the public, and other elected officials about implicit bias in policing.

As the chair of this Committee, I want you all to know that I have taken all that information under consideration and find that the evidence that there is implicit bias in policing is overwhelming. Any conversations that we have going forward about use of force, improving community relations, or de-escalation are starting from a standpoint of acknowledging, recognizing, and understanding that implicit bias happens to everybody. We all have it. Police officers are not exempt.

Again, when we have these conversations, square one is understanding that these biases exist and that they have extremely detrimental and even fatal impacts on communities of color and on people with other kinds of minority statuses. That is our starting point when we talk about how we can improve our policing in Nevada and in the United States, how we address bias, and how we root out implicit bias and the problems that face all of us in society, to which our law enforcement officers are not immune.

I want to make it clear for any of the presenters today, next month, or going into the next session that these committees have considered the data, the evidence, numerous presentations, and legal research to come to these conclusions and that that is our baseline.

We will now move on to Agenda Item VI, which is a presentation from DPS.

AGENDA ITEM VI—PRESENTATION BY THE DEPARTMENT OF PUBLIC SAFETY—UPDATE ON DEVELOPMENT OF REVAMPED NEVADA OFFENSE CODES AND STATEWIDE TRAFFIC CITATION DATA SYSTEM REQUIRED BY [ASSEMBLY BILL 116](#) (2021) AND LEGISLATIVE PRIORITIES

Amy Davey, Administrator, Office of Traffic Safety, DPS:

There are several members of the DPS here to provide some information. Deputy Director Sherry Brueggemann is online and will introduce this topic.

Sheri Brueggeman, Deputy Director, DPS:

We wanted to bring to your attention where we are with the Brazos eCitation project and the concerns we have with not being able to meet the deadlines to make some final decisions on the citations. Amy will bring you up to date on that information. We also have Erica Souza here with the Records, Communications and Compliance Division (RCCD) who will bring you up on the Nevada Offense Code (NOC). I think they have a bit more positive information on getting through that. I believe we are all online and we all have our support teams available to help with the technical questions should you have any of those as well.

Ms. Davey:

This morning we want to give you a functional report about the work we have been doing on the implementation of AB 116. I know you have had many stakeholders come and speak to the Committee from the judiciary and law enforcement to talk about changes being made in the process, and the DPS is part of that process in two specific areas. One is with the NOCs. The DPS is the guardian, if you will, of the implementation for NOCs. Erica Souza-Llamas and her team are going to speak about how that is going from the RCCD. For my division, we are the caretakers or managers of the statewide data system that you heard referred to as Brazos, but it is now called Enforcement Mobile. That system is implemented throughout law enforcement agencies statewide to issue citations and capture crash data information and crash reports. We are coming to the end of a lot of decisions the stakeholders are making and the process to make decisions around AB 116 and how that will look for all the court systems and law enforcement agencies. With me today, I have two specialists on this project to talk a little bit about where we are in the process of implementation to change the citations in this statewide system: Kevin Tice, Program Manager/Traffic Records, and a project manager from our data system vendor, Tyler Technologies.

Kevin Tice, Program Manager/Traffic Records, Office of Traffic Safety, DPS:

I oversee the contract with Tyler Technologies, which is the tool we have for law enforcement and the courts for all e-citations and e-crashes, and the implementation of AB 116 presented some challenges that we anticipated. Carl and I worked early on to try to identify stakeholders we thought could help us get those questions answered.

As you know, AB 116 changes traffic violations from criminal violations to civil infractions. That is a monumental, fundamental change to Brazos, or Enforcement Mobile, as it is now called now, and NOCs were a big part of that anticipated challenge. Fortunately, many of those questions have been resolved, but many questions remain and there are little nuances to do with law enforcement agency builds and records management system interfaces with the courts. We need some guidance and have been trying to get answers to those questions for several months now, but Tyler Technologies and their staff have indicated that we are now in danger of not being able to meet the deadline of

January 1, 2023. I will let Karl Nieberlein, the Tyler Technologies Nevada Program Manager, discuss those challenges from their perspective.

Karl Nieberlein, Nevada Program Manager, Tyler Technologies:

Assembly Bill 116 provides a lot of challenges for an electronic citation system. We have several different identified areas where we must create extensive development changes to implement a civil traffic citation system in the state of Nevada.

One of the hurdles that we encountered is the updating of the NOCs. The new NOCs were just published recently; I believe it was yesterday. Now, each law enforcement agency will have to receive an extract of their offensive list, which is the list of offenses that reside on their electronic ticketing devices. They will have to take the 3,200 new traffic NOCS and match them up to the offensive list. They will have to submit those back and insert those into the system for each of those agencies.

There are 137 different versions of software in use and there are multiple configurations of e-citation software for each agency because each agency's configuration is based upon the operating system of the device that is being used to issue a citation or collect a crash record. Each of those 137 configurations must be manually updated to include the processing of civil citations.

As of today, we have not received instructions from a single court as to what they would like to have a violator receive on a printed copy of the citation to provide instructions on how to resolve that citation in the instance of a civil traffic citation. We will need to have instructions from every single court in order to accomplish that to be able to issue those civil citations.

The state of Nevada is connected in a very elaborate system of interfaces between electronic systems. All those interfaces will have to be updated to accommodate a new record type of civil traffic citation flowing through them. We have confidence that the Tyler Technologies' sides of those interfaces would be updated and ready to go easily in time for the deadline. However, those systems at Tyler interface to systems in different communities and in different vendors and different agencies, and we have no control over whether those other recipients of this data will be able to receive them in the stated timeline.

We also must interface and update all the court interfaces. We electronically send citations to every court in the state of Nevada, so every single one of those interfaces must be updated. The Tyler side of those interfaces will be updated prior to the end of the year, but the recipient of that data, those other records management systems or court management systems, are up to the owning agency and the vendor for that system to update.

There is a high probability that the Odyssey Court System, which is the court system in Clark and Washoe Counties, will not be available to complete this work within the specified time frame. That would mean that of the 1,000 citations that go into the system every single day in Nevada, approximately 800 of them would have to move to paper until those interfaces were ready. There is no court in the state that I am aware of that can currently manage that avalanche of paper.

We will also have significant development work to do on the back end of the system, updating databases and data types to handle civil citation and also all the reporting engines

used to aggregate the data and report executive level queries, so you know what is happening with citations here in the state of Nevada.

Finally, on June 1, 2022, Tyler Technologies sent the State of Nevada notice that we have not received any of the information we needed to have by June 1 to guarantee completion of this project by December 31, 2022. From a project management standpoint, this project is currently in jeopardy because of the lack of information being provided that is necessary to update the system.

Ms. Davey:

Our intent is not to come today with a laundry list of problems but to open the dialogue about the work that we are doing and try to connect the various stakeholders. We have been meeting regularly with courts and law enforcement. They have disparate systems and disparate processes and practices, and everybody has a piece that they are working on, but we are working with the whole. We wanted to come and give an update on where we are at with that particular implementation. I do want to give time for the records compliance division to talk about their work on the NOC codes.

Erica Souza-Llamas, Administrator, RCCD, DPS:

With me today, I have Kendra Jones, the program officer who oversees the NOC program. My Division has two small pieces of involvement in this large, statewide effort to implement AB 116. I will provide a brief update on the status of the requirement of the repository, which is administered by my Division, to remove from its database all records of bench warrants issued for a person who failed to appear in court in response to a citation for an offense that AB 116 established as a civil penalty. I will then hand it over to Kendra to provide an update on the status of the NOC program's efforts to duplicate the current criminal traffic NOCs to create civil NOCs.

At RCCD, we meet regularly to determine and establish our procedures and discuss the purging of warrants from the statewide system. We have sent a statewide notification out to all our criminal justice partners advising agencies that our office can assist with purging their warrants out of the state system. Agencies have the choice to purge their own warrants themselves or they can request our office to perform a batch purge on their behalf. We have coordinated with the Division of Enterprise Information Technology Services (EITS), Department of Administration, and established a process whereby agencies may submit a helpdesk ticket with EITS to request a report of their specific failure to appear warrants, which they can review and determine which warrants need to be purged for the purposes of AB 116.

If the agency desires our office to perform a batch purge on their behalf, they must submit a separate ticket request to EITS and provide the list of warrants previously generated in the report provided. My office will vet the request prior to the purge and authorize EITS to perform the purge. We do require that the requests come from the issuing court and not the servicing agency. To date, we have purged approximately 3,339 warrants from the state system upon request from the issuing courts or the servicing agencies. Another 19,869 have been cleared from the system by the issuing agencies themselves.

As of today, we have approximately 64,000 failure to appear (FTA) warrants remaining in the system. We will continue to send out statewide communications to our criminal justice partners advising them of the requirement of AB 116 and what their options are to purge the warrants prior to January 1, 2023. If there are any remaining FTA warrants in the state

system after that deadline, my office will run a final report of FTA warrants, provide the reports to the issuing and servicing agencies, and then perform one final purge to remove them all together. We are hopeful that the agencies will take advantage of the pre-January work that is underway. However, if they do not, my office is prepared to perform the final purge after January 1 of next year.

I will now turn it over to Kendra to provide an overview of the efforts our NOC team is taking to comply with AB 116.

Kendra Jones, Program Officer, RCCD, DPS:

We have duplicated 3,186 NOCs based off the criminal NOCs that were previously held that now have dual severity. These are going to be differentiated in each handheld device by having the verbiage "civil" in front of each of the descriptors, and the reporting that is going to go through on the state side will be separated by different codes for criminal and civil. All the reporting will be separate. We have finished all the back-end work of completing those 3,186 NOCs that are to be civil and have the dual severity of both civil and criminal, and everything has been sent out to all the agencies and stakeholders that will need to implement the changes within their own systems.

Ms. Brueggeman:

Thank you, everybody. I think we have done a great job on what we could do so far with the team that we have, and I appreciate everything. We are looking for the Committee to help us as a decision maker and leader. I think we need some help with getting the courts all on one page and given the different districts, it is difficult, like herding cats. I will leave it to you to ask for questions or give us direction. We are happy to do whatever we can to help.

Chair Scheible:

Thank you. We will start with questions here in Las Vegas.

Vice Chair Nguyen:

I am incredibly impressed. I know you have been working tirelessly on getting those NOC codes, so congratulations on being able to do that. I am happy about that. As far as working with the courts, I know that this predominantly falls on the courts of limited jurisdiction and it is my understanding that they had put together a lead on that. Have you been able to meet with the lead, or are you trying to reach out to all the individual courts among the states to do that?

Mr. Tice:

We have met with the Honorable Melissa Saragossa, Justice of the Peace, Department 4, Clark County, and the Honorable Ann E. Zimmerman, Justice of the Peace, Department 8, Clark County. They have coordinated some efforts on that front, and we have participated to the degree that we shared some of Tyler Technologies' concerns that might create delays and tried to get them to help us answer some of these questions. They have participated in that regard.

Vice Chair Nguyen:

Is it my understanding that you are waiting on the courts to make decisions and provide you data to move forward?

Mr. Tice:

To some degree, that is true, but there are other questions I think that group cannot answer. We may make this decision ourselves, but one example is that the decision to put criminal violations on the same citation as a civil violation would create lots of explanation for the violator that might be confusing. Our recommendation is that they be separate, but that question remains to be answered by all the jurisdictions. Similarly, whether a warning can be placed on the same citation as a civil infraction or criminal will also create a lot of confusion. Our recommendation is that they be separated, but as Mr. Nieberlein mentioned in his presentation, the individual courts have not weighed in on these topics.

Vice Chair Nguyen:

I know that during one of the previous interims, John McCormick from the Administrative Office of the Courts (AOC) had indicated that the courts were working on trying to get some ARPA funds to be able to create one traffic system. Have you had any conversations with the Administrative Office of the Courts and Mr. McCormick to find out whether they have been successful and if there would be one court system for traffic tickets as opposed to separate systems that potentially do not interact together in this way? Have you had those conversations with him recently?

Mr. Tice:

Not direct conversations. I have heard that discussed in some of the previous planning meetings regarding AB 116, but I do not know if they have been successful in that pursuit.

Vice Chair Nguyen:

It sounds like you would prefer if the courts made decisions on which FTAs were being purged prior to January 1, 2023. That is something that these courts can do in preparation to make the transition easier. Is that correct?

Ms. Souza-Llamas:

Yes, you are correct.

Vice Chair Nguyen:

I know that the courts have previously done amnesty or purged old traffic tickets in the past. This is not something new. Is that correct?

Ms. Souza-Llamas:

Yes, you are correct.

Vice Chair Nguyen:

This is a process all the courts across the state have used in the past to purge old warrants, failures to appear, or tickets that they have chosen to purge. They can do that at any time, and they always have been able to, is that correct?

Ms. Souza-Llamas:

You are correct.

Vice Chair Nguyen:

Thank you all for your work, and if I can be helpful in facilitating any of the conversations between the stakeholders, please reach out.

Chair Scheible:

Are there other questions from Committee members?

Assemblywoman Summers-Armstrong:

I would like to direct this question to the project manager at Tyler Technologies. You made a statement that the project is in jeopardy. Could you please give us a more information? Is it in jeopardy because it cannot work? Is it in jeopardy because Tyler Technologies is frustrated? Is it in jeopardy because you are not being paid? What is the issue? Is it the deadline or the entire project?

Mr. Nieberlein:

The only reason why this project is in jeopardy is because of the amount of time it takes to adjust the existing development and the amount of time that it takes to do the new development to incorporate civil traffic citations into the Nevada citation system. There is no problem contractually, payment wise, frustration wise, or anything there. The problem is just a matter of time. We have a January 1 deadline, and it takes a considerable amount of effort, development, and lift to make all these things happen and to get all these pieces in place.

Additionally, everything that is done has to be tested and vetted all the way from the back-end servers to the end user—each law enforcement officer here in Nevada. We know how long those processes take, because we have done this in other places, both nationally and here in Nevada with last session's [SB 236](#) (2021) updates. We know how many months it takes to do this, and unless we have the answers to many of these questions in the very near future, it is likely that we will not have development resources and manpower available in the amount of time allotted to complete the project.

Assemblywoman Summers-Armstrong:

What would you suggest we do as a state to make future processes better? We know our criminal justice system and our laws change because we learn more; we know more; and we are always trying to improve ourselves. What would you suggest we do as a state to make this process better, swifter, and more succinct in the future?

Ms. Davey:

Two things have come to the forefront on this project. First, there was no clear project manager for this project. I am not speaking just about DPS—we can manage our business and our divisions, but there was no project manager for a project of this magnitude or one designated agency to coordinate this project. Second, timelines are always best guesses in dealing with something as large and multifaceted with so many people, and then you throw in the technology component that requires testing and development. While it was

a long time in planning—I know this civil citation discussion has gone on for multiple legislative sessions—the implementation piece was probably a little bit truncated for the size of the project.

Assemblywoman Summers-Armstrong:

I am brand new here, so this is new to me from this perspective. If this has been a multi-session discussion, were these concerns brought up during the last session? I do not remember it being raised or anyone asking us during our hearings to ensure that we appointed somebody as a project manager to help this process along. Did that happen in any other discussions? When you saw this train leaving the station, did you make us aware that it would work better if we had a project manager outside your agency or even within your agency?

Ms. Davey:

I am not aware that DPS gave any testimony on this. We watch and sometimes wonder how things are going to come together, and we appreciate the community of law enforcement and court systems that have come together and Judge Saragossa and Zimmerman for taking the lead on this. To your question, I do not know whether we gave specific testimony on our piece of the implementation.

Assemblywoman Summers-Armstrong:

I am lucky enough to have retired this year, but in my previous life, we did a project like this, and I believe that the people inside the organizations are the experts to help us implement these requirements. This is already a train down the road, and we are not going to cry over spilled milk, but in the future, the agencies working with your data people, your staff, and you must talk to us so that we know what you need to make a move successful. We do not want to lose a consultant in the middle of a project and then must start at square one. As I said earlier, the law is always going to be flexing and moving and evolving as we know more and want to do better.

There is going to be another session in 2023 and I hope to be here. I do not ever want us to have a situation where you have not said to us, “That is a ridiculous deadline,” or “We need help and you must get us somebody to help us make this work for the citizens of this state,” because it does not help us if we are trying to implement laws and we have three long sheets of paper we must give people that do not make any sense to anybody.

I am a freshman and soon I hope to be a sophomore, but I believe the elder statespeople on this panel are accessible, and they would listen to your needs. If nothing else, you can ask me; I am the brat and I am going to speak up and say, “Hey, you know, I heard they need help on this. Can we get this?” We must be able to hear from you so that we know what to do and how to make these things work because our constituents are depending on it to be implemented.

Ms. Davey:

I want to correct something. We did reach out with information about the implementation from the perspective of how long we thought it would take at that time, and we put a fiscal note on the bill, which was funded. We had some anticipation of being here in the process. The money that the Legislature awarded to fund this project is sufficient. It has just come down to logistics.

Chair Scheible:

I do not see any other questions from Las Vegas. We will go to Carson City.

Assemblyman O'Neill:

Did you say you did not have a project manager on this program or this implementation? Did EITS, or did you look to them for assistance?

Ms. Davey:

There is no project management needed from the programming or IT side. These decisions about how citations should be reflected are not made by programmers or even by us. There has been a lot of dialogue with how to get NOC codes so that they were ready to run these dual systems. Those were all decisions that did not involve the programming so EITS has not been a factor in this. We are working directly with the with the system consultant.

Assemblyman O'Neill:

I am confused because you are saying your NOC code and implementation of that had nothing to do with your development of the program itself. That is what I heard you say.

Ms. Davey:

I am sorry. I am not explaining myself very well. It is the decisions behind how the system needs to be programmed to reflect the statutory changes. There are nuances to those decisions that really come out of the legal community itself, the courts, and the law enforcement agencies. We are just the guardians of the system, and we are waiting for the cookbook that says, "Go make this meal." Some of the ingredients are missing. As soon as we get those ingredients, we can make that meal. I am sorry if I am not expressing it right.

Ms. Brueggeman:

I was trying to say at the very beginning that we are missing a final decision maker. While a lot of good conversations are happening about why we should go in this direction or why the citations should look like this, who makes those decisions is unclear. In some cases, we can arbitrarily make them, but is that up to us? Those are the questions we are here today to discuss. We are more than happy to do a lot of what we can do, but is that what the Committee would like us to do?

Assemblyman O'Neill:

That helps me considerably. I appreciate that. I guess I am disappointed that we passed legislation and prior discussions where you and other agencies are coming in and asking, "What does this mean?" Hopefully, we can address it for you.

Ms. Brueggeman:

We asked to be put on the schedule for this meeting only to give you this update. We are ready, willing, and capable to meet the deadline from our point of view. As I said, we can make this decision with the intent from our point of view, but we know that the legislators' intent was more for the state, not just from our point of view, and we did not want to force our point of view on everybody else.

Chair Scheible:

I have a brief follow-up because I do not understand what decision needs to be made that that you are saying you are not sure you are the right person to make. What is the decision that must be made?

Mr. Nieberlein:

Some of the important pieces of information that are missing, for instance, is what information you want to present to a violator on their copy of the citation so that they can take care of the matter with the court. We need to have that information. It takes time to program that into the system and it is unique for every single court. There is no unified traffic citation in the State of Nevada like we have with other clients around the country. Each citation is custom software made at the direction of the agency who requested it and the courts that it writes into, and without having the information like that, we are dead in the water, and we cannot do anything. Other questions that need to be answered involve criminal violations.

Chair Scheible:

Okay, let us go one by one. When you are talking about putting the information on the ticket that I understand will be unique to each courthouse—what time their arraignments are, whether they do arraignments or pretrial conferences, et cetera—who made the decision previously on the current tickets? How did that information get there?

Mr. Nieberlein:

When each of the courts were implemented on the system, which occurred back around 2008 or 2009, every judge or court presented a word file that had the exact verbiage that they wanted to appear on the citations that were written into their courts. As the system was implemented over those several years and all the courts were brought online, that information was collected from each of them and added into the system. Once again, we will have to collect that information from each of them because the information is different for each of them. They all have different websites or different arrangement dates.

Now, with civil citations, some of them are trying to go to online dispute resolution systems, so we need to have web addresses and all the instructions to give to violators so that they understand how they need to proceed to take care of the matter.

Chair Scheible:

Okay. That sounds like you are saying that the courts are not being responsive to your request for that literal word file from them.

Mr. Nieberlein:

That is correct. We have not received any information as to what a violator is to be presented to resolve the matter on a citation.

Chair Scheible:

How many times have you asked?

Mr. Nieberlein:

I have asked the state for that information, and you would have to talk to my counterparts of the state to find out how they disseminated that request.

Chair Scheible:

All right, I will add that to our list. Who is your counterpart at the state?

Mr. Nieberlein:

That would most likely be Kevin Tice.

Chair Scheible:

Mr. Tice, how did you ask the courts for this information?

Mr. Tice:

I mentioned it to Judge Saragossa and Judge Zimmerman when they began their meetings on the topic of AB 116. I shared this list of questions with them in March and asked for their assistance in communicating with all the courts as a liaison.

Chair Scheible:

Is there anything stopping you from reaching out directly to each court in Nevada and asking for this information?

Mr. Tice:

Probably not.

Chair Scheible:

Okay let us do that.

Mr. Nieberlein, what is the next question we need answered?

Mr. Nieberlein:

The next question that we need to answer is what fees and fines apply to civil traffic citations. We have received set bail schedules from multiple courts because every court in Nevada has a different schedule and different fines for each charge. We need to know what the fine is going to be for each civil charge, the administrative assessment, and the other assessments that go on with those things.

We also need to find out how they want to handle the situation with speeding. Several courts in Nevada calculate their fines on the device because speeding is charged with a certain amount per mile per hour over the speed limit. We need to know if that is continuing and if so, what is the charge going to be per mile per hour over the speed limit. All that information must be presented to us so that we can update the systems appropriately.

Chair Scheible:

And let me guess, the courts have not responded to your requests for this information from them.

Mr. Nieberlein:

That would be correct.

Chair Scheible:

What is the next question we need to answer?

Mr. Nieberlein:

The next question we need to answer involves the electronic systems that we interface to in the State of Nevada: the court systems, AOC, Odyssey, several journal technologies, and a few other vendors. Civil citations are sent via what is called an XML file and must be recognized in a different way by those systems. We must work with each of those vendors to find out what the XML tags will be for civil citations for their system so when we send the data to them, they can appropriately decide for the data and enter the systems on their side that generate things like court dockets and that sort of information. We will need to be in contact with the various vendors once we know what the civil citations are going to look like so we can get that information and begin that programming process.

Chair Scheible:

What is the next question we need answered?

Mr. Nieberlein:

The next question is one we can probably take a healthy guess at, but there is ad hoc reporting capability and there is also a system-generated reporting capability. We need to know what reports are going to be requested so we can provide adequate mapping into ad hoc reporting systems. We need the information from each Nevada citation so that when administrators of the system and the consumers of that data request it, it is accurate and complete.

Chair Scheible:

We need to know what data is going to be collected from the citations so that the people like us who like to ask questions about how many citations were issued, where they were issued, and what they were issued for can utilize that. Perhaps DPS has a list of data points that we need to collect from each citation.

Ms. Brueggeman:

We collect data points on behalf of the courts and any number of agencies, so yes, we know there are laws that specify what data points we must collect for several of them. I am not going to get into which ones they are, but that does not mean there are not others that you would like.

Chair Scheible:

Could DPS provide to Tyler Technologies a list of the data points that they are currently tasked with monitoring and collecting?

Ms. Brueggeman:

Absolutely.

Chair Scheible:

Okay, let us start there. I was excited about going through this ad nauseam, but there are more questions that need to be answered than I even realized. I am going to ask our representative from Tyler Technologies to please provide the staff of this Committee with a literal list of those questions that need to be answered. We will help facilitate getting the people who need to answer those questions to answer them for us and reconvene back here in July to discuss any questions that remain outstanding without answers, why those answers are outstanding, and come up with a plan to get them for you so that you can do what we asked you to do at the Legislature.

I understand that we passed a bill and gave you a task and it is not fair to ask you to complete that task without answers to all your questions, a way to get the answers, or all the tools you need to implement these bills. Any frustration is not with the people on this call, it is with bureaucracy, and since I am responsible for it now, I am going to do my best to aid in getting the information from point A to point B where it needs to be so we can implement AB 116 and stop holding people criminally accountable for parking in the wrong place.

Anybody who wants to weigh in on the questions that need to be answered can send that information to the staff. You can even send it directly to me. My email address is very easy: Melanie.Scheible@sen.state.nv.us. We will get to work on this between now and July. Does anybody else have more questions for our presenters?

Assemblyman O'Neill:

Having worked with technology prior and having worked on things with the NOC many years ago, I want to offer my assistance to you, Chair, and to DPS, particularly since the majority of them are here in Carson City. If I can be of any assistance between now and when we reconvene in July, please contact me. Ms. Breggeman, I will be in contact with you to see what we can schedule, if you would like. Chair, I offer it to you, too.

Chair Scheible:

Thank you. It is much appreciated.

Senator Harris:

I do not know what the level of discussion is between DPS and the AOC, and I hope they do not get mad at me for saying this, but I think AOC might have some money that DPS could work with them on specifically for this issue of getting a singular ticket throughout the State of Nevada. If you are not working together, please reach out to Mr. McCormick, so everybody is rowing in the same direction with the same dollars.

Vice Chair Nguyen:

I also have been getting some frantic text messages from some of the courts. It sounds like they do have a meeting coming up next Wednesday, so hopefully there will be some clarification. Obviously, we would have all wanted that before the June 1 deadline so you would be able to quickly implement some of these things, but hopefully they will review some of the presentations and questions that came up today, and with the assistance of all the people on this Committee, I am sure we will be able to help facilitate what sounds like a communication issue. I do appreciate you bringing it to our attention, which is the first step in helping us facilitate our intent.

Chair Scheible:

I am going to close out Agenda Item VI. We are going to take a 15-minute break, so we will be in recess until 1 p.m.

AGENDA ITEM VII—PRESENTATION BY NEVADA ASSOCIATION OF REALTORS ON SUMMARY EVICTION

Chair Scheible:

We will now call this committee back to order and move on to the second part of our meeting where we will be talking about summary evictions and then have one more public comment before the end of our meeting. I am going to turn the proverbial gavel over to Assemblywoman Summers-Armstrong for the next portion of this meeting.

Assemblywoman Summers-Armstrong:

Welcome back and thank you to those here who are present in Las Vegas, by phone, and in northern Nevada. We are going to start this portion of the meeting with the Nevada Association of Realtors and would like to invite Rocky Finseth and Tina Africk.

Rocky Finseth, President and CEO, Carrara Nevada:

Joining me at the table today is Ms. Tina Africk, who is a property manager in southern Nevada, and I believe up north is Ms. Tiffany Banks, the Chief Legal Counsel for the Nevada Association of Realtors, as well as Jenny Reese, my colleague at Carrara Nevada. Ms. Africk is going to take the committee through the presentation today.

Tina Africk, Property Manager, Nevada Realtors:

I want to go through a short timeline of what the eviction process is right now for us as property managers. Sometimes, I think there might be a misconception that we are in a hurry to get people out of properties, which is not the case. For instance, we start collecting rents on the first of the month, and we give all our tenants until the fifth of the month to pay without a late penalty and without any action taken against them. On the sixth of the month, I start calling all my past due tenants and ask them, "When we can expect your rent?" We work with all our tenants if possible. We will let them know that if they can get rent in today, we can waive their late fee. If they do not get rent in that day, then we may have to start the seven-day pay or quit process. Most of the time, the tenants will get back to us and say, "I am going to pay this Friday," or whatever the case is. We will then go to our landlords and make sure it is okay with them because ultimately, our landlords are our clients, and our tenants are our customers. We must do what our landlords instruct if it is

legal and ethical. At that point, if we if we get the rent, obviously we are done. We usually waive most late fees if we can, and we want to work with the tenant.

The most important key here is communication. If our tenant ghosts us and we do not hear from them, or they do not respond to any of our requests, then we are forced to post a seven-day pay or quit. The eviction process does take some time, so from the time we post a seven-day pay or quit, it is seven judicial days. We all know that the courts are closed on Fridays, so we are talking about an extra two weeks for the tenant to then bring in their payment.

One of the previous presenters had called in and said that the money is applied to late payments first, but that is not the case. That changed in the last legislative session, so we cannot evict anyone based on late fees any longer. If they never pay their late fees, there are no steps we can take. We must wait until the move out, at which point we will likely take the late fees from the deposit and pay the owner with that.

From the time that we post the pay or quit, the tenant has a chance to answer, and with the new CHAP program that is in place, we are not evicting anyone. From 2020 to today, we have literally evicted one tenant, and I manage about 400 properties. Evictions are not running rampant, at least among property managers. We have no desire to evict anyone. We do not want to contribute to the homeless population. We want to work with our tenants. It is costly to move a tenant out. We must turn around and use the deposit towards the past due rent, and then the owner will have the fees to still clean up the property. Typically, when you evict someone, you do not get the property back in the best shape; it is not move-in ready.

From the time that we post a seven-day pay or quit, they can answer the pay or quit and as soon as they answer it, we go into the mediation program. We are talking about another month at that point to even get into the mediation program. Now you take one late payment that we posted seven days on, and it takes about another month and a half to get into court, if we get into court at all. At that point, they can apply for CHAP funds.

We are a big advocate of CHAP funds. We try to help people, even when we see they are just starting to struggle and are starting to pay late every month. We will tell them that CHAP might be a good program for them. Even if they do not have a job loss, maybe have reduced hours, it is still a good idea to at least get a cushion of one or two months if they can. We work with CHAP quite a bit and we encourage our tenants even if they are not behind on rent, but we notice that they are starting to fall behind. We will then give them the information to apply for CHAP.

I of course cannot speak for every property manager, but I do know a lot of property managers, I am very involved in our association, and I can tell you that I do not know any property managers who are trying to evict tenants and want tenants out on the street. We are always there to try to provide resources and information to help them.

Unfortunately, sometimes we do get to a point where we must evict a tenant. Most of our owners are "mom-and-pop" owners. I hate that term, but you know what I mean. It is usually a single owner, and they cannot pay rent. The CHAP program has some issues, but when an owner does not get rent for months on end, we are shifting the burden from one constituency to another constituency assuming this one constituency has unlimited funds to cover the cost of the other constituency. And that just is not the case with most people that I manage properties for; there are corporations that own properties of course, but these are not corporations.

We will also fire bad landlords. If I have a landlord who is not cooperative, who does not take advice and help the tenant, or if we have a landlord who is trying to raise rent by \$500 at a time, we fire them. I will not work with people like that. I know a lot of property managers will not, and I also think it is important not to mix in self-managed properties with professionally managed properties. With self-managed properties, unfortunately, a lot of those landlords just do not know the law, and a lot of tenants do not know the law, so they are being taken advantage of by self-managed owners because neither the owners nor the tenant realizes their legal rights.

Assemblywoman Summers-Armstrong:

We appreciate you all being here and for sticking around to share this information with us. Does anyone here in Las Vegas have any questions?

Chair Scheible:

I thought it was interesting that you wanted to make a distinction between self-managed properties and properties that utilize a property management company because the first thing that pops in my head is that I would think that people who employ a management company are either bigger or have more valuable properties. They must pay a property management company. Is your group of properties on the more expensive end of properties?

Ms. Africk:

No, absolutely not. Most of our properties are single-owner properties owned by people who have moved out of state, military, and retirees. I do have a handful of owners from outside the country who own maybe 10 or 15 properties. Rents are high here. Most people can hire a property manager, and you are not talking a lot of money for a property manager. I have fourplexes and properties as low as \$800 a month. I have a wide array of properties, but most of them are single-owner properties.

The reason I want to make the distinction between owners and property managers is because as property managers, we understand the law. We know what our legal obligations are to our tenants and to our owners. Unfortunately, a lot of individual owners do not. I have had to help my nephew, who is low income; I went into the property and discovered a window that was plexiglass, so I turned the guy into the health department. They had open sewage running through. You do have bad landlords, but in my experience, most of them are not going to take advantage of tenants or try to kick tenants out immediately.

Senator Harris:

Can you help us with the disparity between what we are hearing from you and what we hear from others about issues with eviction? I cannot put all tenants or owners on you, and I am not challenging your assertions that for the properties you manage, there has only been one eviction. How do we square what I am hearing from you about how they do not really want to kick people out with this very large problem we are hearing from tenants that they are being kicked out in large numbers and having these issues. How do I hold both of those in my head together?

Ms. Africk:

I have not heard what you are hearing, so I cannot truly answer that. I do know there are issues of people being kicked out. When we evict someone, we evict based on payment of

rent, and I guess my question would be, at what point do we evict someone? If someone is not able to pay the rent, then we are going to try our best to see if there is something we can do. I have tenants call me every single month saying their car broke down, or whatever, and we work with them. I guess there are two sides to every story. You are going to hear the tenant side, and I may have a tenant that I have had to evict, and their story may sound vastly different than my story because I think your position in the process impacts how you view the process.

Mr. Finseth:

Ms. Africk reflects the bulk of our property managers. These are the stories we hear. As we walked into the 2021 Session and had these debates and discussions, we saw the same disconnect that you are seeing here. I would suggest that there are corporate landlords and hedge funds in the space, and perhaps some of what you are seeing is those entities creating some of the stories you are hearing about today. They have been in this marketplace for quite some time.

Vice Chair Nguyen:

You indicated that, at least as a part of your practice, you try to locate or determine people who are potentially struggling before it gets to that point. How do you do that?

Ms. Africk:

We do that through their ledger. For instance, I have two tenants I had to post pay or quits on this month, and to kind of give you an idea, this is how many times they have been late before I finally posted a pay or quit. This tenant has been considerably late ten times in the last year, sometimes as much as two weeks late. We have never taken the steps to evict him; I spoke to him, and we worked it out. Unfortunately, we finally had to post a pay or quit because he was not responding.

I will approach somebody like this and explain to them that there is a CHAP program, because if you are paying late every month, you are usually struggling. Many of our tenants will come to us and tell us they are struggling. They do not know there is assistance. I am a big advocate of the CHAP program. I think it is a great program while the money exists. It is obviously a short-term solution to a potentially long-term problem, but it is there. And having the assistance available is a win-win because now the tenant is going to get their rent paid and the owner is going to get their money to pay their bills.

Keep in mind that when a tenant is not paying rent, the owner still has all the same responsibility as if the tenant was paying rent. If the air conditioner or the water heater goes out, they are still responsible to repair that. As we all know, everything is getting more expensive, not only for the tenant but also for the landlord.

I cannot speak for everyone, but my company and I are always going to do our best to try to come to a solution that that keeps somebody from being homeless. Look, we are people, too. Driving down the street coming here and seeing all the homeless kills me. I cannot stand seeing it. It hurts me that people are without housing. If I could fix it, I would, but I also know coming from the other side of things that the landlords are also struggling. Many landlords are struggling when they cannot get their rent and when there is no end in sight to when they can evict this person, you could be costing somebody their retirement. Many people buy a house as a retirement investment and they cannot go four, five, six, or seven months without rent. During the pandemic, I had somebody go 15 months without

paying rent at \$3,000 a month. It is a huge amount of money, and all I am saying is we must weigh the balance between the tenant and the owner and who has what responsibility in the process.

Vice Chair Nguyen:

Mr. Finseth, you indicated that there might be some disparity about what we are seeing at different presentations, whether it is from the courts directly or from people in the community who are struggling and being evicted unfairly or quickly. You indicated that perhaps there is a difference between some of these mom-and-pop landlords and corporate landlords. Have you seen any laws in other states that make a distinction between those two types of landlords?

Mr. Finseth:

We are in the process of exploring that right now. Like the interim Committee, our legislative committee is exploring various options from other states. We are working with legislators who have reached out to us for solutions on our end. I do not have an answer for you right now, but I suspect that we will have an answer for you moving forward.

Vice Chair Nguyen:

I am sure all the Committee members would be interested to see what kind of distinctions might be made nationally or even in other localities about the difference between a venture capitalist and a corporate mass ownership of properties.

Assemblywoman Summers-Armstrong:

Before we move up north, I have a couple of quick questions. When you say properties, are you referring to single-family homes or apartment complexes?

Ms. Africk:

I only manage single-family homes and multifamily fourplexes.

Assemblywoman Summers-Armstrong:

Okay. In addition to the basic rent, are there other administrative fees for which the renter is responsible?

Ms. Africk:

On a monthly basis or a move-in?

Assemblywoman Summers-Armstrong:

Monthly, please.

Ms. Africk:

The only thing we charge our tenants for is rent and in some cases, depending on the locality and the property type, for trash and sewer. If they live in Las Vegas and it is a single-family home, we charge them \$40 a month, which is about the cost of the trash and sewer combined on a monthly basis. We do not put that in the tenant's name because if

they go delinquent, it can lien the home. There may be a 5 percent late fee, but again, we waive those late fees most of the time. Other than that, there are no other fees.

Assemblywoman Summers-Armstrong:

Are there any monthly costs for setting up an account or records maintenance or at any time during the contract?

Ms. Africk:

To the tenant?

Assemblywoman Summers-Armstrong:

Yes, please.

Ms. Africk:

No. If we do a lease renewal, it is always at the owner's expense. The tenant does not pay anything. I do want to correct one thing I said. If we must post a pay or quit notice, there is a \$75 fee because we must pay a process server now since the law changed to post that notice. We cannot waive that fee; we must charge it since we must pay it.

[Ms. Africk was asked a question, but there is no audio.]

They are considered utility income. When we bring in our system, we have rent and then we have utility income, and they get reported out differently on the tax statement to the owner.

Assemblywoman Summers-Armstrong:

One other question because we ran into this when we were up north. Do you use a portal?

Ms. Africk:

Yes. We use a system called AppFolio.

Assemblywoman Summers-Armstrong:

What is your monthly fee to use that portal?

Ms. Africk:

For me personally?

Assemblywoman Summers-Armstrong:

For the renter.

Ms. Africk:

We do not charge the renter for use of the portal. The only time they pay a fee is if they choose to pay their rent with the credit card and then there is a fee from AppFolio for the credit card usage. Other than that, they can pay online for free if they use a checking

account, or they have the option of going to 7-11 or CVS and paying with a \$3.99 fee, which is not paid to us. It is through the service that provides the payment.

Senator Harris:

I know for a lot of homes, you can buy a home warranty and they will charge you, let us say, a \$75 service fee. Let us say I am a tenant, and my air conditioner breaks down on a day like today. Under the law, landlords are required to maintain things like air conditioning, especially here for obvious reasons. Are any of the landlords who you represent pushing that \$75 fee to repair essential services onto the tenants?

Ms. Africk:

We do not, but I know there are some who do. Our state-approved contract says that any minor repair under x amount—we set it at \$100—is paid by the tenant. That does not mean that the first \$100 of the repair is the tenant's responsibility, and I explain that to all my owners. If an air conditioner goes out, that is not the tenant's expense unless the tenant caused it. Let us say the tenant never changed filters—and we do send reminders out—and the unit froze up because of their negligence. Then, yes, they are going to be charged a service fee because they did not do their part to keep the air conditioner running. That is very rare; it does not happen often, but sometimes it does. If garbage disposal gets clogged because of what the tenant put down, we are going to troubleshoot with them and show them how to fix the issue.

Now, our contract has changed and there is a spot that says you can charge them the home warranty. You check what you want to charge them. Yes, there are some owners who are going to charge the deductible of the home warranty. We do not do it. We take the part of the contract that says minor repairs. An example of a minor repair would be if the garbage disposal is clogged or the flapper in the toilet needs to be replaced. It does not require a plumber; it is a \$2 part that you can get at ACE Hardware. We will always try to troubleshoot. In the ten years I have been doing management, I have charged a repair to a tenant maybe ten times. It is very rare. Most of the time the owners are going to pay for those repairs.

Senator Harris:

Is any distinction made between essential services like air conditioning and those that are not statutorily the landlord's responsibility?

Ms. Africk:

Since I do not do it, I cannot tell you how other property managers do it. I just do not charge any repair that is over \$100. If it is not minor, I do not charge it to my tenant. You do not want a home warranty in the summer with air conditioners; you will be a week without an air conditioner. I cannot tell you what other property managers do, but if it is an air conditioner, we are paying for it, period.

Senator Harris:

Even if it is under \$100?

Ms. Africk:

Even if it is under \$100, because it is an essential item. I do not know that the law says you must do that, but we do that because it is an essential service. If a front door lock breaks, we are going to pay for that because it is an essential item. There are certain things we do. I cannot tell you with 100 percent certainty, though I am sure you know if the law states whether you cannot charge the deductible; the Legislature would have to be clear on that.

Vice Chair Nguyen:

I do not know if you had the opportunity to review or participate or listen to the presentations last month by the Las Vegas Justice Court. They had proposed a program that they would like to implement like an eviction court or an early intervention court. Do you have any opinions about that court, how that might work, and how you might be able to work with them?

Mr. Finseth:

With your indulgence, I will turn it over to Ms. Reese or Ms. Banks, who have been working directly with the courts on that program.

Jenny Reese, Vice President, Carrara Nevada:

The Nevada Realtors have supported that program, have been part of the process, and are engaged in the meetings on a regular basis. We sent a letter of support to help Judge Saragossa get the grant program. We will continue to participate and hopefully that is something that we can bring statewide.

Vice Chair Nguyen:

I appreciate that, especially considering the fact we are talking about how beneficial the CHAP program has been for Nevadans. I have concerns that those funds might run out sooner rather than later. Do you have any other suggestions for programs and replacements?

Ms. Reese:

I do not, but the Nevada Association of Realtors is meeting next week, and we can bring that up to them during their legislative committee meeting.

Assemblywoman Summers-Armstrong:

I would like to give the folks in northern Nevada an opportunity to ask any questions.

Assemblyman O'Neill:

Is the CHAP program only available in Clark County?

Ms. Africk:

I have no idea. Unfortunately, I do not do property management in Reno or in northern Nevada, only in southern Nevada.

Mr. Finseth:

The CHAP program is being used extensively in southern Nevada. I am happy to get back to you on whether that is a statewide application.

Tiffany Banks, Chief Legal Counsel, Nevada Association of Realtors:

It is also available in the north through the Reno Housing Authority. Yes, it is available statewide.

Assemblyman O'Neill:

Do the rural counties of Carson, Douglas, Humboldt, et cetera, have access to it as well?

Ms. Banks:

We will check to see who runs the rural counties and get back to you.

Assemblyman O'Neill:

Is it fair to say that being a landlord is becoming so difficult and complicated that we are forcing mom-and-pops out? Do they have to sell their rental properties off to large corporations? Are we seeing growth in large corporations and the loss of mom-and-pops?

Mr. Finseth:

I can only offer you anecdotes, but I think Ms. Africk can give you real examples of what she is seeing in the marketplace down here.

Ms. Africk:

No, we are not seeing an exodus of landlords. Not yet. When the late payments were capped at 5 percent, we did not really see much pushback. You may have seen a few landlords say, "Well, we want rent sooner," but not with us. If you use us for property managers, we give five days to pay rent. So no, we are not starting to see an exodus.

We did see a huge increase of corporations coming in because they bought up our market for the most part. That also happened in 2008, and we noticed that when we had more large corporations owning properties, we saw rents go down slightly because they were all competing. At that point, they were selling rents on the secondary market like they were selling the mortgages. I cannot remember what year it was, but we did see rents go down slightly when hedge funds were buying.

Right now, we are not seeing an exodus of mom-and-pop owners unless they want to capitalize on their equity. Keep in mind that when you hear from all these tenants, I would venture to say that a portion of those tenants are being kicked out because people are trying to sell their houses. Getting a tenant to move on a 30-day notice is also a difficult process. We walk a fine line because if we go too far one way or the other, you will start to see sellers exit the market, which is going to reduce the available inventory for rent.

Assemblyman O'Neill:

In my district, Carson City, I have had several mom-and-pop owners in my neighborhood tell me they must get out of the business. They complain to me that we are making it too

onerous to be a landlord. I am glad to hear that is not the case, that it may just be a localized issue. For the landlord, the owner of the property, if the tenant is unable to pay or refuses, what is their recourse? Can they go to another program and get that money directly or do they have to keep working with the tenant so they can pay their bills?

Ms. Africk:

There was a small amount of money, but I am not sure where it is at right now. Most of these landlords did not apply because I believe the rules were strict; none of my landlords applied. During the pandemic, most of them were able to put their mortgages on hold. For instance, with the tenant I told you who did not pay for 15 months, we were fortunate enough that the landlord was able to put that mortgage on hold. That is obviously not an option anymore, and I think we must be careful because the last two years were unique. We all went through an event that we have never seen in our lifetime, and we are still going to see ramifications or the fallout from that for some time in the housing market.

Nobody knew that this housing market was going to do what it did, and it did not just do it on resale, it did it on rents. Again, we walk a fine line because if we place the tenant in 2020 at the rental rates then and rents have gone up 25 percent year over year, I explain to my owners that they placed the tenant who could afford \$1,000 a month—they did not place the tenant who can afford \$1,250 a month. Their pay did not go up 25 percent just because the rents went up. Now, if we have a vacant home, then we are going to do our best to maximize the amount of profit to our owner; that is our job. So, if I have a vacant condo that I can get \$1,500 a month where I was getting \$1,200, then that is what I am going to do.

On a side note, in just the last month we have caught three tenants who we are keeping at lower rents sublease the property at a higher rent. They are moving out, moving in with someone else, getting another property, taking our property, raising it to \$1,800 from \$1,200, and pocketing that money while we have no idea what is going on. We are starting to see that pattern form a little bit. I do not know if it is going to be a big issue or not, but that is another issue that landlords are having to deal with. The one eviction we had that I told you was that situation; we did not evict our original tenant, but we had to evict the person that she put into the property who never paid any rent.

Assemblyman O'Neill:

That had to be a complicated mess for you.

Assemblywoman Summers-Armstrong:

You said you have three tenants that you had to evict for illegally subletting. That is out of how many units that you all rent?

Ms. Africk:

We only evicted one. One we caught because she was advertising and somebody happened to call us and say, "Does she have the right to do this?" We avoided that one. And with the last one, I worked with the person they placed. What happened to the tenant was a very unfortunate situation and I worked with the tenant to get their money back from the prior tenant, who took about \$6,000 from them. We were able to get that money back and we placed the new tenant even without running a credit check or anything. I said that at this point, the tenant is in, so we are not going to kick them out, but instead give them an opportunity to start paying the rent. I manage about 400 properties.

Assemblywoman Summers-Armstrong:

My math is not great, but that is about 1 percent, correct?

Ms. Africk:

Correct. It is new. We have not experienced in the past. I am not saying it is going to be a big problem, but when you have never experienced this in the past and you are starting to experience it, it could be a sign of a possible problem. Also, with those 400 numbers, remember, I have only evicted one tenant since 2020—one. That is incredible considering how many people owed large amounts. We had several tenants move out owing \$7,000 or \$8,000. A lot of owners got stuck when there was a moratorium. I agreed with the moratorium; I am not saying it was a bad thing, but when that moratorium went into effect, there was very little protection for landlords when tenants suddenly moved with these huge balances.

Assemblywoman Summers-Armstrong:

You said that your clients will raise the rent. Do they do that on a yearly basis, at the beginning or the at the end of the existing lease agreement?

Ms. Africk:

I contact the owner 90 days in advance of the expiration of a lease. I pull the comps and tell them their tenant has been great and has paid on time, and I ask them if they want to renew their lease. That is my first question. If they want to renew the lease, my second question is whether they want to raise the rent. I share the comps and make a suggestion.

It has been a nightmare. It has been terrible. This job has not been fun lately. It has been emotionally challenging when you know that rents have gone up and you have somebody renting for \$1,500 while the comps are at \$2,200. I will not do it. I will not raise someone's rent that much. I will quit and let the owner do it themselves. Most of our owners will agree to, let us say, \$200, but rents are going up. I do not know the right answer, to be honest with you. It is a very tough position for us to be in.

Assemblywoman Summers-Armstrong:

I am moved by your commitment to be honorable and to have standards, but we have been hearing some horrific stories for months now. The numbers that we hear about evictions and people receiving these notices and what the court is telling us is, it is just not synching. It appears that you may be the good guys, but we have many other situations where we are hearing the opposite every day.

I spent hours on the phone this week with a constituent in absolute tears. I talked to a senior citizen yesterday who absolutely chewed my behind about an \$85 increase; she is on a fixed income making \$900 a month on Social Security, and if her rent goes up \$85, that is almost 10 percent. We must also choose to see that what the market will bear may not be what the market should be bearing. There was a story in the *Nevada Current* today talking about people who work in this state and what they make, and it does not add up. People's income is not going up 30 and 40 percent. We have a significant disconnect and we must deal with it.

Ms. Africk:

I completely agree with you on seniors. It is a real issue. When I have any client who wants to buy in an age-restricted area, I tell them, "You do not have the flexibility to raise rents on seniors." I have one senior who has been with me for many years, and I am fond of her. I like her. I can keep my owner down to \$25 or \$30 rent increases just to keep up, but I would push back a little bit on your statement because I do not think I am the exception. I think the bad landlords you are hearing from are the exception, and there are always two sides to a story.

If you talk to one of my tenants I have evicted, I am the worst person in the world—I did not work with them; I did not do anything for them. We had one guy take three months of CHAP funds totaling \$8,000 and bailed. He never paid the owner from the CHAP funds, but I am the bad guy. I think it is very important when you hear from constituents to know that there is another side of that story. They may be 100 percent correct. You may have a terrible person evicting them, but more than likely, this person has been trying to get rent for months. Landlords are not charities. They cannot let people live in their houses for free for months on end and still have all the legal obligations of an owner. Where is that fine line? Is it helping seniors get money somehow to help pay their rent? I do not know.

Mr. Finseth:

Ms. Africk is one of our members, but she represents 400 doors. We could have rolled out thousands of property managers today with very similar stories in total managing thousands of doors in this valley. We did not, but we can if that is what the Committee desires. We were focused on the interest of time and on the interest of the topic at hand, but I assure you, Ms. Africk is not the exception within our membership.

Senator Harris:

Out of all the owners you represent, have any of them had to lose their home because of failure of their tenants to pay rent in the last two years?

Ms. Africk:

No, because there was a mortgage moratorium. Owners were able to put their mortgages on hold during the pandemic. Many of them sold after the pandemic was over, but even that presented its own unique challenges. On a 30-day notice to terminate at the end of a month-to-month lease, it is taking months. There is no more terminating a month-to-month lease. It is very difficult.

Assemblyman O'Neill:

If I understand it correctly, AB 486 requires a landlord to file the eviction or do the eviction notice before they can access those emergency funds. Is that correct?

Ms. Banks:

Yes, that is correct. Originally, as part of the program, the tenants could apply directly, but a lot of tenants were ignoring the process, so AB 486 provided an avenue for the landlord to apply directly, but they had to give substantial notice for the tenant to then not apply for them to even have an opportunity to apply directly. It was like a layered noticing process, so the landlord could not just apply, but yes, eviction, all of that, had to have already been served.

Assemblyman O'Neill:

Can you describe what you mean by substantial notice? Is it that I contacted him six times in six minutes, or six times in six hours? What is considered substantial?

Ms. Banks:

Originally the tenant could apply, but if the tenant was either denied or not responding to requests, the landlord could not just apply and get the funds, they had to be sure that the tenant went through all these steps. That set the landlord back a substantial amount of time because the tenant was not responding, but the landlord still had to wait for that process of them trying to get approved through CHAP, and then the landlord could apply themselves.

Assemblywoman Summers-Armstrong:

It is my understanding that the CHAP money goes to the landlord unless the landlord refuses those dollars. Can someone clarify that for me please?

Ms. Africk:

What happens is that CHAP will contact us. We have a landlord portal. We have some landlords who will not participate, but they are very few, because once you apply for CHAP, you cannot take any notice against the tenant for 60 days. We have seen some of the same tenants apply for CHAP repeatedly. Let us say the landlord went three months without rent. They finally get the CHAP funds. The next month they do not get rent, and the process starts all over again.

If the landlord does not participate, the money goes directly to the tenant—I mentioned earlier about the tenant who took the \$7,000 or \$8,000 and left. The tenant is obligated to pay it to the owner, but usually, they do not. I should not say usually, but in my experience, it has not worked out. The tenant will take the money and then leave and use the money for a new house or whatever they are going to do. The reason my owner did not participate is that they were trying to sell the house. We had a 30-day notice at the beginning of December, the tenant stopped paying rent, applied for CHAP, got the money in February, and left.

Assemblywoman Summers-Armstrong:

Thank you for that clarification. We will now move on to [Agenda Item VIII](#).

AGENDA ITEM VIII—PRESENTATION BY THE NEVADA STATE APARTMENT ASSOCIATION ON SUMMARY EVICTION

Susy Vasquez, Executive Director, Nevada State Apartment Association, Inc. (NVSAA):

The Nevada State Apartment Association represents 67 percent of all multifamily property owners and managers in the state of Nevada. We ensure that best practices are followed on our member properties as well as ensuring we provide them with proper education, legal counsel, and guidance when needed and advocate on behalf of our industry.

Today we are going to present to you a housing stability program ([Agenda Item VIII](#)). The pandemic has clearly demonstrated that housing stability is in the interest of Nevadans,

residents, property managers, and owners alike. A strong model for improving both residents' stability and rent collections is well worth further consideration.

There are three barriers to housing that come to mind:

1. Landlords and tenants alike have limited knowledge of available resources and how or where to access these resources;
2. Legal aid resources are limited in their reach to residents. They have done a phenomenal job, but they can only do so much; and
3. Residents' participation and engagement are challenging in order to effectively assist those in need of resources as the pandemic has proven.

Before we go into some proposed solutions, I want to mention that we have been working with Chief Judge Saragossa as part of her Eviction Diversion Program, and these are some of the creative solutions that have been put forward. First is a simplified eviction notice. One thing that we experienced during the pandemic was that a one-page notice turned into an eight-page notice, and it did not necessarily encourage any more communication between the landlord and the tenant.

Proposed solution number two is modeled after the WinnResidential Housing Stability Program. WinnResidential manages 100,000 units in 22 states plus Washington D.C., and 50,000 of those units are affordable units. They have implemented this program across their portfolio. It focuses on systematized and accountable resident education at move-in and at lease renewal or recertification. If it is a tax credit program, they go through a recertification process versus just a lease renewal process. Regarding proactive communications, each household is informed and engaged in their rights, responsibilities, and resources available regardless of circumstances throughout their tenancy. The housing stability notice will include household rent obligation, rent due date, rent schedule, their fee schedule, the recertification process, an overview of the collections process, the legal eviction process and timeline, as well as a list of the resources with their contact information.

We are also looking to develop a waiver that would enable landlords to initiate needed resources on behalf of residents in order to retain housing. As we have been for quite some time now, we would like to assist residents with technology or other resources needed to obtain the required documentation and be able to help them complete the process of receiving those resources.

The final proposed solution would be to partner with Legal Aid, housing authorities, Clark County Social Services, and other agencies to provide free financial literacy videos for our residents in the community.

The rental housing industry believes that evictions are a reality that can often be mitigated with partnerships and cooperation among all parties.

***Mackenzie Warren Kay, Vice President and Attorney, McDonald Carano
Government Affairs and Advocacy Group :***

Vice Chair Nguyen, you asked the question of the other presenters of how we proactively engage with tenants if we foresee an issue. To expand on the concept that Susy just touched on about a waiver, one of the biggest barriers for landlords is confidentiality. Even

if I knew a tenant was a veteran, and they suddenly fell behind, I could not give their information to a veterans' nonprofit or Social Services without their permission. Through the onboarding process, when that relationship starts between landlord and resident, we can educate them to say, "We have this waiver, and should you sign it, you are giving us the permission and ability to connect you with the resources that most fit your need."

One of the biggest struggles is getting into contact with a resident—maybe they do not have access to an email or their cell phone has changed. Social Services has shared a striking statistic with us—it takes six attempts before they can get through to a tenant and get the information they need to hopefully get them linked in with programs to avoid an eviction altogether, or on the back end after the eviction has already occurred and they are trying to find rapid rehousing for that person. A great lesson that came out of the pandemic was that we should do as much work as we can on the front end citing to those payment arrangements that when we were able to engage and work something out, then we could avoid the eviction altogether.

Assemblywoman Summers-Armstrong:

I have a couple questions and then I would like to go to the folks on the dais.

You mentioned the Winn program, which I believe is based out of Massachusetts, and you say it is a good model. Would you also be interested in the diversion court mentioned earlier and in adopting some of the other rules that are in that program? One example would be a 14-day notice period where the landlord files a complaint with the court and the tenant has time to answer.

Ms. Warren Kay:

We are suggesting that as part of the construct in putting together the Eviction Diversion Program. We have discussed this idea with Chief Judge Saragossa along with Legal Aid and others. We had a meeting yesterday and we have another one next week, so we are hoping to launch that as soon as later this month. I think it gives us a great opportunity to run with some of these concepts in a piloted model before we understand what makes sense to adopt in NRS. I would say we are engaged, we are at the table, and depending on what that policy would look like, we want to help improve the relationship.

Another broad concept we have discovered is some of the "legalese" and the language barriers. I am an attorney but, I need ten more degrees to navigate some of these notices and concepts. One of the suggestions we have made through this Eviction Diversion Program is finding a way to use plain language so that at the very start of that landlord-resident relationship, we can explain it to our residents in plain terms. "Unlawful detainer"—what does that mean? We want to make it simple and less adversarial from the very start of that relationship. We hope it does not happen, but if our tenants find themselves unable to pay, the door is open for them to come talk to us and we have done our job at the front end of that relationship by explaining it in real-life terms.

Assemblywoman Summers-Armstrong:

I heard that suggestion about having a waiver at the beginning of the relationship and having clearer instructions when Judge Saragossa was here, and we will get back to that.

Regarding recertification and looking at people's income, if I am not mistaken, that mostly applies to people who are on subsidized housing. According to an article that I saw today in

the *Nevada Current*, and we have talked about it ad nauseum, people's incomes have not increased. If we come to the end of a lease and it is \$1,200 today, but the market says you should be able to get \$1,800 or \$2,000 a month, where do we go with that? How do we deal with recertifying people who are not on subsidized housing, who are working regular jobs in the fields that have built this community in this state, which is gaming and entertainment? How do we deal with the people not being able to afford what you all want to charge?

Ms. Warren Kay:

The NVSAA was one of the initial members of the Nevada Housing Coalition, which is tackling the topic of rent prices, specifically looking to those in the Low-Income Housing Tax Credit (LIHTC) program, Section 8 holders, or fixed-income seniors. There is a northern and southern Nevada meeting later this month where we expect more ideas and policies to emerge because it is a problem. Given where Ms. Vazquez and I sit today, I do not know that we would be able to answer that question.

Assemblywoman Summers-Armstrong:

Thank you for that honesty, but I do not think we can have a full conversation if we do not talk about how rents are increasing. If we have a person who is making \$25,000 a year at a hotel as a solid citizen with a kid or two, all we are talking about is the process of how to evict them; we have not talked about the process of how to rehouse them. Where will they go if rates everywhere are out of control? I will get off my soapbox on that.

I am in Assembly District 6, and we have had the highest rate of unemployment in this state for the entire 23 years I have lived there. The average is 15 percent, and during COVID-19, it is estimated it might have been 30 percent; some of those folks are not finding new income or new jobs. The only thing they are facing is eviction, and the ability for them to find rehousing is to go to a daily or weekly motel. That is not housing; that is step one towards homelessness, and I think we must have a full conversation.

Ms. Warren Kay:

Ms. Vasquez and I spent an afternoon at Clark County Social Services meeting with an amazing, impressive group of mostly women who are fielding these calls from folks who are staring at that eviction notice, and we wanted to hear what the hurdles and barriers are directly from the boots on the ground. We are meeting with various policymakers and looking at everything from childcare to what else is keeping folks from getting back to work. The underemployment issue is huge.

We are attacking this from a community standpoint. In no way are we making light of the crisis, which is why our presentation today focused on preventative strategies. How can we prevent the eviction from even occurring by connecting them with the wraparound services available to stop it dead in its tracks? Whether that means revising the way the notice works or implementing some mandatory education at the front end, we are committed to doing that because from what we have learned, if you attack it from the front, it is a lot better than letting the eviction go through and having to deal with it on the back end.

Assemblywoman Summers-Armstrong:

Does anyone on the dais have any questions?

Chair Scheible:

I have a couple of questions, but in the interest of time, I am just going to focus on one of them. This goes back to the waivers. Is the waiver purely like waiving a privacy right to allow the landlord or the property manager to communicate with outside agencies on behalf of the tenant? Is that what it is?

Ms. Warren Kay:

In a nutshell, yes, and it would be optional, but it would be the landlord's job, and we are motivated to do so, to say that we have implemented this because if a tenant or resident gets in trouble later down the road and we do not have an ability to connect them with Social Services, then this is an opportunity to allow that communication to occur.

Chair Scheible:

I am baffled how landlords' hands would be tied, preventing them from communicating with a nonprofit or government or civil organization anyway. Can you please explain that to me?

Ms. Vasquez:

Throughout the pandemic and interacting with the CHAP program, it is challenging for us to be able to assist our residents throughout the process. With the waiver, we would like the opportunity to release enough information for any service to be able to initiate the process with a resident. It is being more proactive in ensuring that the tenant does have access to those resources or at least getting the ball rolling.

Chair Scheible:

What information were you not allowed to share?

Ms. Vasquez:

The CHAP program would not be allowed to share with us whether a tenant had applied, for instance, or the status of their application, which we still would not be able to capture with the waiver. The waiver is a mechanism that we found was needed when talking to the CHAP program as we move forward. It is a barrier that is there for the landlord to be able to refer or initiate the process.

Ms. Warren Kay:

To elaborate, the concept, which is still in its working form, is that there would be a hotline established, and if the hotline is the route we go, then that may supplant the waiver concept. It depends on what we include on the waiver form—for example, certain status information about which social services may apply to that person. It is something we have raised with Justice Saragossa and with Legal Aid. Through our experience with CHAP and the varying U.S. Treasury guidelines, we have a bit of post-traumatic stress disorder (PTSD) over what we can and cannot do. The form is in its infancy. Depending on what would be included, it may run afoul of confidentiality, which is why we need the waiver. However, there has been this idea of a hotline that could be set up specifically for the use of both landlords and tenants, but through our experience, we assume that landlords would be the one on that hotline, and then we would not have the need for the form. I hope that helps.

Vice Chair Nguyen:

As part of the Apartment Association, do you have any kind of coordinated logging of tenants who have been at different properties?

Ms. Vasquez:

We unfortunately do not. We merely provide best practices and education opportunities for our members. We do not dig into the day-to-day.

Vice Chair Nguyen:

The only thing that you potentially do as part of a background check is look at people's eviction histories. Do you do that type of background check?

Ms. Vasquez:

We do not provide that for our members; they each utilize their own programs.

Vice Chair Nguyen:

Okay. There are no coordinated programs but each individual property owner, I guess, could have any one of these things. Is that correct?

Ms. Vasquez:

They could contract with their screening services. Yes.

Ms. Warren Kay:

Each property takes a different approach. Some may choose to look at evictions while others have different pressure points, but I would note that [AB 141](#) (2021) sealed evictions during the COVID-19 emergency so those evictions are not available to those landlords should they opt to do that eviction screening.

Vice Chair Nguyen:

To your knowledge, do any of these individual companies have their own internal process for maintaining a record of those who did not pay during the Covid pandemic? Maybe it was sealed as part of a court record, but they have those internal records?

Ms. Vasquez:

The screening company is utilized to have a third party facilitate access to the credit screening, any eviction screening, and criminal screening. They also are typically tasked with verifying income and several items that a landlord can request from the screening company. The screening company then provides a score for that individual to determine whether they would qualify for the apartment.

Vice Chair Nguyen:

Presealing or without sealing, if someone has an eviction, what kind of record does that go on? How do you search for that record?

Ms. Vasquez:

Public record.

Vice Chair Nguyen:

Is that separate from a ding that would happen on their credit score for not paying rent?

Ms. Vasquez:

The credit screening report is pulled separately from the public record.

Vice Chair Nguyen:

Even if we sealed Covid eviction records, that nonpayment would still show up on their credit score. Is that correct?

Ms. Vasquez:

Yes, more than likely.

Assemblywoman Summers-Armstrong:

Are there any more questions from members?

Assemblyman O'Neill:

Do you have any numbers on the actual number of evictions or lockouts by constables that have occurred over this year compared to last year or any comparison? You have any of those numbers of the actual evictions?

Ms. Warren Kay:

I know the Las Vegas Justice Court keeps those records. I would not say there is one centralized place to get those numbers, but the courts have been able to provide those.

Assemblywoman Summers-Armstrong:

We are trying to pull that data. I believe it was provided last month by Judge Saragossa and we are going to see if we can find it to refer to it a little bit later.

I do have one other question. You suggest having the fee schedule in the housing stability notice so your tenants know what it is. Do you also think it is a good idea to have these fees conspicuously posted when advertising for your units? Do you think that things would change if people knew that there were additional fees? It may look like the rent is \$1,100, but with the other fees it might be more.

Ms. Warren Kay:

The fee discussion is something we are always willing to have. Today, we came here to speak about summary eviction, our participation in the Eviction Diversion Program, and our close work with Clark County. One positive thing to report that came out of yesterday's meeting was the stark reality of CHAP coming to an end and a renewed focus on a fixed-income CHAP program, which I think is the critical next step. As far as fees and how

we disclose them to our tenants and potential tenants, that is a conversation we are willing to have, but we would not be able to provide a sophisticated answer for today's hearing.

Assemblywoman Summers-Armstrong:

We will now move on to [Agenda Item IX](#), a presentation from the Children's Advocacy Alliance.

AGENDA ITEM IX—PRESENTATION BY CHILDREN'S ADVOCACY ALLIANCE ON ISSUES RELATED TO THE EFFECTS OF EVICTIONS ON CHILDREN

Tiffany Tyler-Garner, Ph.D., Executive Director, Children's Advocacy Alliance (CAA):

We are appreciative of your leadership and commitment to holistic approaches to these complex social issues. The CAA is a 23-year-old statewide, independent, nonpartisan child policy advocacy organization. Over the course of the year, we publish several reports to contextualize the state of children and families in the state in hopes that we might arm you with information to make great decisions that move things forward for children in four key areas: (1) education; (2) economic well-being; (3) child welfare; and (4) health.

We want to always underscore that because children are our future, it is a worthy investment, including investing the time to understand more about this issue today. We thought that you would benefit from having some national context around what is happening with this issue, so we have invited a colleague to join us today, Erin Patterson, Director of Education Initiatives with Schoolhouse Connection, where they have published several reports about the impact of housing instability on children.

Erin Patterson, Director of Education Initiatives, Schoolhouse Connection:

By way of introduction, Schoolhouse Connection is a national nonprofit advocacy organization. We are committed to overcoming homelessness through education. This is a recognition that the more education a person can attain, the less likely they are to experience homelessness, but it is also a recognition of the outsized role that learning programs and school districts play in identifying and supporting children experiencing homelessness and their families.

As Dr. Tyler-Garner mentioned, to provide some national context, across the United States, there are approximately 1.3 million babies, toddlers, and young children under six years of age who are experiencing homelessness. That is from School Year (SY) 2018–2019, which is the most recent data available, and as you can imagine, the pandemic has unfortunately exacerbated those circumstances. You will hear more in just a moment on Nevada's population of children experiencing homelessness.

I would also like to briefly paint a picture for you of the challenges that families with young children experience when facing eviction. They are often forced to make impossible decisions about how to spend their limited financial resources. Those who have lost their job need childcare in order to actively pursue other job or training opportunities, but in many cases, even the childcare subsidy is not enough to cover the full cost of care and the difference in cost is too much for them to pay out of pocket. If they do choose to pay for childcare, it often means they are forced to neglect other life expenses, sometimes including housing, which pushes them and their young children into eviction and homelessness.

Once evicted, families are forced to move wherever they can to find shelter, and if their children were enrolled in a childcare or early childhood program, they might be forced to stop attending because the distance from their new dwelling to the program is too far and they have limited transportation options and experience other barriers. At this point, homelessness becomes a multigenerational problem.

Importantly, once evicted, most families with young children who become homeless will experience what we call “hidden homelessness” and therefore will be shut out of other systems and services. In fact, more than 80 percent of children and youth identified as homeless by public schools are staying with other people temporarily, what we call “doubled up,” or staying in motels. These hidden homeless situations are traumatic, and they put children at risk of harm, but they are not recognized as homeless by housing and homeless assistance programs. The result is that most families who are evicted and displaced will not be eligible for or prioritized for housing and homelessness assistance.

Dr. Tyler-Garner:

I am joined by Annette Dawson Owens, School Readiness Policy Director, CAA, and DaShun Jackson, Director of Children’s Safety and Welfare Policy, CAA. If we leave you with nothing else today, we hope that you embrace this—summary eviction is a fast track to homelessness for many of our families and the latent effects of this pandemic are only exacerbated by the housing instability that ensues when we go through that process ([Agenda Item IX](#)). I will underscore here that housing impacts literally every domain of our lives as well as every system in our community. We will talk about that a little more later.

To contextualize that, I want to begin by covering a few key facts from some publications that we issue throughout the year. A critical one was a national survey by Kids Count performed by Annie E. Casey where we looked at what they call the “pain points” for children and families during this pandemic. Unfortunately, I need to share with you that in Nevada, nearly one in four families reported being uncertain about the ability to meet their basic needs, particularly housing. Beyond that, in that same survey, 26 percent of Nevada families reported feelings of hopelessness and despair. All these households surveyed were households with children.

I think it is also important to note as a part of this discussion that the impact of these issues is not only widespread but disproportionate, and there are segments of our community that are experiencing this despair and homelessness at rates even greater than the national average and even greater than some of the households or counterparts in our community.

I also want to note that as a part of this discussion, while we have been on a trajectory to see progress for children and families, that is shifting. To highlight ways in which it is shifting, in one survey during the first period that these families were surveyed, the number of those reporting concerns about being able to make their basic needs or expenses was nearly 50 percent, but in the last quarter of last year, that number dropped to 38 percent. During that same period, those families were likely benefiting from the Extended Child Tax Credit where they received an additional benefit based on the number of children they had that allowed them to meet their basic needs. Unfortunately, we know that that supplement has ended. While we had gotten to a place where we had shifted from nearly 50 percent of all children and families being concerned about meeting those basic needs to over a one-third, it is likely much worse because some of the supports that we were leveraging federally to pull folks out of poverty are now exacerbated because that assistance has ended.

I also want to note as a part of this discussion about how we can make progress and do something that would impact this issue in ways that improve things for children—there is a possibility. If we look at our previous data book for the period prior to the pandemic and during the early pandemic, we had made some progress. As it relates to children in households where they have high housing cost burden, which is defined as households paying more than 30 percent of their income towards housing, in the case of Nevada, it was 47 percent. As we went into the pandemic, it was one-third. Even recent reports happening this week suggest to us that this has significantly shifted for our families; this past May, we saw our highest inflation rate since 1981. In southern Nevada alone, there was a 26 percent increase in housing costs for children and families here in this community.

As I talk about of these key stats from some of these publications and as we think about where we are with our progress in the case of our children's economic well-being, which includes a component on housing defined as paying 30 percent or less of your income on housing, even as we went into the pandemic, we were at a D in that area for our children and families.

I will also note as a part of this discussion a few things I think are important. Median home prices are up by 26.7 percent since March of last year. That is over a one-quarter increase at a time when the wages are not growing at that pace. The typical rental rate is \$1,805. The amount needed to be able to afford a two-bedroom rental in our community is \$45,000, just for the apartment. The Brookings Institute issued a report just this week that indicated of the ten most common jobs in our economy, in southern Nevada, seven out of ten would not afford someone a studio apartment and six out of ten in Reno would not afford someone a studio apartment in this community.

As we talk about how we can fast-track eviction, I hope that we will consider the ways in which we are impacting children and families in our community. Another similar report noted that 33 percent of middle-income families cannot afford housing in our community, and 93 percent of low-income families are cost-burdened as well. This is troubling. When you ask us what we know about the state of housing and its impact on children, we will say to you that it is dire and, in that context, to look for ways to expedite folks into homelessness is challenging.

We have the potential to move the needle here. I will turn it over to my colleague at Schoolhouse Connections to reinforce what she said about whether there is a place for families, because oftentimes in this discussion, it is assumed that they will go somewhere, or someone will help them. The research and findings suggest that that is not the case, that this pushing into homelessness does not result in some other safety net catching families.

Ms. Patterson:

To underscore this point, and I hope that it is driven home for you, homelessness is more than a housing problem. It has a negative impact on child development, and families experiencing homelessness face multiple barriers to accessing early childhood programs that can, in turn, provide comprehensive support, not just to the child but to the whole family. I would like to discuss some more studies that show the impact of eviction on child development, particularly how it causes trauma for young children.

First, you will see that evictions can cause irreparable damage to children including cognitive, mental, and physical health challenges and poor academic performance, which really underscores the point that this is more than a housing problem. This has a

multigenerational impact and can impact children and their families throughout the course of their educational career as well as their eventual livelihood.

To drive home the point, a Health Affairs policy brief in 2021 noted considerable studies linking eviction to negative birth outcomes, increased child hospitalization, and increased rates of food insecurity among young children.

I will turn it back over to Dr. Tyler-Garner.

Dr. Tyler-Garner:

I want to note two additional considerations. While I recognize the economic impact of this issue, I also want to highlight the inherent latent effects of this practice and the implications for some of our systems. When you hear something like “impacting cognitive, mental, and physical health,” I hope you hear, “impacting our health system, impacting our mental health system, and driving or increasing costs.” When you hear something like “physical assault or accidental injury,” hear “public safety.” As we think about the cost-benefit analysis of these short-term strategies or approaches, I hope we are accounting for the costs on the back end.

You see “poor academic performance” hear “education system.” Someone needs to address the learning gaps or lags that naturally result from the process. This happens as early as preschool, so before we even talk about the connection between third grade reading levels and incarceration, our children are distracted and disconnected because we are not thinking through it comprehensively or as an ecosystem where each of these things are interdependent.

If you believe there are certain children who are too young or that it is too early for them to really know what is going on, this finding suggests that the impact of this issue begins in the womb with poor maternal health and health care costs that today are untold for us because we are not connecting the dots as it relates to these practices and their impact on systems and communities. As you consider the possibilities, hear it from a couple of places. As I think about this practice, what is the ability to create savings because I am looking at prevention and some other interventions that take into consideration the long-term effects of these decisions.

I am going to turn it over now to our school readiness policy director who wants to emphasize some more of those educational considerations for us.

Annette Dawson Owens, School Readiness Policy Director, CAA:

I am grateful for some of those data points that our intern, Rebecca Espinoza, also shared to talk about how one in four families is struggling to keep up on their rent and 93 percent of extremely low-income families are cost-burdened in Nevada. As we look around, this is very real and right next to us. In Reno, 48.9 percent of shared income is needed for home ownership.

In Nevada, for SY 2018–2019, 1 in 13 children from birth to age six were experiencing homelessness, while 44 percent of young women aged 18 to 25 and 18 percent of young men in that same age range were homeless expectant parents in the United States. Children experiencing homelessness are not served well generally and educationally. In Nevada, 91 percent of children under age six experiencing homelessness were not served in early education; only 9 percent were served.

Access to early interventions and early learning experiences are crucial for setting up a child for success. We know that the single best predictor of a student's success is their kindergarten readiness. Prepandemic nationally, students experiencing homelessness graduated at a rate of 67.8 percent compared to 80 percent of economically disadvantaged and 85.5 percent of all high school students. These rates are expected to be much lower postpandemic as a result of such disruptions.

Homeless children commonly experience delays in language literacy and social-emotional development and begin Head Start behind their low-income peers in these developmental skills. After 20 months of staying in an emergency shelter, children scored worse in prereading skills and had higher behavior problems and early developmental delays. Homelessness in early childhood is correlated with poor classroom engagement and social skills in early elementary school. Students experiencing homelessness are more likely to experience child welfare involvement and early school failure.

As mentioned before, homelessness is often hidden. Once evicted, most families with young children who become homeless are often shut out of other services and systems, becoming hidden. More than 80 percent stay with other people temporarily or in motels, putting them at risk and making them ineligible or not prioritized for housing and homeless assistance. We must bring a humane course of action to this situation.

An individual recently testified at a committee meeting that they were taking a student home who was very angry and had been kicked out of school, after school, and then transferred to the final school. When she took the individual home, she found that they were living in a small apartment with seven to nine other individuals and the single mother at the time was having to choose between paying her rent, keeping the utilities on, or providing food. No wonder the student was angry. Basic needs were not being met. Food, shelter, clothing, emotional needs. There is a humane way to go about making sure our most vulnerable children and populations are not further harmed.

We heard from several individuals today at the beginning of our meeting who are college students, seniors, individuals with health issues, and those who had experienced homelessness. Concerns were expressed for those with intellectual disabilities as well as children and families in general across the spectrum.

I, myself, am a renter with two teens who are dependent on living in their home and having access to their CCSD schools. My landlord could apparently evict us with no cause and seven days' notice; they could have raised our rent beyond my financial capability. Luckily, they did not, but I know what that was like to experience and worry about that. We must go forward with better processes and in more humane ways, especially postpandemic. Again, one in five are struggling to keep up with their rent. Look around the room, it is concerning. The worry is about stable housing and there is much struggle.

I will now turn the presentation over to my esteemed colleague, DaShun Jackson.

DaShun Jackson, Policy Director, Children's Safety and Welfare, CAA:

Eviction is an issue that affects everyone, including homeless and struggling youth, our foster youth, and so many more. It is an issue that not only affects a young person's basic needs, but their physiological and self-fulfillment needs—everything from housing and food to safety and belonging. It is an epidemic that has been exacerbated by the COVID-19 pandemic and the continuous inflation costs of basic living.

Many youths transitioning from foster care and/or without parental or adult figure face homelessness, financial insecurities, and inadequate access to mental health services. If nothing is done and evictions continue, there will be dire consequences for many of Nevada's foster youth and youth without a parental or adult figure. A recent survey done by the John Burton Advocates for Youth found that over one in five, or more than 22 percent, of youth reported experiencing an episode of homelessness since the start of the pandemic.

I am not sure whether many of you have ever faced eviction, but it is a scary and traumatic event in the lives and in the eyes of young people. You have no idea where you are going to stay, you are bouncing from one place to another, unstable and without any form of security. You see the pain, anguish, and uncertainty in the eyes of your parents trying to do the best they can do. I was that child many times repeatedly and this was before the pandemic.

As someone who has experienced Nevada's foster care system and has siblings who have each faced their own challenges and battles within the foster care system and homelessness, I understand the important need to be proactive in the response against evictions and the impact that it will have on the lives of many of Nevada's children and families. In a survey conducted by Think of Us; the Fostering Youth Success Alliance; the Field Center for Children's Policy, Practice and Research; and Foster Advocates in Minnesota show similar trends. Nearly 50 percent of foster youth respondents reported housing instability and homelessness while more than 73.8 percent reported high financial insecurities with top needs being housing, bills, education, and care related to their needs and food.

I have the pleasure of leading the Nevada Youth Advisory Board, Nevada Life Leaders in Future Excellence, and Clark County's Foster and Adoptive Youth Together. These boards come together to meet to discuss all issues regarding child welfare. These are a group of extraordinary young people who are still in care who have decided that they want to make an impact in the system. These youth and these groups have voiced concerns regarding housing among other challenges. Marian Wright Edelman, founder and President Emerita of the Children's Defense Fund said, "Homeless shelters, child hunger, and child suffering have become normalized in the richest nation on earth. It is time to reset our moral compass and redefine how we measure success."

Dr. Tyler-Garner:

I will conclude with this—there are approaches and it is important to note that as some national thought partners consider what we might do to stabilize families, a number of those approaches have been underway during this pandemic period, but some have sunset. We have seen recent investments in affordable housing. We have expanded legal services to some capacity. We have strengthened the child tax credit, and at one point, we had lifted nearly 40 percent of children living in poverty out of poverty, but that has sunset. We can think about how we support youth transitioning from our foster care system. As a matter of fact, at the end of September the additional \$2000 supplement they have been receiving will sunset if you take no action at the IFC meeting on June 21, 2022. We also have been supporting the expansion of health care access as we grapple with this pandemic, but we need to ask ourselves what will be sustained—our poverty, our challenge, our children's plight, or some real strategies that bring us to a full recovery for everyone as a part of this process.

You have some resources at your fingertips. There have been recent investments in programs like the home visiting program here in Nevada as well as the community health

workers where there is an opportunity to have professionals go into homes and help families navigate the challenges that they are facing before they find themselves on a fast track to homelessness or eviction. Please invest in those programs. That is part of the work that can be done tangibly right now.

We also ask you to consider how we are going about some of the things we have recently supported. There has been a lot of discussion about equity in schools and specifically leveraging ARPA funding to ensure equity. As we do that, we can ask ourselves, “What does that mean for the children we know will be experiencing homelessness if they are fast tracked into it?”

We also ask you to consider the ways in which we might prioritize housing for children with families. We know that the impact is not only immediate for those families, but also directly affects our future, because that is who will lead, run, support, and hopefully drive our country while I am in retirement someday. We also ask you to consider how we might leverage the ARPA investments to include a real plan for our community as a whole in the future. How do we begin making sure that it was not just a one-time shot at change that ended when it did? We are appreciative of this holistic evaluation of the issue.

Assemblywoman Summers-Armstrong:

This is such an emotional issue, and it is critical that we discuss it at length in our community and in depth in a holistic manner. I am glad that you all were able to bring us another perspective on the effects of summary eviction in our community.

Are there any questions from Committee members? Seeing none, I am going to turn this hearing back over to our esteemed Chair. Thank you for the opportunity to lead this discussion.

Chair Scheible:

The Committee has agreed with me to ask any questions offline, since we are running short on time. You can expect some phone calls, emails, or people approaching you as you walk out of the room. I also wanted to make sure that we have sufficient time for public comment today.

AGENDA ITEM X—PUBLIC COMMENT

Chair Scheible:

I am going to open the floor for public comment in Las Vegas. Is there anybody wishing to give public comment?

Quentin Savvoir, Nevada Housing Justice Alliance:

We are the tenants’ rights coalition that ran [AB 161](#) (2021) last legislative session with an aim towards banning summary eviction. I appreciate the robust conversation and the work of this Committee by agreeing to have this conversation. We know summary eviction disproportionately impacts the communities that our coalition is working in—marginalized communities, black women, black families, and so on.

I will not regurgitate a lot of what I heard, but I listened to the last Committee hearing, and I was heartened by the comments from the Nevada State Apartment Association and the Nevada Association of Realtors. I agree that the summary eviction process is hard to

navigate. The forms are confusing, but education cannot be the solution for failed policy or an outdated process. This is a unique process to Nevada, and I did not hear anyone mention that today. We have conducted tons of research, and from what we have gathered as a coalition, we have not been able to find anywhere else in the country that does this process this way. Nevada is the only state in the United States with a summary eviction system in which the burden of initiating eviction court proceedings falls on the tenant, not the landlord. It is wholly unique from others by not requiring a summons complaint, lawsuit, or hearing to evict a person from the property. Now, while education might help mitigate that, folks should be guaranteed to get their day in court. We are the only place that does this, so you do not see widespread public education campaigns in other major cities where this is not happening because they must go through a formal process.

I appreciated all the conversation from the Apartment Association and the Realtors Group to try to figure out some level of compromise, but I feel like we are going to be beyond the point of compromise because of how bad this problem has become. Let us please keep in mind that this policy shows up differently than how it looks when it is in a BDR or when it is in NRS. Families are sleeping in their cars, and as Assemblywoman Summers-Armstrong said earlier, we cannot adequately talk about this issue without talking about the rising rents. All I can sit here and think about are the folks who work for Ms. Vasquez at the Apartment Association who are leasing agents; they probably cannot afford what it would cost to get an apartment or pay the rent in this climate. Having rising rent and the summary eviction process has us careening towards the housing crisis that we cannot have. I am heartened as well that we did not have a massive tsunami of evictions, but that is not to say that we are immune from it. Thank you for this work. I continue to look forward to working with you all. I am going to be talking to my community members and with our coalition.

Chair Scheible:

If there is anybody else in Las Vegas wishing to give public comment, now is your chance. I do not see anybody else, so we will move up to Carson City for people in person to give public comment.

Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada:

I am a member of the Nevada Housing Justice Alliance, and our coalition formed after the 2019 session to bring tenant voices directly to the Legislature and speak on exorbitant rent increases, the harmful effects of summary evictions, and the lack of tenant protections available in the state. This morning, we heard from some of those tenants, families, seniors, and college students, all whose lives were disrupted in ways that could have been prevented if we had acted last legislative session.

We know that our communities cannot thrive when our neighbors are constantly at risk of unfair displacement. Housing stability is the foundation for safety and security, children's educational success, positive health outcomes, economic opportunity, and equitable vibrant communities. Evictions and economic displacement impact us all by putting more economic burden on our communities through increased demands on social services, shelters, and hospitals by families who become homeless and other costs associated with the disruption caused by housing instability.

By contrast, stable homes promote educational opportunities for children and economic opportunities for families, allowing Nevadans to save for a house, pursue new employment options, and open new businesses. The stories you heard this morning were only a tiny

fraction of Nevada who are struggling. We cannot let these issues continue any further. We must put an end to summary evictions, a process unique to Nevada. We must increase tenant protections and ensure affordable housing without absurd rent increases. You can do those things with the BDRS before you and the community is expecting action this legislative session.

Lilith Baran, Policy Associate, American Civil Liberties Union (ACLU) of Nevada, Member, Nevada Housing Justice Alliance:

Today we heard from seniors, students, parents, farmers, and even a city council member about the harm summary evictions are causing Nevadan statewide. One man was even evicted while in the hospital. We did not have to hear those stories today. In 2021, the Legislature had the opportunity to end summary evictions, and we are seeing the devastating consequences of not doing so. The people getting evicted are often those on fixed income, with compromised health, and have no other options but to live unsheltered due to the plethora of other problematic practices that we are seeing from landlords like extreme price gouging, excessive application fees, harvesting of application fees, and source of income discrimination.

These challenges are often traumatic and can be deadly. We need to keep people in their homes now more than ever because we do not have the infrastructure to help them otherwise. It is wonderful to hear that there are some more responsible property owners. However, that is not typically what we are seeing in the north or in the south. Right now, in Reno we are the second highest rising rent in the country, and you must make over \$37,000 a year to afford a studio apartment. I would also like to add that I often work among the unsheltered community and while many are employed, none are landlords.

I also would be remiss if I did not address a conversation that took place in another presentation from law enforcement. I would like to briefly comment on the conversation and remind everyone that since its inception, policing has functioned as a racist institution to patrol and monitor enslaved black people. Much of this legacy can still be seen in the way our communities are stripped of resources and overpoliced and oversurveilled.

In addition to the overwhelming data that shows black people are profiled, prosecuted, and killed at a disproportionately higher rate than their white counterparts, in Nevada, black people are 1.8 times more likely to be killed by the police than white people, and that is a fact. In the wake of Breonna Taylor, George Floyd, Jorge Gomez, Aiyana Stanley-Jones, and many others, how can we still be sitting here debating whether race has anything to do with the types of interactions our communities have with the police? It is irresponsible to continue this debate once the numbers have shown you beyond the shadow of a doubt that racism is alive and well in policing.

Nick Shepack, State Deputy Director, Fines and Fees Justice Center:

I am going to take us back for a moment to the first presentation from Director Sherlock of POST. He mentioned a fear with AB 116 traffic tickets in his funding, and it was put on the record by the Vice Chair, but I think it bears repeating—all evidence shows that civil traffic tickets do not decrease the amount of revenue. Most states, all but 12 at this point, have this system. When Carson City stopped issuing warrants, they saw an increase in revenue generation.

I think where the real issue is with POST and revenue is the fact that we have a system in Nevada where multiple government agencies are dependent on crime to fund their budgets.

If we create safer streets, if cars become more autonomous, semiautonomous, if traffic tickets decrease, because we increase safety in our cities, suddenly, POST loses funding, and the AOC loses funding. We need to look at these funding structures; when we rely on fees from crime to fund necessary functions like POST, we are making a mistake. We do agree there.

We want to thank DPS for all their hard work. That presentation was concerning in some areas and very helpful in others. We believe that this Committee and all the help you have offered is going to get them the information they need to make that deadline. The Fine and Fees Justice Center wants to offer its assistance in any way it possibly can. We know this issue. We have draft language that we believe can go on the civil citations that will be understandable to anyone who gets them. We are happy to share that with anyone who is interested.

Lastly, they talked about having two different tickets: one for civil, one for criminal. We believe that is necessary. If you have information for both civil and criminal offenses on the same ticket, you will confuse both criminal defendants and civil defendants; having those two different tickets is going to be key because we do not want to have mass confusion from our defendants. It is something that if they are looking into, they should consider strongly.

Tonja Brown, Advocates for the Inmates and the Innocents:

Chair Scheible, we would like to thank you for your comment you made earlier this morning regarding implicit bias. We truly appreciate that and would like to thank all the presenters here today and all the comments that have been made by previous individuals.

As for the issue of the renters, we need to find a solution to this existing problem. I think maybe we might start looking at the renewing of the renters' leases and putting a 1 to 4 percent cap on landlords for approximately five years that would keep the landlord from raising the rents so high.

Is it possible to pass a law that will allow the state to have the first option in 10 to 20 percent of foreclosures dealing with banks and county and back property taxes? I know that the state will work with people who are first-time homebuyers. In fact, a former home I had 25 years ago was recently purchased about two years ago from a first-time homebuyer. The state helped with that, and she paid \$42,000 for this home. Why could we not apply something like that and allow the state to have the first option to buy back a home before it goes to a public auction? I think we could save quite a bit of money.

I will submit this section of Section 8 housing for your review as well ([Agenda Item X A](#)). I think it is very informative about how applicants are put on a list based on income to receive a housing voucher.

Honorable Kristen N. Luis, Justice of the Peace, Department 2, Carson City:

I am a Justice of the Peace in Carson City, Nevada, and I came to speak not on the matters you consider today, but on [AB 424](#) that was passed during the 2021 Legislative Session. I want to address this legislative matter for a few reasons. My concern is that during the COVID-19 pandemic, there was not significant opportunity for public comment because people were not present. There was some telephone comment, but some things were not considered.

I have provided some materials ([Agenda Item X B](#)) that we feel are important and relevant for your consideration in this next legislative session, including Marcie's Law, which passed and became effective November 27, 2018, and gave victims of crime the right to be heard, to be notified of any court proceedings coming up, and to have reasonable notice.

Subsection 6 of Marcie's Law indicates that the Legislature shall, by law, provide any other means necessary or useful to secure to victims of crime the benefit of the rights set forth in this section. I would submit to you that having a hearing within 48 hours of the defendant's arrest about detention does not provide reasonable opportunity to notify a victim that they might be present or be able to hear what happens at that 48-hour hearing.

I indicate that because in these types of situations like the housing discussion you just had, when there are volatile relationships and somebody gets arrested for a domestic battery, it is hard to know where that victim is going to go. Reaching that victim and letting them know that they have this right and that there is going to be a hearing and to provide them that access cannot always be facilitated within 48 hours, especially when you are dealing with weekends and holidays. I think that is something that needs to be considered.

Additionally, I think that when this law was passed, it did not investigate some of the other things that were put in place. One thing the Supreme Court put in place was ADKT 0539, which was an order adopting the statewide use of the Nevada pretrial risk assessment tool developed by the Honorable James W. Hardesty, Supreme Court Justice, Supreme Court of Nevada, in combination with a panel of people that included judges from rural jurisdictions, nonrural jurisdictions, and other involved people. The goal in that matter was to come up with a tool modeled after a nationwide tool based on evidentiary-based practices. The goal was to guarantee what we have always looked at, which is that the person is not a risk to not appear and not a risk to the community if they are released. That pretrial risk assessment tool, which analyzes several factors—none of which focus solely on an individual's ability to pay, but whether they are homeless, whether their criminal history shows that they might be a risk to the community, things of that nature—provides fairness and consistency in the determination. That was ordered to be implemented statewide in all the counties, whether you are talking about rural jurisdictions or urban population—it did not matter. That was required to be implemented.

I will wrap up quickly by mentioning the case of *Valdez-Jimenez v. Eighth Judicial District Court of Nevada*, which requires a state to consider least restrictive means and nonbail for defendants who are in custody. My point is that with these 48-hour hearings, we are duplicating the process of addressing a person's custodial status and when we do that prior to having a 72-hour hearing where a complaint would be filed by the Office of the District Attorney, we would appoint an attorney to represent somebody. We are not really changing anything. Based upon our pretrial risk assessment tool, we are already reviewing a person's custodial status within 24 hours of their arrest. We are doing that by way of reviewing a probable cause report.

Maxine (Max) Cortes, Court Administrator, First Judicial District Court and Justices and Municipal Courts, Carson City:

I was not planning to speak today, but I did not realize that you had some testimony today about AB 116. I wanted to clarify that Carson City did stop issuing warrants, I believe, in 2018. The judges agreed to do that, and we saw an increase in collection, but that was because the court allowed payments to be made on cases where there was no longer a warrant. Prior to that change, we would not allow payments to be made. The person had to pay the warrant in full. Once we changed that and no longer issued warrants, the payments went up because people were now allowed to make payments. They did not have to come

up with \$300; instead, they could start making \$50 payments. A lot of people did not have the means to pay for the entire warrant and the fee.

I just wanted to clarify that. I know that was represented time and time again at the Legislature. We tried to clarify that, but it was very difficult to do not being able to be there in person. In any event, I wanted to clarify for the record so that all the members know that we did stop the warrants and we did see an increase because people could then make payments where before they would have to pay the entire warrant fee in the citation.

Chair Scheible:

I do not think there is anyone else in Carson City, but we do have a few more people on the phone who wish to give public comment.

BPS:

If you wish to give public comment currently, please press *9 now to take your place in the queue.

Annemarie Grant, Member of the Public:

I am the sister of Thomas Purdy, who was murdered by the Reno Police Department (PD) and the Washoe County Sheriff's Office during a mental health crisis. Law enforcement has no duty to protect anyone ever when they are in their care in custody, as established in the District of Columbia Court of Appeals case *Warren v. District of Columbia*.

My brother was no threat, but he was hog-tied for 40 minutes, and even while hog-tied and pleading for medical attention, one deputy told Thomas, "You are making me nervous wiggling around." This was in the sally port as my brother was hog-tied and begging for his life with four other officers around, yet that officer was being made to feel nervous.

My brother was struggling to breathe, and just because the method of deadly force used on him was not a gun, it does not mean his murder did not deserve a review by the district attorney. However, District Attorney Chris Hicks never did that for my brother, nor for the two other men asphyxiated at Washoe County Jail within one year, Niko Smith and Justin Thompson. Nevada needs a law making a review mandatory if someone dies in the custody of a jail.

If counties do not have medical staff, they need to get rid of their restraint chair if they cannot protect the arrestee and the law mandated it. They need to put that chair out in the dumpster. Nick Farah died in a restraint chair even with medical staff. Once in the chair, they are no threat to anybody and should be evaluated, but excuses regarding that are disheartening, especially when you have had a loved one asphyxiated to death by law enforcement. It was blatantly obvious my brother was mentally ill and in a crisis; he never assaulted or threatened anybody. Instead of calling an ambulance, Reno PD arrested him for trespassing at the Peppermill Casino where he was a guest.

Thank you, Senator Harris, for speaking truth that implicit bias exists even if some Committee members do not get it. Thank you, Chair Scheible, for explaining that. I wonder if any of law enforcement is willing to talk about if they have ever seen a bad cop because the MO of law enforcement in Nevada is to pretend it does not happen here when Nevada has many George Floyds of their own: Jacob Lair, Jonathan Wayne, Wayne Ronald Bunch,

Micah Abbey, my brother Thomas Purdy, Niko Smith, Justin Thompson, Christopher Tallman, and the list goes on and on.

Law enforcement supported bills in 2021 because they knew that it would not cause them to have to take any meaningful action and opposed stronger bills until they were watered down and had no impact. I am serious about how the opposition presented at the 2021 Legislative session against the bills.

My brother was a 38-year-old male with mental illness, and he was asphyxiated and hog-tied while calling out to officers, "Yes, sir" and "Yes, ma'am." It did happen in your state, and it is on video. You can all Google that.

Theresa Millcourt, Member of the Public:

I am a resident of Henderson, Nevada as well as an advocate with Faith in Action Nevada and Mass Liberation. I am going to be speaking on the tenant and landlord eviction. I am currently facing eviction for the second time due to my landlord saying that because I have three small children, the other kids in my neighborhood come and play in his yard. This is impacting me because I do not have a plan B. This is our home. We have been here for one year and it is impacting my life trying to stay focused at work and just trying to focus on daily life. Because this is all I worry about, I am scared that we are going to be homeless due to having a low credit score in my background.

I also feel very hurt because of the reason we must leave our unit. I have no control over other people's children, and I can only tell my children how to behave and where to be or not to be. I feel belittled. I feel that my [inaudible] is being dismissed without even being heard. I also reached out to Legal Aid, and I was told that there was nothing I could do. He recently put me on a month-to-month, so she told me there was nothing I could do if he said I had to leave within 30 days. If you want to say that he wanted his unit back, I would have to go and he will win. I would not stand a chance.

I do not understand why I am not being heard. I do not need another eviction on my name. I am already being denied from my three-year-old eviction. It is hard to sleep when your 30 days are counting down. I do not know where else to go for help. I reached out to so many resources and programs, but I have had no luck. I would like for something to change. I would like to be able to fight this. The eviction process needs to put the tenant first because it impacts not only me as an individual, but our community as well. I know that I am not the only person facing this unnecessary eviction and not only that, but it is also hurting me, and I am not happy. I just want to be happy and in the home with my children.

Sean Vess, Member of the Public:

I work as a cook on the Las Vegas Strip and have been a Culinary Union member for about ten years. In September 2020, I was evicted from a place that is owned by Westland Real Estate. They served a five-day notice for a summary eviction. When I got that eviction notice on my door, I felt terrified. It was during the COVID-19 pandemic, and while I was working, there was a lot of uncertainty from the closures and there was no hope of a vaccine at that time.

I worked with some lawyers to file a motion to stay and a motion to set aside. Both were denied by David Brown, who is the hearing master, about two to three days after I filed them. I feel like he did not even look at my motions, but simply rubber-stamped the

eviction. Again, I was evicted in September of 2020, when there was an eviction moratorium. When I got the 24-hour notice from the constable, I moved as much of my stuff as I could into my car, started living in hotels, and then I contacted the office of Aaron Ford, Attorney General (AG), to help, and they did.

About a week after I was evicted, I got a call and an email from the landlord at Westland Real Estate, and they said they confirmed with their corporate office that a mistake was made in evicting me. They said I could move back into the same unit and then I could pick up the keys since they had changed the lock. There was no apology or anything, but I am thankful that I did have the help from AG Ford's office. It really helped me during difficult times.

This was the first time I was ever evicted, so I felt intimidated going through the process. I did not know where I was going to go or what I was going to do with all my stuff. I feared becoming homeless or having to live in my car. I am diabetic, so I was especially worried about how I was going to be able to store my insulin. Remember, in September, there was no vaccine access yet, so it was very stressful all around. Going through the summary eviction process myself, I felt like there was no compassion at all. I felt like landlords have the upper hand and they do what they want and if they want you out, they do it. And I am sharing my story to encourage the Nevada legislators to end summary eviction.

Chair Scheible:

Are there any other callers who wish to give public comment?

BPS:

Chair your line is open and working. However, there are no additional callers at this time.

Chair Scheible:

That concludes our meeting for today. We have one more meeting with presentations and discussions in July then we will have our work session in August.

AGENDA ITEM XI—ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 3:16 p.m.

Respectfully submitted,

Julianne King
Assistant Manager of Research Policy
Assistants

Patrick Guinan
Senior Principal Policy Analyst

APPROVED BY:

Senator Melanie Scheible, Chair

Date: _____

MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item II A	Tonja Brown, Advocates for the Inmates and the Innocent	Written Testimony
Agenda Item II B	Nathan Noble, Member of the Public	Written Testimony
Agenda Item II C	Annemarie Grant, Advocates for the Inmates and the Innocent	Written Testimony
Agenda Item II D	Dennis Faulkner, Member of the Public	Written Testimony
Agenda Item VIII	Susy Vasquez, Executive Director, Nevada State Apartment Association	PowerPoint Presentation
Agenda Item IX	Tiffany Tyler-Garner, Ph.D., Executive Director, Children's Advocacy Alliance	PowerPoint Presentation
Agenda Item X A	Tonja Brown, Advocates for the Inmates and the Innocent	Written Testimony
Agenda Item X B	Honorable Kristen N. Luis, Justice of the Peace, Department 2, Carson City	Written Testimony

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