



NEVADA LEGISLATURE JOINT INTERIM STANDING COMMITTEE ON THE JUDICIARY

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

DRAFT MINUTES

May 31, 2024

The fourth meeting of the Joint Interim Standing Committee on the Judiciary for the 2023–2024 Interim was held on Friday, May 31, 2024, 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 3138, 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:

Assemblywoman Brittney Miller, Chair
Senator Melanie Scheible, Vice Chair
Senator Dallas Harris

COMMITTEE MEMBER PRESENT IN CARSON CITY:

Assemblyman Philip PK O'Neill (Alternate for Assemblywoman Danielle Gallant)

COMMITTEE MEMBERS ATTENDING REMOTELY:

Senator Lisa Krasner
Assemblywoman Lesley E. Cohen (Alternate for Assemblywoman Elaine Marzola)
Assemblywoman Cecelia González
Assemblyman Ken Gray

COMMITTEE MEMBERS ABSENT:

Assemblywoman Danielle Gallant (Excused)
Assemblywoman Elaine Marzola (Excused)

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Diane C. Thornton, Deputy Research Director, Research Division

Patrick Guinan, Chief Principal Policy Analyst, Research Division

Jen Jacobsen, Research Policy Assistant, Research Division

Brad Wilkinson, Chief Deputy Legislative Counsel, Legal Division (Remote)

Michael Viets, Principal Deputy Legislative Counsel, Legal Division

DRAFT

*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 Miller:

Good morning, everyone. I would like to call this meeting to order. Welcome to the fourth meeting of the Joint Interim Standing Committee on the Judiciary (JISCJ). We have three Members here in Las Vegas, we have a Member in Carson City, and multiple Members that are virtual today. Minority Leader O'Neill is with us today in Carson City and Assemblywoman Cohen is also with us today substituting for other Members that were not able to attend, so thank you. With that, we do have quorum.

[Chair Miller reviewed housekeeping and testimony guidelines.]

AGENDA ITEM II—PUBLIC COMMENT

Chair Miller:

Our first agenda item for today is public comment. In the interim, we do have public comment at the beginning and the end of the meeting. We ask everyone to try to limit your public comment to two minutes, of course, sometimes we understand that people have a lot more to say than those two minutes so if you have more than two minutes worth of information to share with us or comments to make, that is a perfect opportunity to send all of your comments to us in writing either through the mail or email. With that, I would like to go ahead and open it up for public comment.

Tonja Brown, Advocate for the Inmates and the Innocent:

Good morning, Chair Miller and Members of the Committee. I want to touch on Item III, the discussion on the solicitation of recommendations for the Committee. We have submitted our recommendation and I have a letter I would like to read:

I am writing in support of posthumous exonerations. My name is Ray Crone, and I have a personal experience and support of my position. I was convicted of murder and kidnapping in Phoenix, Arizona in 1992. Ten years later, DNA testing identified the true perpetrator, and I was released. I am originally from Pennsylvania and was stationed in Arizona at Luke Air Force Base in 1980. After my honorable discharge, I later got a position with the United States Postal Service as a letter carrier. I had worked there for seven years at the time of my arrest with no criminal record. I refused to plea bargain. I was on trial and within only seven months I was convicted in a three-day trial based on a bite mark identification. I was sentenced to death. I was 35 years old. The majority of my family is all in Pennsylvania, a long way off, but they believed in my innocence and fully supported me for those long ten years. This gave me the strength to survive a harrowing ordeal. I was found innocent release as DNA saved my life. I know just how fortunate I am. The evidence was not only made available, but it was available before I was convicted. I can tell you the prosecution objected and fought us all the way to my release. They were wrong. But what if I had been executed? My family, friends, and even the legal team believed in me and fought constantly on my behalf. They were convinced of my innocence and would not give up against the full powers of the State of Arizona. Do you believe they would

have quit their belief and their determination to prove my innocence after my execution? No, I can guarantee you that. How would you feel in their shoes? This is not a singular incident. Mistakes are made in our criminal legal system. I only ask that you recognize this as a definite possibility and allow for any unfortunate family in this horrific situation, the opportunity to prove their loved one's innocence after death. I thank you for your time in the requested consideration.

Thank you.

Chair Miller:

Is there anyone else there in Carson City wishing to make public comment? Not seeing anyone. We will go ahead and Broadcasting. Please open the lines.

Broadcast and Publication Services:

Thank you, Chair Miller. To provide public comment, please press *9 now on your phone or raise hand in your Zoom window to take your place in the queue.

Caller you are unmuted. Please proceed.

Julie Belshe, Founder, National Guardianship Liberty Movement:

When we recover loudly, we keep others in guardianship from dying quietly. It is all of our choices. My story is not a sad story. It is a real one. It is the story of a woman who fought for a storm she thought would never end. You are a product of your circumstances until you are aware that you are a product of your circumstances. Then you can choose to become a product of your new awareness and your choices. I am thankful to those that hear me today, that see me, and accept me. The ones assigned to make this corruption involving the guardians and all cohorts go away and at the very least be held accountable. At some point in every lineage a soul is born that refuses to conform and speaks the truth. I am standing with you for change to stand against the corrupt guardianships, and all involved can start to bring healing for the protected persons and families. Stealing and killing the innocent wards is illegal. Taking our beloved family and friends and cutting off our family lineage is a sin, especially when there are family members to take loving and quality care of their families first. If you are listening to what I am reading, you have the chance and are the souls to help us in stopping our courts from profiting and depleting our family members from losing their golden years and enjoy them being surrounded with family. My parents, Rudy and Rennie North were illegally taken from their home in 2013. Please refer to "How the Elderly Lose Their Rights" by Rachel Avi and *The New Yorker*. Please also watch *The Guardians* directed by Billie Mintz available on Amazon Prime or on YouTube. My parents Rudy and Rennie North were just two out of the millions that were abducted and thrown into corrupt guardianship by April Parks who is serving 16 to 40 years along with her husband Gary Neal Taylor and Noel Palmer Simpson, who is a former attorney that was disbarred. Where is the data? Where is the transparency? If there is nothing to hide, why is there no accurate records? Are we erasing people from our society? Is this domestic terrorism in our own homeland front? I have a new foundation, National Guardianship Liberty Movement, and we are looking forward to joining with you with several formed agencies to come up with concrete solutions. Can we spare one more precious life and family to go through the torment of being blindsided when their beloved relative is abducted from their home with no communication to the family? Guardianship needs to be abolished. This can happen to anyone. I do know as I ran additional help lines for eight years.

Chair Miller:

Can you please wrap up? Thank you.

Ms. Belshe:

I have a couple more sentences. I have health legislation here in Nevada and across the United States of America, and I have worked with the government. I am requesting that we work together. If you have any questions, please email me at National Guardianship Liberty Movement. We are in this together.

Chair Miller:

I ask that you submit the rest of your comments in writing.

Roger Hillygus, Resident, Reno, Nevada:

I am a little discouraged that I only have two minutes because that does not seem like you are taking the public serious. You work as public servants for the public. You should give us more than two minutes of time to speak, because what I have to say is important and it comes from experience. You can Google my name and look me up on the Internet and on YouTube. There is a lot that I have to talk about regarding guardianship. Guardianship should never be imposed. It is illegal to take somebody's rights and give it to another person without due process in the court system. It is happening every day where people's rights are being taken away without due process. You have to ask what is the reason why they are taking these rights away of the elderly? It is because there is Federal Title Four money [Title IV-E of the Guardianship Assistance Program] that the states get claiming that they are protecting the elderly from their families. They should reverse the situation and they should only get Title Four money for every guardianship that is not imposed, because guardianship should never be imposed when there is family willing to care for somebody. Rights are taken away only for people in criminal cases. In guardianship, there must be a grand jury prior to any proceedings because you cannot take somebody's rights away, give them to somebody else, then lock them away in a facility, and deny them their family. These changes must be made because this is more than just guardianship in the following NRS chapters: Chapter 159 ("Guardianship of Adults"), Chapter 433A ("Admission to Mental Health Facilities or Assisted Outpatient Treatment; Hospitalization"), Chapter 449 ("Medical Facilities and Other Related Entities"), and Chapter 65 ("Parties"); the *Nevada Constitution*; the *United States Constitution*; and it also involves Nev. Sup. Ct. R. 252 ("Settlement Conferences") which is involving mediation. Once you get into civil courts with guardianship, you have a judge that wants to mediate and that is illegal through Supreme Court rules. There is also a lot of conflict of interest in guardianship because you have corporations like the Washoe Legal Services. You have got medical facilities, and you have got representation from bar members, and there is a lot of conflict of interest when that gets involved, so that needs to be looked at as well. Anybody that has advanced directives, those need to be followed as the people are speaking for themselves through their advanced directives.

Chair Miller:

Sir, I am going to ask that you wrap up your comments since it is over two minutes, and also please know that when you do submit your full comments in writing to us that it is sent directly to each legislator that is on that Committee. I do not want people to think that it goes into the abyss. It does come directly to us. Please wrap it up because we are over time right now.

Mr. Hillygus:

Okay, I have got just a last comment to make. I appreciate you giving me the time and allowing me to place something in writing. I know that there is a lot of the Senate and Assembly Members that recognize my name, but the general public that is listening to this may not know. I am Roger Hillygus, and I do speak from experience and here is my last comment. The State Bar of Nevada is considered an enterprise and a syndicate. When members of the bar collude to impose a guardianship. That is the true definition of a RICO from the Racketeering Influenced and Corrupt Organizations Act, Pub. L. 91-452, 84 Stat. 922 (1970). Please consider when these individuals are conspiring to impose a guardianship that they are doing this illegally. So please follow the *Constitution* and people's rights guardianships are illegal. They should never be imposed when there is family.

Chair Miller:

Thank you, sir. Broadcasting next caller.

Anne Marie Grant, Advocates for the Inmates and the Innocent:

My brother Thomas Purdy was 38-years-old when he had a mental health crisis and was hog-tied by Reno Police for 40 minutes and then asphyxiated to death at the torture chamber known as the Washoe County Jail. I would like to reiterate the comments of the two previous callers in regard to guardianship. If you have not heard of Roger Hillygus, please Google him, and I would like to comment on Item 12 regarding body worn cameras. I recently put in a public records request to the Washoe County Sheriff's Office requesting all body worn camera footage with any tag or label in the Axon system to indicate that footage of his interactions with Roger Eugene Hillygus between January 1, 2022 and March 15, 2024, their response was staff conducted a preliminary search, and it is estimated that it will require at least 261 hours to complete this request. Pursuant to public records fee schedule related requests may be aggregated for the purposes of determining the number of hours spent fulfilling them. Although generally the staff time fees are waived for the first ten hours. This request is aggregated with previous similar requests and will therefore be subjected to charge. Staff time is charged at \$24.33 an hour. The current estimate is \$6,114.30. Additionally with the request, it must provide payment for half of the estimate. Let me just say this, is that normal for there to be 261 hours or however many hours of footage of an inmate? No, they had a plan and a motive, and they retaliated against Mr. Roger Hillygus because while he was incarcerated at the hellhole called the Washoe County Jail, where my brother was murdered by deputies, he was a whistleblower and spoke out against the abuse and the medical neglect that has been going on. I have been telling you people about this for years. Stop turning a blind eye to the issues that are at hand in your State and take action. Thank you.

Karina Singer, Resident, Las Vegas, Nevada:

Thank you for the opportunity for public comment. Thank you, Roger, Julie, Anne Marie, and other elderly victims and family members who are here fighting for freedom and justice against guardianship. I am speaking about our guardianship system. I have personal experience dealing with this topic when my father was taken to court by my sister to secure an unnecessary guardianship without the necessary evidence to do so and without an attorney present. My father was locked up in a secured facility, over medicated, and severely abused until his death. Since then, I have faced a grueling probate proceeding that has gone on for more than four years and has been wrought by legal malpractice and judicial misconduct. Today however, I am honored to stand before you as a proud member of the National Guardianship Liberty Movement. This nonprofit organization founded by the

indomitable Julie Belshe who spoke here earlier, whose courageous journey to save her parents from the depths of a broken guardianship system was captured in the powerful documentary, *The Guardians*. We are united in our mission to drive change. Picture this, a beloved family member vulnerable and in need of care, falls prey to a system meant to protect them, but instead subjects them to unimaginable abuse, isolation, and financial exploitation. This is the harsh reality faced by countless elderly individuals under the guardianship system. Families torn apart, life savings drained, and the basic right to freedom snatched away. We refuse to accept this as the norm. We are the voices of the voiceless, the advocates for those who are vulnerable, and as champions of justice, the National Guardianship Liberty Movement is more than just a nonprofit organization. It is a beacon of hope for those ensnared in the clutches of guardianship. Through our wavering dedication, we offer support, resources, and legal assistance to those battling this injustice. Our work extends beyond legal battles. It is about restoring dignity, reuniting families, and reclaiming the rights unjustly taken away today. I implore you to stand with us in this noble cause. Let us confront corruption, challenge the status quo, and empower individuals to reclaim their freedom. Now, you are volunteering your time, sharing your experience, or simply spreading awareness. Every contribution matters—National Guardianship Liberty.

Chair Miller:

Can you please wrap up your comments?

Ms. Singer:

I am sorry, I am done. Thank you so much.

Chair Miller:

Thank you. There is no additional public comment, so we will go ahead and close public comment. Again, we will have another public comment section at the end of today's meeting. With that we will move to the next agenda item.

AGENDA ITEM III—DISCUSSION OF THE SOLICITATION OF RECOMMENDATIONS FOR THE COMMITTEE

Chair Miller:

This is the discussion of solicitation for recommendations for the Committee. Posted on the Committee's website is the Committee's Solicitation of Recommendations. The Committee invites all interested parties to provide recommendations in writing for possible consideration by the Committee during its work session. For those that are new to the interim process, which is literally when we are evaluating which ideas that we would move forward with, as a Committee, for bill draft requests to become Committee bills during the regular session. When we say all interested parties, it includes individuals as well. The Committee is scheduled to hold this final meeting of the interim on August 30. In advance of the meeting, Committee staff will be reviewing meeting materials and testimonies received at meetings to develop a list of recommendations for review by the Chair and possible consideration by the Committee during the work session scheduled for that meeting, written suggestions for recommendations along with appropriate background information, and any other details you can include must be received by Wednesday, August 7, 2024 at 5 p.m. I will repeat, the last moment to submit recommendations for consideration for this work session is Wednesday, August 7, 2024, at 5 p.m. No exceptions. Please understand the work that the Committee and Members have to do, so there is a

reason why we need deadlines in place. With that, we will move on to our next agenda item, which is the discussion of the recommendations regarding potential prison industry programs.

AGENDA ITEM IV—DISCUSSION OF AND RECOMMENDATIONS REGARDING POTENTIAL PRISON INDUSTRY PROGRAMS (NEVADA REVISED STATUTES 209.4818)

Chair Miller:

If you recall, there was a discussion during the February 23, 2024, meeting for this, and the recommendations have been made by Deputy Director Quenga who is also the Acting Public Information Officer for Silver State Industries (SSI) of Nevada's Department of Corrections (NDOC). Committee Members, this Committee is required to review any proposed industrial programs for compliance with the requirements of subsections 2, 3, 4, and 7 of NRS 209.461. Again, this is going back to that February 23 meeting with the proposal at the end of Mr. Quenga's presentation. We will vote on whether to recommend the approval of the proposed industries now. Just so everyone understands the process, once we approve these, they will ultimately still have to be approved by the Board of Examiners (BOE) and the Board of State Prison Commissioners, according to NRS 209.459. (Agenda Item IV-1). With that, Mr. Quenga, please proceed with your two proposals.

William Quenga, Deputy Director and Acting Public Information Officer, SSI, NDOC:

Good morning, Chair and Members of the Committee. Thank you for your time today. I have before you a request for approval to move forward on negotiations for a contract with two new potential business partners. (Agenda Item IV-2). The first business is Substantial Reform Solutions (SRS), which I have sent in as attachments. Substantial Reform Solutions is an ink remanufacturing program, whose purpose is to make positive change to the communities in which it operates. They have work training programs to help offenders learn effective job skills. They work with institutions to create environmentally friendly ink and toner cartridges and prepare offenders for future reentry success. Since 2006, SRS has operated prison programs in various states, the United Kingdom, and Spain. Its current flagship operation is with the Virginia Department of Corrections where, since 2015, SRS has built and shipped hundreds of thousands of printer cartridges and employed over 250 offenders. The scope of work of SRS is to collect empty printer cartridges from qualified customers, these are remanufactured in a prison, and sold back to qualified customers. The income generated is used to fund the offender labor programs and provide cashflow to the industry. This also affords an opportunity for our population within the NDOC and SSI to offer employment at our women's facility down at Florence McClure Correctional Center. At this point, we do not have any industries for our female population, and I have been working hard to try to get something in there. I am open to any questions on the first proposal.

Chair Miller:

Members, do we have any questions for this first proposal?

Vice Chair Scheible:

Thank you for your presentation. I think I understand what the company would do, and I am wondering if SSI would need any kind of additional machinery, supplies, or infrastructure in order to be able to accept this contract.

Deputy Director Quenga:

No, ma'am. The SRS will be providing all the training and all the equipment to our offender employment program, and we have space at the women's facility right now.

Chair Miller:

Thank you, Members. Any additional questions? Not seeing any, please move on to your second proposal.

Deputy Director Quenga:

The second business is Carson Truss LLC. Carson Truss is situated on five acres, just outside of Carson City in Mound House, and is a manufacturer of engineered wooden trusses. Established in 2022 to help fulfill the growing housing demand, the trusses are sold to framers who install them into the roofs and floors of both single-family and multi-family construction projects. The Company has a single-shift workforce of about 20 full-time employees and would like to add a second manufacturing shift, but it faced significant challenges in finding and retaining reliable labor. A former staff had success in working with the NDOC for High Desert Truss' staffing needs. Based on the demand from customers, Carson Truss would be able to hire 9 to 13 offenders immediately to launch a second shift and potentially more in the future. The scope of work of this partnership is a great opportunity for Carson Truss to gain access to a reliable source of labor and scale operations, while at the same time helping offenders develop real-world skills that will benefit them upon their release. Ideally, as offenders are released from custody, they would continue their employment with Carson Truss. The roles of the facility include sawers, truss assemblers, forklift operators, Class A commercial drivers, and materials handlers. Positions also include office staff of an administrative assistant, production manager, truss designer, and site general manager. I am open to any questions on this second proposal.

Chair Miller:

Thank you. Members, do we have any questions? I am not seeing any. Thank you for your two proposals. I will entertain a motion to approve both new proposed programs as recommended by NDOC, which will ultimately be approved by the BOE and the Prison Commission. Do I have a motion?

VICE CHAIR SCHEIBLE MOVED TO APPROVE THE NEW PROPOSED PROGRAMS—AS RECOMMENDED BY NDOC, WHICH WILL ULTIMATELY BE APPROVED BY THE BOARD OF EXAMINERS AND THE PRISON COMMISSION.

ASSEMBLYWOMAN GONZALEZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Miller:

We will move on to our next agenda item.

AGENDA ITEM V—PRESENTATION BY THE WILLIAM S. BOYD SCHOOL OF LAW, UNIVERSITY OF NEVADA, LAS VEGAS ON THE SCHOOL'S WORK WITH COMMUNITIES IN NEVADA AND OUTCOMES WITH WORKFORCE DEVELOPMENT

Chair Miller:

Our next agenda item is the presentation by the William S. Boyd School of Law (Boyd Law) from the University of Nevada, Las Vegas (UNLV) on the school's work with communities in Nevada and outcomes with workforce development. As we get into our presentation section of the meeting, I want to remind everyone that presenters have been asked to keep their presentations concise at 15 minutes, because we obviously have a robust agenda and lots of questions. If we start going over those 15 minutes, I will ask folks to wrap it up. With that, when you are ready, please proceed.

Leah Chan Grinvald, Dean and Richard J. Morgan Professor of Law, Boyd Law, UNLV:

Good morning, Chair Miller, Vice Chair Scheible, and Committee Members. Thank you for allowing me this opportunity to present you with updates on the Law School's work with Nevada's communities and about our work in preparing students to meet the needs of Nevada. It is hard to believe, but Boyd Law at UNLV is celebrating 25 years of transforming Nevada. We first opened our doors in August 1998, at the Paradise Elementary School. In our short 25 years, we have zoomed up the national rankings, we have been a top legal writing program for the last ten years and have been number two for the last two years. Our dispute resolution program is ranked number 7, and our part-time program is ranked number 13 in the country. We have been rated a "Best Value" law school. In addition, not pictured here is that we are ranked number 42 of all public law schools in the United States, and there are 86 of them. (Agenda item V).

At the law school, we offer two professional degrees, the Juris Doctorate (JD) and the Master of Laws (LLM). This past academic year, we had a total of 459 students which comprised of 445 JD students and 14 LLM students. Of this class, 88 percent were Nevada residents with 12 percent as nonresidents. Our student body is diverse with 51 percent female, 40.3 percent students of color, and 20 percent identifying as LGBTQ+. The JD is a pathway to professional success, through a rigorous three year full-time or four-year part-time program for the JD degree, we train our students with the skills to provide the services that drive Nevada's economic engine. We have done this fairly successfully, as you can see, for the last 25 years but the data here shows you the last 13 years. For example, last year's graduating class, the Class of 2023, had an employment rate of 93 percent, although not all of our graduates pursue a legal practice. Another hallmark of our success and in developing our graduates to assist in the economic growth for the State is by passing the State's bar exam. This graph shows the first-time bar passage rate of Boyd Law students in Nevada for the last 13 years. Not pictured here is that although approximately 25 percent of students did not pass on the first try, in the last couple of years, within two years that number is well below 5 percent. Since joining Boyd Law, I have made it a priority to dig into what we can do to help those 25 percent pass the bar exam on the first time. A major cause for them not passing on that first time is that they need to work while studying. If we were able to scholarship them during the summer while studying, and

they could focus full time on their studies, the pass rate would likely be much higher. I will come back to this in a minute.

As the only law school in Nevada, we take great pride in being Nevada's Law School. We have a statewide mission to serve Nevada and produce professionals who are going to be those drivers in the communities for economic growth, whether be it as leaders, entrepreneurs, managers, or employees; and we have a number of programs and activities that do this. We support various clinics through our Thomas and Mack Legal Clinic that provide students with an education in serving clients—the very work we hope they will do after graduation. For example, we started a new Tenants Rights Clinic this past year in partnership with the Legal Aid Center of Southern Nevada (LACSN) to represent tenants in housing court. Students were taught how to represent clients by doing work under the supervision of licensed attorneys. Students in the clinic take an attorney's oath and have the same ethical responsibilities to their clients as lawyers do. In this way, we help the community two-fold, our student attorneys provide free legal help to their clients, and they are also trained to do this work in the future, either as public interest attorneys or giving back through pro bono assistance. We also have the Immigration Clinic that provides deportation defense services for free, as well as represents students and faculty at UNLV with their immigration issues. In addition, our Thomas and Mack Legal Clinic houses the Poverty Law and Policy Clinic, the Mediation Clinic, the Survivors Representation Clinic, and new this coming fall, the Economic Justice and Small Business Clinic which will start to represent small businesses with their legal needs.

Second, we partner with legislators in helping with their policy work to solve Nevada's challenges. For example, our faculty and students were deeply involved with Senator Neal's work on Windsor Park first with research many years ago about the environmental impact, then with putting together the award-winning documentary, and then with the landmark legislation that was passed last session to provide residents with new homes. We have also been working to incentivize students to extern or intern in rural counties and have been successful in sending students each summer to a rural county to work there. This provides free critical support to those offices such as the public defender's office as well as introduce the students to the potential career path for them in rural counties which desperately need more lawyers. In fact, our extern provides over \$1 million each year in free legal help. In addition, we are involved with K to 12 Outreach, which also helps with Nevada's workforce development in that we plant an early seed that law school is a possibility for all.

Our community engagement activities run from visiting elementary schools such as Robert Lunt and Roger Bryant Elementary schools during reading week; judging, supporting, and coaching “We the People” as well as providing field trip and internship opportunities to high school students from schools such as Canyon Springs and Veterans Tribute. To continue to do all this great work and to even expand upon it, I wanted to preview the law school's request in the upcoming session. We are asking for enhancements to the base budget of \$1 million for the Thomas and Mack Legal Clinic in each year of the biennium. This would allow us to hire additional faculty to teach in the clinic, as well as to provide stable support for the clinic needs. In addition, we are asking for \$1 million in each year of the biennium for student success initiatives. This would allow us to scholarship our students as they prepare to take the bar exam. This way, they would not need to work as much as they do now while studying and will help to get our first-time taker percentages over 90 percent.

Finally, I wanted to let you all know that we are here at the Law School to help you as you prepare for the 83rd Legislative Session, please feel free to reach out to me if you need any help with research policy issues, white papers, and anything else you might think about.

Thank you again. It has been a pleasure, and here is my email address. Please feel free to be in touch. I would be happy to answer any questions.

Chair Miller:

Thank you for your presentation. Members, do we have any questions? I do have one question. How many students that attend Boyd Law are actually Nevadans? How many come through from Nevada as opposed to out of state?

Ms. Grinvald:

I only know percentages not specific numbers. To give you an example, each year we bring on 130-ish new first year law students, and of that 75 percent are Nevadans. They eventually become Nevadans even if they came from out of state, they stay here, and work here. We have about a 95 percent "rate of capture" if you will, being the brain magnet to the great State of Nevada. I think the first-year class, because most of them become residents after that first-year class, at 75 percent is the best number to give you an idea of how many are truly Nevadans.

Chair Miller:

Great, thank you. All right, I do not see any other questions. I will go ahead and close this agenda item and open up our next agenda item.

AGENDA ITEM VI—PRESENTATION BY THE STATISTICAL TRANSPARENCY OF POLICING PROJECT, ASSOCIATED WITH THE ENACTMENT OF SENATE BILL 236 (2021)

Chair Miller:

Item VI is a presentation by the Statistical Transparency of Policing (STOP) Project with a PowerPoint to accompany this, once you have that ready, you may proceed.

Deborah A. Kuhls, M.D., F.A.C.S., F.C.C.M., F.R.C.S.T. (Hon), Associate Dean for Research; Professor; and Chief, Acute Care Surgery Division, Kirk Kerkorian School of Medicine; Principal Investigator, STOP Project, UNLV:

Good morning, Chair Miller, Vice Chair Scheibel, and distinguished Members of the JISCJ. Thank you for giving us the privilege of presenting our first annual report on STOP as it relates to law enforcement traffic stops in Nevada. I am the Principal Investigator of the Nevada Office of Traffic Safety (OTS) funded STOP Project. Several co-principal investigators and co-investigators are here either in person or on livestream today including Dr. William Sousa to my right, who is from the Department of Criminal Justice at UNLV. I would like to introduce you to Dr. Bertille Mavegam to my left, she is the Director of our STOP Project. She will briefly present highlights from our first annual report. Following Dr. Mavegam's presentation, we will be happy to answer questions. Thank you.

Bertille Mavegam Tango, M.D., Ph.D., M.P.H., Traffic Safety Research Project Manager, Department of Surgery, Kirk Kerkorian School of Medicine, UNLV:

Thank you, I will be presenting an overview of the STOP Nevada data collection project. (Agenda Item VI-1). This project is funded by the Nevada Office of Traffic Safety, and the source of annual funding is the federal funds from Section 1906 Grant Program to Prohibit Racial Profiling, under the Safe, Accountable, Flexible, Efficient Transportation Equity Act,

Pub. L. 109-59, 119 Stat. 1144 (2005), which states apply for every year. The goal of the STOP project is to develop and implement a STOP program in the State of Nevada that aligns with SB 236 (2021) regarding traffic-related stops. Let us talk a little more about SB 236 (2021), which requires law enforcement officers to record and report traffic stop data for all traffic stops that result in citation issued to the electronic citation system starting in 2022 and ending in 2025, and for a traffic stop for which they issue a written citation or warning starting in 2024 and ending in 2025. As it stands now, SB 236 (2021) data collection ends in 2025, and also requires law enforcement agencies that receive traffic stop information to report such information to the Nevada Department of Public Safety (DPS). It also requires DPS to develop a standardized method to record traffic stop information in an electronic traffic citation system and allows DPS to contract with a third party to analyze traffic stop data for the purpose of identifying patterns or practices of profiling. Senate Bill 236 (2021) requires such third-party to report regularly the results of the analysis to the Governor, the Department, and the Chairs of the Senate and Assembly Standing Committee on Judiciary. The implementation of SB 236 (2021) includes data collection, data analysis, and reporting of results. In terms of data collection, OTS oversees the SB 236 (2021) data collection and Tyler Technology is the citation system administrator. In response to SB 236 (2021), OTS requested modification to the existing traffic citation software that is used in Nevada by law enforcement statewide to capture citation to collect additional SB 236 (2021) traffic stop data. In terms of data analysis, UNLV STOP team received grants from OTS as a third party to analyze the data. We are a multidisciplinary team. In terms of reporting results, we conducted a descriptive analysis of traffic stop data collected in Nevada between January and December 2022, which is the first full year of SB 236 (2021) data collection. We generated the first report, which is descriptive in nature, and we will talk a little bit more about the descriptive report. We delivered this report to designated officials, per SB 236 (2021). We collected "best practices" from other states that have experience in analyzing traffic stop, including Connecticut, Oregon, and California and "best practice" recommends a multi-year data set in order to conduct comprehensive data analysis to identify potential disparities in traffic enforcement. It is important to note that the Council of State Governments and the University of Connecticut have received grants from Arnold Ventures to provide technical assistance to several states in conducting traffic stop analysis and Nevada was chosen as one of the states that will be receiving technical assistance.

Let us focus our attention to our first report, the *STOP Descriptive Analysis Report* using 2022 Data. (Agenda Item VI-2). The goal of this report was to provide a descriptive analysis of the Nevada 2022 traffic stop data. We examine data collected through the citation system administrative by Tyler Technology and available to the STOP Team. It is very important to note that limitations to the data prohibit conclusions or inferences about disparities in traffic stops. This table shows the data elements are specified by SB 236 (2021) and available to our Team. We will talk a little more about it in the next slides. The next table shows the data collected per SB 236 (2021) but is limited, meaning incomplete, not consistent with SB 236 (2021), or not available to our Team. We will talk more about this in our limitation section. As methodology, we receive data monthly data from OTS. We received 271,765 traffic stops records from 41 law enforcement agencies in Nevada, and the data underwent rigorous validation protocols. We cleaned the data, we structured the data, and then we conducted descriptive analysis using frequencies and bar and line graphs to visualize the data. Our findings starting with reported outcomes. Most traffic stops resulted in citation. It is important to note that in 2022, warnings were not required to be reported per SB 236 (2021), but it is required starting 2024. This may explain why most traffic stops resulted in citation. In terms of officer perceived race of the driver, most drivers were white. In terms of officer perceived ethnicity of the driver, most drivers were Not Hispanic. In terms of sex of the driver, which was taken from the driver license, more than 62 percent of

drivers were male. In terms of age of the driver, taken from the driver license, more than 50 percent of drivers were between the ages of 21 and 40 years. In terms of agencies, most traffic stops were reported by Nevada Highway Patrol followed by Las Vegas Metropolitan Police Department (LVMPD).

Let us talk about our limitations and some considerations. As I previously said, we were not able to assess potential disparities in traffic enforcement due to limitations in the depth, the breadth, and the completeness of the data. It is important to note that multi-year and complete data set is recommended to fully assess potential disparities in traffic stops. This table shows limitation of data that we receive starting with age and sex. This was taken from the driver license which is different from the language specified in SB 236 (2021). This may confound analysis to identify potential disparities in stops based on perceived age and sex. The nature of, and statutory citation for, the alleged violation that caused the stop to be made is currently not being collected in Nevada, and therefore not available to our Team. Therefore, we were not able to examine this data in this report, and we could not assess any disparities in reason for the stop. However, DPS, OTS, and Tyler Technology are considering collecting this element in the future, and the rollout date is still to be determined. Data on warnings reported to the electronic citation system may not be completed. As I previously said, reporting for warnings was not required for SB 236 (2021) in 2022, the first full year of data. This limits our ability to identify potential disparities in stops that resulted in warnings. It is important to require consistent collection of data about warning and considering whether a warning was issued, yes or no, and if "yes," what type of warning was issued, verbal or written, in order for us to be able to conduct analysis to look at disparities in terms of warnings. It is important to note that data on citations and warnings are collected through the electronic citation system and data on arrest are collected through specific law enforcement agencies systems which are different from the citation system. The lack of integration between the citation system and the specific law enforcement data collection systems causes the data on the rest to be incomplete. The data on searches were also incomplete because many searches are linked to arrest. This limited our ability to identify any potential disparities in arrest searches and the results of the searches. It is important to explore possibilities of linkage between citation systems and other systems that contain search and arrest data. It is also important to consider adding whether an arrest was made, yes or no, and whether a contraband was found, yes or no, in order for us to be able to look at potential disparities in outcomes of the surge.

In summary, in terms of data collection, it is important again to note that SB 236 (2021), as it stands now, the data collection only goes through 2025. A legislative initiative is required in the next legislative session in order for SB 236 (2021) data collection to continue past 2025. It is also important to add the reason for the stop to the data collection system and explore possibilities of linkages between citation system and other systems that contain search and arrest data. In terms of funding, continuous and adequate funding is necessary in order to continue SB 236 (2021) data collection and data analysis. The STOP project is currently funded through federal Section 1906 Grant Program to Prohibit Racial Profiling funds which states apply for each year, and the amount depends on the number of states that apply. It is important to look for other sources of funding, in addition to the 1906 funding, in order for this project to continue. Our future goal is to conduct advanced statistical analysis of the two years of data that we have, the 2022 and the 2023 data, and to report findings as required by SB 236 (2021). We also plan to generate a better version of a traffic stop data dashboard. With a dashboard, it allows users to access the data and visualize the data, increasing transparency in policing. This is the end of our presentation. Thank you for your time, and we are happy to take any questions.

Vice Chair Scheible:

Thank you for this presentation, and I am perusing also what looks like a longer report that you provided us. I appreciate all of the hard work that you have put into it. You said something at the beginning, which indicated we could not make inferences about disparities in traffic stops. I was hoping you could explain that again for us to make sure we have a clear understanding of what you are saying.

Dr. Mavegam Tango:

The data that we received had some limitations, which did not allow us to conduct advanced statistical analysis. In addition to that, best practices collected from other states requires at least two years of data to be able to conduct advanced statistical analysis. We only had one year of data, which is the full complete 2022 data that we had. In the future, we plan to conduct advanced statistical analysis, but this is contingent upon having more variables, more years of data, and complete data sets.

Vice Chair Scheible:

That makes perfect sense to me. I think what you are saying is that in order to have a data set that we can make those inferences from, we not only need another year of data, but we also need to improve the data that we are collecting by adding more variables. What else do we need to put in the bill? That is what I am trying to ask you.

Dr. Kuhls:

There is, in the report, a list of additional variables. It would also be helpful to have the data linkages to the other systems that Dr. Mavegam Tango referred to. They are also in the report. We also are working with agencies and the third-party vendor to make sure that we actually have data for all the data elements. There were some missing data elements.

Vice Chair Scheible:

I have a follow up question on that because you mentioned that one of them was either Tyler or Brazos that you are collecting data from. Do those companies operate in other states that collect data in a similar way, and where they are able to draw analysis? I see you nodding, so am I correct in assuming that we are already contracted with companies who are capable of doing this, and it is just a matter of doing it in Nevada.

Dr. Mavegam Tango:

Yes, they collect data in other states. One thing that I want to point out here is the lack of integration between the two systems for citation and arrest data. This limits our ability to look at disparities in outcome of the stops—meaning, yes, a person is pulled over then what is the result? Is it a citation? Is it an arrest? If we do not have a complete data set on arrest, we will not be able to analyze that data.

Dr. Kuhls:

If I could also add, also on warnings that we mentioned, are not consistently recorded.

Dr. Mavegam Tango:

If I may add one last thing. For warnings, it started this year, and as it stands now, SB 236 (2021) data collection ends in 2025, which means we will only have two years. It is also important to emphasize that in order for SB 236 (2021) data collection to continue, there is a legislative initiative that is needed.

Dr. Kuhls:

I think one additional consideration is we should have two years' worth of data, obviously, coming up very shortly, but in talking with multiple states, their best results are with multiple years. Within two years we are hopeful that we can move the ball forward, but in reality—and talking to the other states that have been doing this longer than we have—basically the more data you have the better conclusions you can reach. It is important to have more than two years data as well.

Senator Harris:

I wanted to take this opportunity to thank you all for what you have done with the legislation that I passed. It is not often that you pass legislation, and your expectations are exceeded in how it is been implemented and the dedication of the work that the people put behind what we are trying to do. I wanted to take this opportunity to publicly thank you all for doing more than I could have even imagined you would have done with this legislation. I really do appreciate your commitment to not just bringing the sheer text of the bill to life, but the real meaning behind it, which is a true statistical analysis in order to drive good public policy. Thank you.

Dr. Kuhls:

You are most welcome. I would really like to give a shout out to our Team. It is very multidisciplinary and not everyone could be here today. We have experts on criminal justice, as in Dr. Sousa to my right, disparities, and high-level statisticians and so forth. Without that team, we would have much different results and future plans. Thank you for your support.

Chair Miller:

Members, are there any additional questions? I have a few questions. I want to go back to the discussion with Vice Chair Scheible to get more into the details about specifically when it comes to the options for race and ethnicity. You shared there was the options—this was by officer perception—for White, Non-Hispanic, and then Black. We know there are a variety of people that do not fit into any of those categories, especially visually. I know I have been visually misidentified daily for my life and many people are—I passed a bill last session about getting Middle Eastern and North African (MENA) decent as a category on here because of these types of issues. I am sure you all know, the federal government recently announced that starting with the 2030 census, MENA will be an option on the census to better identify people. I was wondering if you could go through again, what are the categories that are available to an officer to identify or categorize, so that we get a better picture because we know there are a lot of people, specifically in that MENA category, that are targeted, discriminated against, that are vulnerable, and yet we are not getting that data to see those discrepancies. Could you share exactly what is being calculated right now?

Dr. Mavegam Tango:

On the screen, these are the categories in terms of race that are available in the data that we receive. We have White, Black/African American, Asian, American Indian, Native Alaskan, Hawaiian/Pacific Islander; and then in terms of ethnicity, it is Not Hispanic and Hispanic.

Chair Miller:

For an officer making a visual they are just assuming. We have, specifically here in Nevada, many individuals who are bi-racial or multi-racial which may not be reflected on the shade or the color of their skin if that is just what we are looking at. Were these categories based on what was in the bill? Or are these categories that are currently what law enforcement is collecting? Can you share a little more about that? Of course, we also know the discrepancy because if we say this is the largest category of people pulled over, but then it would be interesting to compare that to individuals that were in jail and had those traffic violations as well at the time.

Dr. Mavegam Tango:

In the bill, I do not see specific races, but I know this is what the officers have available. I do not know if that answers your question.

Chair Miller:

It does, it definitely does. I am really interested about the warnings, and I understand that as scientists, you do not have the two years of actual data, but there is five months. I was wondering, have you had a chance to look at it, or have you been busy preparing and disseminating this information, or if there is any trend that we see already in the five months? If you are able to or willing to professionally speak on that at all at this point.

Dr. Mavegam Tango:

Unfortunately, we are not able to comment on that, yet.

William H. Sousa, Ph.D., Professor and Director, Center for Crime and Justice Policy, Department of Criminal Justice, UNLV:

The likelihood is that the warnings here are limited in terms of what is being reported in the system currently and based on past research, warnings are far more likely over citations and certainly arrests. Whereas we have so few warnings here within the system at the moment we are concerned about running any analysis related to it at this point. That would be just too limited.

Chair Miller:

Absolutely. Thank you. One last question, and I am not sure if I missed it. Do we have the reason the stops were made? That was one of the other challenges? We do not know if someone stopped for speeding, running a red light, or a broken taillight—we do not know, correct?

Dr. Mavegam Tango:

No, the reason for the stop is not currently being collected in Nevada, but we do have the reason attached to the citation which is different from the reason for the stop. We had meetings with OTS and Tyler Technology about this, and they are considering adding that to the collection system.

Chair Miller:

Do you need a legislative act to do that?

Dr. Kuhls:

I think it would be helpful if there was a legislative action. The other thing is, I think it can be challenging to sometimes determine someone's sex by appearance. Right now, what is being collected is off the driver license, so it is not perceived. That would be another area for consideration. I believe in the report, we elaborate on these points. If you would like us to provide another synopsis, we would be happy to do that.

Chair Miller:

Thank you. I think next steps from this, or what usually happens as we are taking notes—we talked about consideration for solicitation of bills and sometimes it is not even people directly coming to us, sometimes we are hearing those areas that need to be adjusted. If we have additional questions, we will reach out to you to make sure we have some of the detailed points and have accurate information on those ideas for improvement. Not seeing any additional questions. Thank you for your presentation. With that, I will go ahead and close this agenda item and move on to the next.

AGENDA ITEM VII—PRESENTATION BY THE PEACE OFFICERS STANDARDS AND TRAINING COMMISSION, INCLUDING UPDATES ON THE IMPLEMENTATION OF LEGISLATION ENACTED DURING THE 2021 AND 2023 LEGISLATIVE SESSIONS

Chair Miller:

This item is the presentation by the Nevada Commission on Peace Officers Standards and Training (POST), including updates on the implementation of legislation enacted during the 2021 and 2023 Legislative Sessions.

Michael D. Sherlock, Executive Director, Commission on POST:

Thank you for having me and allowing me to provide an update on recent legislation related to the Commission. I will try to be short and to the point. Let us start with the 2021 Session. I was asked first about SB 212 (2021), which was legislation focused on peace officer use of force and also the use of force policy. Although this bill did not address regulation or POST directly, it did result in changes to curriculum both in basic training for peace officers and related continuing education. Most of SB 212 (2021) had already been updated as we continually update our statewide training curriculum for basic training. Also, in addition, the Legislature had previously made changes to continuing training that were consistent with SB 212 (2021). We reviewed the curriculum to ensure things like de-escalation, and of course, the longstanding concept of objective reasonableness in the use of force are part of the basic training. The curriculum has been updated in a variety of areas on subjects dealing with suicidal subjects, behavioral health crisis intervention, and

the use of deadly force. Things like crowd control, demonstration and protest response, are really at the agency level, but some of those components are found in SB 212 (2021) in terms of training in this area are well settled and are included in the curriculum in that area.

The next bill from 2021 was AB 336 (2021). This has been a bit of a challenge for us. That said, *Nevada Administrative Code* (NAC) 289 was amended by adding a new section regarding an annual behavioral health wellness visit for all peace officers in the State of Nevada. Our goal is to meet the intent of this legislation while not undermining or prohibiting well-developed programs that our agencies were already implementing or employing. At the same time, keep POST out of any litigation related to arbitrary mandates. After numerous workshops, public comments, hearings, and working with several drafts with the LCB, this regulation was approved and adopted through the language of AB 336 (2021).

Moving to the 2023 Session, SB 225 (2023) was a large piece of legislation related to POST. Let me run through those changes we have made both in policy and in regulation to fully implement SB 225 (2023). First, all agencies now must include a signed affirmation for POST certificate applicants. If that application does not contain this affirmation, it is rejected. The affirmation states: (1) that the applicant is not disqualified from serving as a peace officer under NAC 289; (2) that the applicant has not been discharged, disciplined, or asked to resign for specific conduct; and (3) has not resigned during an investigation. In addition, this bill requires POST to query the National Decertification Index (NDI) for any applicant. The Nevada Commission on Peace Officers Standards and Training has done this and of course we will continue. Nevada POST was on the ground floor with the NDI and has a long-standing policy of checking NDI upon notice of hire and also application for certification. Further, POST regulations now require agencies to query NDI during the background process. In addition, POST enters into NDI those terminated for specific conduct resulting in revocation under the requirements of NDI. This bill requires agencies to notice POST where a certified officer resigns during an investigation. The Nevada Commission on Peace Officers Standards and Training has created a personnel action form in which agencies now report this activity to POST. This bill clarifies and makes changes regarding the use of marijuana, and how it applies to disqualification or does not apply to disqualification during background. Our regulations are now consistent with this mandate. In addition, POST made changes to actual criminal cases related to marijuana usage—basically where the marijuana conviction is a conviction that would not be a crime today—it is no longer a disqualifier nor a revocation issue in the hiring and certification process. This bill makes policy and regulation changes regarding convictions for felonies and domestic violence, even where those convictions have been sealed and POST regulations were updated to reflect federal definitions of domestic violence convictions. In addition, policy updates include the prohibition of hiring someone who is revoked in another state as a peace officer here in Nevada. These provisions frankly help us to clean up loopholes, and to ensure those who should not be in policing do not bounce from one state to another to work as a peace officer. We are quite thankful to Senator Harris for working with us on this particular bill, and I think it will go a long way to improving policing here in Nevada.

Finally, based on SB 323 (2023), NAC 289.200 was amended to allow the hiring of reciprocity applicants in the Category III arena. These are detention or prison working positions, which previously were not eligible for reciprocity—which means coming from out-of-state where they worked in this area of law enforcement in that other state. *Nevada Administrative Code* 289.200 was amended to allow for Category III reciprocity in the hopes of improving recruitment here in Nevada—we believe it is having the desired effect.

Those are the four major bills that directly affected POST that we were asked to report back on. I can answer any questions the Committee may have on those.

Chair Miller:

Thank you. Members, do we have any questions? No questions. I have one brief question, just to clarify—so a marijuana conviction does not automatically eliminate someone from consideration, but a domestic violence conviction does. Is that correct? Even if it is sealed? Or any other violent ones?

Director Sherlock:

The specific changes were, yes, to remove marijuana convictions. That would not be a conviction today as a disqualifier and includes domestic violence, which was already part of our regulations, but includes those that have been sealed because the convictions have occurred, whether it is sealed or not, and we can still use that in terms of the background.

Chair Miller:

Thank you for your presentation. I will go ahead and close this agenda item. Our next two agenda items, Agenda Items VIII and IX, will be taken together.

AGENDA ITEM VIII—PRESENTATION FROM NEVADA’S DEPARTMENT OF SENTENCING POLICY, INCLUDING UPDATES ON THE IMPLEMENTATION OF LEGISLATION ENACTED DURING THE 2023 LEGISLATIVE SESSION AND LEGISLATIVE PRIORITIES FOR THE 2025 LEGISLATIVE SESSION

AGENDA ITEM IX—UPDATE FROM THE NEVADA SENTENCING COMMISSION’S SUBCOMMITTEE ON MISDEMEANORS ON THE COMPREHENSIVE REVIEW OF MISDEMEANOR OFFENSES IN NEVADA

[Agenda Items VIII and IX heard together.]

Chair Miller:

Next is a presentation (Agenda Item VIII) from Nevada’s Department of Sentencing Policy (NDSP) including updates on the implementation of legislation enacted during the 2023 Legislative Session and legislative priorities for the 2025 Legislative Session, and Item IX is the update from the Nevada Sentencing Commission’s (NSC) Subcommittee on Misdemeanors (NSCSM) on the comprehensive review of misdemeanor offenses in Nevada. When you are ready, please proceed.

Jorja Powers, Executive Director, NDSP:

Good morning, Chair and Committee. Today, I will cover the highlights regarding what the NDSP does, the data and reporting highlights since last session, some of the NDOC data and trends that we follow, and what NDSP is planning for the future. Nevada’s Department of Sentencing Policy was created in 2019 to assist in making data-driven recommendations. We assist the NSC with research and criminal justice data to make recommendations regarding sentencing laws in Nevada. Under the Commission is the Nevada Local Justice Reinvestment Coordinating Council, which identifies programming and treatment needs at the county level to recommend reinvestment of funds to reduce recidivism and the newly created Misdemeanor Subcommittee to study lower-level offenses, which you will hear

about in a moment. The Department's mission is to promote an equitable and reliable criminal justice system by providing reliable criminal justice data, practical fiscal analysis, and comprehensive policy resources to lawmakers, stakeholders, and the public to ensure Nevada's sentencing and corrections policies and the Nevada criminal justice system, as a whole, are effective data driven and resource sensitive. Here, you will see our core values, we strive to have practical, meaningful, sustainable, unbiased, nonpartisan, collaborative, and Nevada-focused data available to the Legislature, the Commission, Nevada criminal justice stakeholders, and the public in order to make truly data-driven decisions about future laws. Next, we will discuss changes and mandates brought about during the 2023 Legislative Session.

John McCormick, Assistant Court Administrator, Administrative Office of the Courts (AOC), Supreme Court of Nevada (NSC):

I am appearing today in my capacity as a Member of the NSC and the appointed Chair of the Misdemeanor Subcommittee. The NSCMS is charge in SB 103 (2023) was fairly broad, and we have slowly started on that, and we have had a couple of meetings. Currently, what we are doing is breaking the full Committee down into groups to do a thorough review of the list of misdemeanors, that LCB so graciously put together in 85 pages, we are asking those groups to identify misdemeanors on which they would specifically like to see data on, then misdemeanors they believe should be repealed at this juncture, and then also what criteria the various disciplinary subgroups would like to use to consider misdemeanors going forward—are there issues with this disparate enforcement, penalties, all those kind of things. Those subgroups that I mentioned are, as I indicated, based on the disciplinary areas. We have obviously a judicial, prosecutorial and law enforcement, public defenders, and advocacy agencies. This is a big task, and it has been a challenge to figure out how to get started for the group, but now I believe we have come up with a way to move forward. We have been meeting monthly, but we are going to skip our June meeting to give those subgroups the time to engage in that sort of homework assignment we have asked them to do, and then report back in July to come up with a path forward. It is my sincere hope that the various disciplines identify their concerns and data needs that hopefully, we will find out we are closer together on a lot of this than perhaps we think. Again, it is a big subcommittee, probably larger than generally one would think of a subcommittee, but to me, it was very important to get representation from all the sectors of the system that touched this.

Ms. Powers:

We will move back to the PowerPoint. Assembly Bill 388 (2023) from last session appropriated \$3 million to fund county-level grants related to reducing recidivism. As you see here, it is targeting all 17 counties and we have received applications from 9 of those counties. The amount requested so far is approximately \$2.3 million. We have approved \$233,292 to grant out and there is another \$588,422 currently in the Review Committee process. There are two more rounds for accepting these applications which close on June 7 and June 21.

As far as changes that came about from DPS, Division of Parole and Probation (P&P) to temporary revocations from AB 32 (2023), the law was changed to allow shorter term—what are being deemed flash incarcerations—as part of the P&P's graduated sanctions in lieu of the first 30-day temporary revocations of parole. Here are the numbers provided by Clark County Detention Center since the law's inception. I will also add that we received data from Washoe County Detention Center subsequent to finalizing this project. They are as follows since July 1, 2023 they have booked 94 times total for the flash incarceration

knocks. This is a visual from the NDOC portraying all parole revocations and reinstatements from January 2023 through April 2024. You can see that after the July 2023 date, the 90-day revocations actually did go up.

Regarding SB 35 (2023), we submitted a report in March of 2024 with available data regarding fentanyl involved incarcerations. At that time, we could only give a baseline for the number of individuals who would conceivably be eligible for conviction under this law if the crime had been committed after July 1, 2023, on the left you see the excerpt of that report. On the right, with the prior data set, we could only look at offenders who had been admitted since July 1 under the NRS, but now we have the updated data set from NDOC, and we can pull convictions with offense dates after July 1. That information is on the right. The "could have been convicted" under SB 35 (2023), a file review showed three of those convictions. The ones you see in orange involved fentanyl or derivatives of fentanyl.

Senate Bill 316 (2023) moved the collection of data regarding murders and voluntary manslaughter charges to NDSP. We received a total of 16 counties' data. They replied by the February 1 submission deadline. Eight had incidents to report and eight without. We have been in touch with Clark County, and they are working to format and submit their data. When we have that update, we will give it to you. Here are visualizations regarding that murder data that we received. This is the age and reported gender of homicide defendants compared with the victims. We have a comparison of reported race and ethnicity of homicide dependents compared to victims. Here is the available information regarding death penalty involvement and available final case dispositions. We do plan, in the next year, to have everything online so the respondents will not be able to move forward with leaving blanks so we will have better information going forward. This next slide is representation of the NDSP's prison population projections, please note these are not the JFA Institute's numbers, this was a project that NDSP undertook. Current NRS requires an outside entity to provide these projects, but we wanted to show what our data capabilities are. This new system that we have for projecting can be used to forecast how proposed changes in sentencing laws may affect NDOC population numbers for proposed legislation.

That does move us into data. I am going to move quickly through some NDOC population information because that is our biggest data set. You see here NDOC population on age group, the largest portion of NDOC's offender population are offenders 30- to 34-years-old. They make up 17.5 percent of the total population, which is, at the point of this slide, 10,643. The smallest portion is made up of offenders, 70 years and older at 2.28 percent. The NDOC like many other statistical agencies follow the standards on race and ethnicity set by the U.S. Office of Management and Budget. These standards guide how the federal government collects and presents data on these topics. Per these standards, race is broken out into six different categories seen here and the ethnicity into three. The top three largest portions of the population are represented by White not Hispanic or Latino offenders at 34.63 percent of the total population, followed by Black or African American not Hispanic or Latino offenders at 30.8, and then White Hispanic or Latino offenders at 19.83 of the total population. This is the NDOC population by felony category. The largest doc population is made up of Category B offenders at 53.3 percent followed by Category A offenders at 28.94 percent. In this graph, we will see NDOC's population broken up into each offender's most serious felony category and those three broken up into three different categories. I wanted to find here that an NDOC booking means that in the context of this presentation, it encompasses any convictions at the time of, and subsequent to an offender entering into NDOC custody. An offender could begin their booking with one or more judgments of conviction and potentially could add judgments of conviction to their booking once it has already begun. One way this could happen is if an offender is still pending sentencing from

one or more charges when they enter into NDOC custody or if they are convicted, these sentences join the original booking and may add time to their original maximum. Another way is if the offender is paroled to the community but receives new charges. These charges join the original booking and may similarly add time the booking ends when all convictions have been discharged. If an individual is convicted of a new crime after they have been discharged, then a new booking is created. You can see here that the darker blue are people who have never left NDOC custody and the lighter blue they have left at least once. Next, we have NDOC population by most serious offense group—49 percent of the population is comprised of violent offenders, followed by sex offenders at 16.72 percent, property offenders at 12.33 percent, drug offenders at 5.75 percent, driving under the influence at 5.04 percent, and others at 11.17 percent. Now, this is a visualization from our NDOC dashboards, available on our NDSP website, of the comprehensive information regarding the NDOC population and trends can be found here. This is the NDOC's total population by age. Overall, the NDOC population has experienced a decrease in total population size. It went from almost 14,000 in 2017 to hovering just above 10,000 in 2021. Since 2021, we have seen a slow but steady increase to the total population. This analysis looks at the proportion of the population each group makes up to see how the population group is trending over time.

Our Department has been asked to analyze the proportion of the population that is made up of offenders 55 years and older. What we can see here is that over the last seven years, the aging population in proportion to the total population has grown by 2.36 percent. The next few slides cover aging population. The U.S. Department of Justice, Bureau of Justice Statistics (BJS) defines the aging prison population to be the offenders aged 55 years and older. The BJS found older inmates are more susceptible to chronic, costly medical conditions. They typically experience the effects of age sooner than people outside of prison because of issues such as substance abuse disorder, inadequate preventative and primary care before incarceration, and stress linked to the isolation and sometimes violent environment of prison life. In the upcoming slides, we will see how the aging population has compared to total population. Industry research estimates the cost of housing aging individuals at four times that of a younger population. For the less than 55 population, Category B offenders represented the largest portion of the population. When we look at the aging population group, we see that Category A offenders represent the largest proportion at 58.33 percent in 2023. For offenses grouped together, violent and sex offenders make up 73.17 percent of the aging population in 2023. As of December 2023, roughly 70 percent of the entire aging population is made up of offenders 55- to 64-years-old. Looking at 2023, the largest groups of the aging population are offenders serving life with the possibility of parole offenders at 37.29 percent. The booking maximum incarceration length is less than 15 years at 20.74 percent, and it is offenders serving life without the possibility of parole at 15.91 percent. Offenders in this aging population who are serving life with or without the possibility of parole or a death sentence make up 54.73 percent in 2023.

We will now talk about long-term offenders. This is a group of people that are being talked about a lot nationally. We were asked for data regarding Nevada offenders incarcerated for more than 15 years. The next few slides will share information on individuals whose booking began on or before December 31, 2008. You can see the top ten offenses for the long-term offenders here broken up. This is a breakdown of long-term offenders by offense group and felony category. This shows the previously discussed breakdown of whether individuals have left NDOC custody or have served time continuously. Again, the dark blue bar shows individuals who have not left custody since they began, and this is the long-term group who has been there more than 15 years. This slide represents the number of offenses in their current booking, which means that 741 people are booked in on five offenses on their current booking.

These are our next projects regarding data. The most exciting point I will mention is that NDSP has been in contact with the Office of the Chief Information Officer to explore creating a Microsoft sequel server management database for the Department. This will allow us to store, process, and query data more efficiently. We will be looking at medical costs for the aging population. We do have a new data set from the NDOC that gives us every offense, prior to this, our statistical analysis involved their most serious offenses only. This will give us a much bigger data set. We are going to do a deep dive into length of stay and a youthful offender analysis. We are here to support the 2025 Legislative Session with any research or data pulls that you may need. Here is our contact information. Thank you.

Chair Miller:

Thank you. I will go ahead and close Agenda Items VIII and IX. Thank you for your presentation.

AGENDA ITEM X—PRESENTATION BY AMERICAN CIVIL LIBERTIES UNION REGARDING THE RETROACTIVE APPLICATION OF CHANGES TO CRIMINAL LAWS

Chair Miller:

Our next agenda item is a presentation by the American Civil Liberties Union (ACLU) regarding retroactive application of changes to criminal law, with a PowerPoint presentation. (Agenda Item X). When you are ready, you may proceed.

Athar Haseebullah, Esquire, Executive Director, ACLU of Nevada:

Good morning, Chair. I am joined by my colleague today, Tatiana Smith, who is a policy attorney with our Office. It is also her first time presenting before this Committee, but she will be seeing you all a lot during the next legislative session. Today, we are going to be discussing with you all the retroactive application of changes to criminal laws. I am going to let Tia primarily share that information, but I will be present for questions and answers.

To lay out a little bit of context for why this specific issue is relevant to us and we will discuss impact momentarily, but our organizations worked on a number of issues where retroactive laws, legislation, or constitutional findings were made, including by district courts here and in a matter that is now before the Nevada Supreme Court related to cannabis specifically. One thing I do want to note, as a former member of the NSC and someone who has been actively involved in the space for a number of years, is sometimes for ordinary people the process has become confusing. I will give an example right now; we are discussing past marijuana or cannabis related convictions, but what a lot of folks are not aware of is that there are many ways to be prosecuted and convicted of a cannabis related offense in the State of Nevada. It is not merely being in possession of cannabis and that falls under a neat statute. Yes, that can occur. You can be charged with utilizing cannabis in public, and we recognize some of these offenses remain present and that was part of the regulatory regime that was set forward at the time. From a constitutional perspective, one of the issues that has come up with us—and the case that we currently have before the Nevada Supreme Court is the *Cannabis Equity and Inclusion Community (CEIC) and Antoine Poole v. Nevada State Board of Pharmacy*—which relates to the scheduling status of cannabis for individuals who were charged and convicted even after the passage and enshrinement of medical cannabis into the *Nevada Constitution*. The possession and sale of a Schedule One Substance, namely cannabis, which still remains a Schedule One technically under State law, is where most convictions end up occurring. Those types of loopholes are

rampant throughout NRS. I did want to lay that caveat out for why it becomes relevant to us. As you know, folks will end up seeing that we are filing these cases related to constitutional issues and challenges there. It is specifically because those elements have historically been disqualified, and those individuals do not have the same access to relief because the way the actual statute is described under NRS does not remain the same as the plain language of some of the bills that came there afterwards with respect to decriminalization. With that, I am going to turn it over to Tia.

Tatiana (Tia) Smith, Esquire, Policy Counsel, Policy Department, ACLU of Nevada:

Good morning. I am going to start out this morning going through the highlights of the history of retroactivity in the law starting all the way back in 1798. This is when the U.S. Supreme Court first decided that retroactive laws that worsen punishments also known as ex post facto laws are unconstitutional. Whereas retroactive laws that lessen punishments are constitutional under Article One, Section 10 of the *United States Constitution*. Jumping ahead to 1977, this is when the court start to think about the different types of changes that can be made. So here, the court decided that procedural changes do not necessarily violate the ex post facto clause unless there is a substantive element to it. Substantive change would be more along the lines of how a punishment is prescribed or the range of conduct that is prohibited. Whereas a procedural change would be more along the lines of how a trial is conducted. Then we got the *Teague* rule in 1989. Here, the court decided that procedural changes generally should not be retroactive unless they fall into one of two narrow categories. The first is if it is more substantive than procedural, and the second, it is very specific, it is a watershed rules of criminal procedure that are implicit in the concept of ordered liberty. This has actually only ever been invoked once it was for the right to counsel; fun fact there. Then in 2016, we had *Montgomery v. Louisiana* where the Supreme Court case actually focused on a 2012 Supreme Court case, *Miller v. Alabama*. In *Miller*, they prohibited mandatory life without parole sentences for juvenile offenders. The 2016 *Montgomery* case took the *Miller* decision and made it retroactive. Then a few years ago, in 2021 the court was looking at that *Teague* rule, they said nothing is ever going to meet this watershed standard again and they nixed that whole second part of the *Teague* rule. An example of federal legislation that is retroactive is the First Step Act of 2018, Pub.L. 115–391, 132 Stat. 5194 (2018). This took the Fair Sentencing Act of 2010, P.L. 111–220, 124 Stat. 2372 (2010), and made it retroactive. The Fair Sentencing Act addressed the discrepancies between crack-cocaine and powder cocaine offenses, and the First Step Act took all those changes and made it retroactive. Here in Nevada, we also have an ex post facto clause in our *Nevada Constitution*, as Article One, Section 15. We have also had discussions in our courts all the way back to 1865, which is when the Nevada Supreme Court first affirmed that laws can be applied retroactively within the State, and then we had another critical decision in 2008, where the Nevada Supreme Court found that when a crime is committed, the laws that are in effect at that time should be applied unless the Legislature has expressed their intent to the contrary. Nevada laws generally will not be retroactive unless there is something in the law that indicate the lawmakers wanted it to be retroactive. An example of a retroactive Nevada law is AB 267 (2015), this is the Nevada law that prohibits mandatory life without parole for juvenile offenders and the post-conviction relief found in this bill was allowing these offenders to apply for parole after 15 to 20 years.

Mr. Haseebullah:

If we go to impact, and we look at just three criteria for why these elements become important. I will take them in reverse order because I think that legislatively there has been a lot of work done on each of these issues on education. There are still barriers for certain

categories and groups of people to be able to obtain financial relief, but interestingly enough, 70 percent of U.S. colleges and universities make mention within an application process of requesting one's criminal history. With respect to housing, and this has come up multiple times, there has been disqualifiers over and over and the ability of landlords effectively to disqualify certain categories of folks from receiving housing, which obviously comes up in a slew of other ways. Employment and occupational licensing, as we shared in this past 2023 Legislative Session, the Vera Institute has consistently rated us amongst the worst in the country for occupational licenses for those that have a criminal conviction in the past. We are the fourth most licensed state in the country for occupational licensing and continuously again ranked the worst. That is a bipartisan criticism of our State that has existed. We are not getting enough people to work and part of that deals with the scrutiny levels that are associated with occupational licensing denials. There is no strict scrutiny application in every instance where a denial is made. In fact, our State licensing boards have been empowered effectively to deny these licenses at their own discretion without proper recourse for individuals who are seeking to be employed and coming off of public assistance in that regard.

Ms. Smith:

We do have relief measures currently in Nevada law, which include record sealing. Sealing a record refers to restricting access to it. It still exists but is generally inaccessible for many purposes. In 2019, the Nevada Legislature passed the Second Chance Act as AB 192 (2019) and it has helped streamline the process for sealing records of decriminalized offenses. Under this law, somebody has to write to the court in which they were convicted asking for the record to be sealed. If the prosecuting attorney does not object, then the court should seal the record. We, of course, have a system for pardons here in the State that is governed by the State Board of Pardon Commissioners. Anybody convicted of a crime under Nevada law can write to that Board and request to be considered for a pardon. To be clear, a pardon does not erase the record. The record still exists, but it places a pardon on top of it. Then in 2017, a bill was passed about employment discrimination prohibitions—it says that when public employers can start asking about criminal history and exactly what information they are allowed to take into account when they get that information. We do have safeguards here in our State but let us see what other states have done.

In Colorado, they retroactively granted early release time to juvenile offenders who had been sentenced as adults for Class 1 felonies. In Delaware, they retroactively reformed their Three Strikes Law (Part One, Title 11 of the Delaware Code), and they allowed for people who had been convicted under this law to petition for a sentence modification. In Maryland, they reduced the permissible sentences for various drug-related and nonviolent offenses, and they also allowed people to petition for sentence reductions. In Louisiana, in 2017, they passed several criminal justice reform bills and some of them worked retroactively, which included granting parole eligibility to some juvenile offenders who were not eligible for and also granting medical treatment for a low cost to some people with limited mobility. Then earlier this year, the Governor of Massachusetts mass-pardoned tens of thousands of people who had been convicted of state-level misdemeanor cannabis charges.

Mr. Haseebullah:

When we get to potential solutions, Chair and Members of the Committee, what can Nevada do in this regard? We will be happy to take questions after this. We listed three that stand out to the ACLU as an organization. Improve our existing record sealing structure as it stands. Part of the reason why we included that is that we recognize our partner organizations, especially the Legal Aid Center of Southern Nevada (LACSN) that has put in

an immense amount of work here. The burden oftentimes ends up falling on nonprofit entities or individuals to assist in record sealing without full-time and permanency associated with it. We recognize this is going to be an ongoing process as we look to make our system smarter, notably, as we mentioned in the State of Nevada, there is no expungement process, we are still in a process of—again, we do not have to go through the history of that since you all are familiar with it—that structure, as it stands right now, does need to expand and be bolstered. The second would be to enhance and grow pardon ability by the State and that would be potentially an easier solution if we were looking at some of this and potentially enacting legislation that reformed part of what the pardons process ended up looking like. The third one is probably the most tangible of these outcomes and the most realistic of the three and would be the lightest lift for everybody to address. That would be bolstering accountability measures. As it stands right now, many provisions under State law have been optional. We still do not have an Inspector General's Office that would be responsible for providing oversight and that bill has been brought multiple times. The ACLU is supportive of that measure.

The other thing that we discuss when we look at accountability measures is that data collection has improved. We are grateful for NDSP and all the information that Jorja and her team are able to provide consistently. Part of the challenge is that when we are looking at accountability measures, we still have a dearth of data in the way that data is presented, but not just on the back end when we are trying to deal with these issues. Example, again, going back to cannabis, we are looking at the sheer number of those that have been brought up on charges with respect to possession or sale of a Schedule 1 substance and touted as cannabis because that is how it is effectively charged. They are going to fall between a Category E or Category C felony. Again, that is a distinction between possession and sale there. Sale under that provision, as I am using it loosely, could mean the transfer of an edible from one person to another that would constitute a violation under NRS because of the way the scheduling statuses have been historically—it is a loophole that has existed, and is one of the things we challenge because there is not clear data with respect to that and oftentimes that data is not disaggregated. It is aggregated under this one lump provision and there is a lack of clarity there. Our viewpoint is, if there was an Inspector General for the State that was involved in viewing these issues and looking into them consistently, and that function is different than that of the Attorney General (AG) specifically because the responsibility of the AG is to represent the State. The responsibility of an Inspector General would be to serve as an independent entity that was evaluating these issues where there was not an inherent conflict in representation existing State policy. That individual might be able to look at that and make recommendations for disaggregation consistently as well which we view as being a big barrier to actually understanding the core root of the issues. We understand there is a fiscal note tied to almost every issue that is related to reform in that regard, but that Office probably could lead the charge there.

The other thing we would mention upfront too, is that it is important to get ahead of the issues. I will give an example of one that is in real time right now. The ACLU issued a demand letter to the State and there is a settlement agreement in place with respect to *Davis v. Nevada*, in adequacy with respect to funding in rural communities here in Nevada, specifically, the Department of Indigent Defense Services (DIDS) was created specifically for that purpose. Multiple times there has been requests to properly fund that entity so that there would not be reopening of those issues afterwards and there would not need to be relitigated, post-conviction relief would not need to be sought, especially at scale. There have remained issues with getting that entity adequately funded, so our request is when there is an opportunity to prevent against something that would need to be dealt with later, primarily because of an either an ineffective assistance of counsel claims, a law that has been changed, or simply because there has been a resource scarcity and the ability to

provide access in that regard would pose barriers. It is important to resolve those issues in advance. Again, we make that request to this Committee as well we recognize it is not there, but if it does come up, there is a reason why we are mentioning it, so we do not have to deal with this process later. With that, we are happy to take any questions the Committee might have.

Chair Miller:

Thank you. Members, do we have any questions? I have one question, and it may be more based on general assumption. Do we know if we were to move forward with this, how many individuals would this impact that are currently incarcerated or currently have records for past convictions? Also, I know we talk about cannabis a lot because that is pretty much the most obvious, nationally at least, that the discussions are about. Are there any additional crimes that could be impacted under this?

Mr. Haseebullah:

Madam Chair, with respect to the first provision, I think we can reach out to NDSP in terms of the actual quantifiable number, if there is one. It is hard to say primarily because the data has not been disaggregated over time. There is a massive impact to understanding what the actual number of individuals who fell under specific provisions with these laws were. Again, when data is disaggregated upfront, it is pared down and it is easy and presentable. It makes it easier for us to understand the full impact of what that might look like when that does not happen, obviously, it is not going to be the case. We are happy to reach out to the Department to see if we can get that information as well. With respect to the second part and what other items might be impacted long term by this. When we look to the decriminalization issue—I am not going to steal the thunder from our friends at Fines and Fees Justice Center (FFJC) because I know they will be speaking to these issues here momentarily. If we are dealing with crimes that historically, or elements of crimes, that have been rooted in socioeconomic status, namely poverty, and we are looking at the work that is being done both in Nevada the last couple of legislative sessions, but also prospectively moving forward, it seems to be an area where there is a heavier focus on decriminalization of those aspects and that could be something that ends up coming up. What does that end up looking like long term? It may end up impacting something like loitering. If we are looking at another line and train of thought with respect to what we have seen with sex work in Nevada. Many of the charges that have been brought there over the course of time, including solicitation, there are national efforts, and we do not know what will happen in Nevada. Those two seem right for us as a State that has had a smarter focus on decriminalization long term and correcting the ills of the past to make sure that we are not running in—when we are looking at an impact perspective to those same barriers on employment, on education, on occupational licensing, and on housing. Those end up constituting a significant swath of the people that have been caught up in the carceral net over the course of time.

Chair Miller:

Thank you. I know that the housing limitations are also federally mandated, which adds another layer of challenge for individuals. Members, any additional questions? I will go ahead and close this item. Thank you.

AGENDA ITEM XI—PRESENTATION ON PUBLIC DEFENDER FEES, DRIVER'S LICENSE SUSPENSIONS, AND TRAFFIC TICKET PAYMENT

Chair Miller:

Next, we have a presentation on public defenders' fees, driver's license suspensions, and traffic ticket payments. We will have a PowerPoint to accompany our presenters today.

Leisa Moseley-Sayles, Nevada State Director, FFJC:

Good morning, Chair Miller. Presenting with me is Nick Shepack the Deputy State Director for FFJC. I would like to introduce to you all, Ms. Alexandra Mork, who is a senior at Brown University, and is interning with FFJC. She has worked with us on some data analysis. (Agenda Item IX-1).

"You have the right to remain silent, anything you say can and will be used against you in court of law, if you cannot afford an attorney, one will be appointed for you." Chances are we have all heard those words, whether it was on one of our favorite law enforcement shows like Law and Order or another one, or unfortunately for some of us in person after being arrested for minor traffic violations. What we are not told is that an appointed attorney may come with a cost that many people who find themselves in need of one are not able to afford. Nonetheless, courts across the State are assessing counsel fees and saddling indigent defense defendants with fees that they indeed cannot afford. I am going to pass this over to our Deputy State Director, Nick Shepack, to share more with you about that and to Alexandra Mork, who you will hear more from later. I will remain at the table in case there are questions that you have of me. Thank you.

Nick Shepack, Nevada State Deputy Director, FFJC:

Thank you, Chair and Committee Members. Today we are talking about counsel fees. As everyone is aware, *Gideon v. Wainwright*, which was a Supreme Court decision in 1963, that established our public defender system throughout the country. However, in 1975, about a decade later, the Nevada Legislature passed AB 70 (1975) which allowed for the charging of counsel fees to individuals who received public defenders. Going back through the minutes of these meetings in 1975, the main concern was that individuals were not being truthful about their income in order to receive public defenders and this was designed to discourage that behavior. That is not currently how the law is functioning at all. We are very good at determining individual's indigency and now what we have is a system in which, depending on which court you end up in and which judge you have, you may be charged as an indigent individual for your counsel. We have collected data from the majority of Nevada courts, and you will see the true "roll of a dice" this actually is. Alexandra did an amazing job of putting this data together, so I am going to pass it over to her for the next few slides to walk you through the data. (Agenda Item IX-2).

Alexandra Mork, Intern, FFJC:

I conducted a data analysis about all of the courts in Clark and Washoe Counties because DIDS covers the rural counties. What we found as we collected data from the district, justice, and municipal courts—and while a few did not provide data, most of them did, which allowed us to conduct a pretty robust analysis. I attempted to standardize the information as best as I could even though they provided some different types of information. Some courts might have provided the amount of fees assessed, while others might have only provided the amount of fees collected, and then ideally the courts provided both. The key takeaway from all of the courts is that the assessment of public defender fees in Nevada is

very unequal right now. First, there is a huge amount of discrepancies in terms of fees assessed between courts. Of the 16 justice and municipal courts that I examined, 7 charged public defender fees, 9 did not, and then 1, North Las Vegas only charged one person. Of the rural counties which are studied by DIDS, 4 charge fees and 10 did not. The result is a very arbitrary system in which defendants receive disparate treatment based on the court to which they are assigned. In addition to disparities between courts, there are also very large disparities within individual courts. In Clark County, in 2023 for example, there were five judges who assessed fees for over 75 percent of the defendants who were before them, but there were eight judges who assessed fees on less than 5 percent of the defendants that came before them. We also had five judges who were somewhere in between those two polls and two judges who we had incomplete data on. That is within a single Clark County district court in one year.

To take another extreme example in a municipal court, in Sparks they provided data about only two of their judges; for one of those judges, they charged a fee in 3 out of 913 cases before him, which means only 0.33 percent. For the other judge, he charged fees in 58 out of the 763 cases before him, which comes to 7.6 percent. That means if you are in the Sparks Municipal Court and you get one judge, you are 23 times more likely to be charged a fee than if you get the other judge.

Public defender fees, as I have attempted to illustrate, have large consequences and they can trap defendants and families into cycle of debt. They also do so without providing a significant financial benefit to the State across the board. Even though fees are assessed, collection rates tend to be pretty low. Specifically, the district courts are responsible for assessing the highest amounts of fees. In Clark County, the court only collected \$27,900 in 2023, which is 8.17 percent of what judges assessed. In the Washoe District court, the collection rate was higher, at \$171,541, which is less than half of what judges assessed for the justice and municipal courts. Seven out of the 11 courts and counties that charged defender fees in 2023 collected less than \$10,000 and many of those collected less than \$5,000.

As I mentioned, there is no centralized data system. For some courts, we were unable to measure their collection rate percentages because we received only information about either the amount that was collected or the amount that was assessed, but not both. Moreover, for a couple of courts, we received information about the total number of fees collected, but they did not have disaggregated information about the amount of public defender fees specifically collected, so that was also a limitation on the analysis.

Mr. Shepack:

Thank you. Before I pass it over to DIDS, I am going to run you through our simple recommendation for this one. Essentially, it is to appeal that law and end the public defender fees which would bring uniformity to the Nevada judicial system. It would end the unevenly applied practice. For those individuals who are incarcerated, after a conviction they are not actually paying their defender fees—those go into the deduction scheme at NDOC and the families of the incarcerated are paying for those public defenders after their loved one has been incarcerated. This would also end that practice. We asked DIDS to be here today, not because they take a position on this issue, but because their data on how defender fees are impacting the rurals and the funding formula we found extremely interesting and important. We asked them to be here today to speak with you briefly on how these public defender fees are operating in our rural and affecting that formula. I will pass it over to them now.

Ms. Moseley-Sayles:

Madam Chair, we will return with our second part of our presentation on traffic citations and accountability.

Marcie E. Ryba, Executive Director, DIDS:

Thank you, and we thank FFJC for inviting us to this meeting here today. With me today is Peter Handy, the Deputy Director of DIDS. We wanted to come in and explain to this Committee the background information that might help you determine whether or not this is an appropriate action to take. First, as you heard in the 1970s, the Legislature created that ability to impose attorney fees to pay back for those indigent defense expenses. There was no consistency in how courts determined indigency until 2008 when the Supreme Court in the ADKT 411 Order, which defined what a court should use to determine is a person indigent and should an attorney be appointed. According to the court, a person will be deemed indigent who is unable, without substantial hardship to himself or his dependents, to obtain competent qualified legal counsel on his or her own. Substantial hardship is presumptively determined to include all defendants who receive public assistance such as food stamps, temporary assistance for needy families, Medicaid disability insurance, reside in public housing, or earn less than 200 percent of the federal poverty guideline. A defendant is presumed to have a substantial hardship if he or she is currently serving a sentence in a correctional institution or housed in a mental health facility. Defendants not falling below the presumptive threshold will be subjected to a more rigorous screening process to determine if there are particular circumstances including seriousness of the charges being faced, monthly expenses, and local private counsel rates, which would result in a substantial hardship were they to seek to retain private counsel. With the passage of the bids regulations counties, within 48 hours, review a defendant's finances to determine if they are indigent, if they are indigent, counsel is appointed.

In 2023, this Legislature passed the maximum contribution formula and placed it into statute. The maximum contribution formula is to assist rural counties in improving their indigent defense services where the State reimburses certain expenses over and above their maximum contribution—it is similar to a high-deductible health care system, once a certain amount is reached, then anything over and above is reimbursed. You heard the amounts that counties are receiving from indigent defendants and what they are collecting. In the past year, DIDS has reimbursed our rural counties over \$3.2 million for their expenses related to indigent defense services representation, so there is a large difference of how much these counties are receiving from the State versus what they are able to receive from those individual defendants. I have asked Peter here to explain how we are collecting this data and provide that understanding to you and complexities that attorney fees are causing for us.

Peter Handy, Deputy Director, DIDS:

Good morning. To give a broad overview, we have the maximum contribution formula as Marcie explained, the way we provide the reimbursement to these counties is on that reimbursement basis. They report to us their expenditures on a quarterly basis. We review those expenditures, and make sure they are provided to or paid for indigent defense services. They provide me information on revenues they have that went to providing those services, including payments made for attorney fees from defendants. We obtain that information directly from the counties and is usually a lump sum line. We do not know whether those debts were incurred in a different year, but those are paid to the county during that reporting quarter. When we actually make reimbursement to the counties,

usually later in the year after they have exceeded that maximum contribution amount, we subtract those revenues from the amount they are being reimbursed to ensure it is actually providing them with compensation for their hard costs rather than being able to double-dip effectively for those amounts.

There are limitations to that data. First, it is reported by the counties, and we do not have the functional capacity to audit all of the books from all of the counties. Second, like I said, we do not know when those debts were incurred by defendants. We know when they are paid to the county or at least when the county is reporting they are paid to the counties, clearly, the counties are making best efforts to track all of their expenses and revenues, but there is always going to be some sort of missing data or data that is not consistent over time. I think a third part of this is a functional issue with all of our data reporting coming from the counties.

Our reimbursement goes to the counties, but in some circumstances, counties are providing indigent defense services to cities and municipalities within their jurisdictions. There has been in the past, a formula this Legislature changed last session where they are getting \$75 a case for providing those services. Now there is no cap at \$75 a case, it is whatever costs are being incurred by the county for providing those services. However, this fee structure, this reimbursement structure of attorney fees or the issuance of the fees to indigent defendants by courts can be remunerated to the cities. If that happens and the cities are receiving these funds, we are not receiving that data from the cities because we do not collect that information. Potentially a county could be providing indigent defense services to the city and the city is paying whatever the rate is, either agreed upon with the county or they might be still be paying an older rate like that \$75 a case for the services being provided by the county public defender; those numbers might not be remunerated back to the counties when they are collected by the cities. There could be some effectively subsidy happening by the county providing a service to the city, and the city is not providing the funds back to the county. If you have any questions, please let me know.

Mr. Shepack:

The second part of the presentation here is on traffic citations and accountability. I will be quick through this because I am aware of time here. Our current system—unfortunately not due necessarily at all to the change to civil, much of this existed before—but our traffic system right now is a “pay-to-play” system in Nevada. For low-income drivers, if you cannot pay your traffic ticket in whole you have to get on a payment plan. At least 16 courts charge for you to get on a payment plan and those fees can be as high as \$50. This is another fee charged solely to indigent individuals. There is a bond to challenge your ticket, you have to put up the entire cost of what it would be if you are found guilty in order to challenge your ticket. This is a major barrier, and it is really a due process fee. While there are workarounds for indigent defendants, but they are unclear at most courts and a single missed payment can result in a license suspension. However, on the flip-side, if you are a higher income driver, many courts are now offering a fee to have your points reduced without any traffic school which is a “I will pay more to not be held accountable” fee. You can hire a lawyer, which is fully in your right, but if you have the means to hire a lawyer and traffic lawyers are very good at getting points reduced on your license or your charge is reduced. You have the ability to pay that bond to challenge those tickets, if you believe that you are not guilty of the offense for which you are accused. For one example—I am using Henderson Municipal Court as an example for two reasons: (1) they have this on the front of their website, and (2) because they have the highest payment plan fee in the State that we have identified. An individual who gets a traffic ticket at Henderson Municipal Court can click a button to ask for a demerit point reduction and pay a \$60 fee on top of their ticket.

This would be no points recorded on their license so they would not be getting any closer if they were a dangerous driver to that driver's license revocation. However, a person in the same situation that is low income at Henderson, would not have the ability to get those demerit points reduced, but they would have to pay \$50 for the pleasure of being on a payment plan in that same court.

Outside legal help, as I mentioned, like Ticket Busters, they have been doing it forever here. They do a great job, no shade at Ticket Busters at all, but you can see that if you can afford to hire them, they have right on their website, that in most cases Ticket Busters would negotiate the fines without you going to court, without you earning points on your driver's record, and without any insurance increase. Again, we have a system in which if you have the resources to get the help, you are held far less accountable than if you are having to get on a payment plan to pay for your ticket. What does it look like for low-income drivers? This was not intentional, we passed SB 219 (2021). Everybody who sits on this Committee that was here during that Session voted in favor of this legislation. The intent was that we would end driver's license suspensions for failure to pay also failure to appear now—that there are these two terms that are fairly interchangeable. You have a court date and you either pay your ticket or you show up. If you do not pay, some courts viewed that as a failure to appear and others view it as a failure to pay. However, although it was mentioned that there would be an amendment with the decriminalization bill or this bill, so they would work together, it was the very end of that legislative session in the big rush—that never happened. Driver's license suspensions resumed at the beginning of 2023, and we have seen over 11,000 of them since then. These are people who are missing payments or otherwise unable to pay their tickets. Recent studies have found that a loss of a driver's license due to a suspension is almost \$13,000 a year in lost revenue for the individual. Plus, we have unlicensed drivers on the road—a certain percentage of these people are going to still drive to work or drive to get their kids even though they have that suspended license—that is a safety issue. However, on the other side, demerit point suspensions between 2017 and 2021, Nevada only suspended 800 people for bad driving. Since the beginning of 2023 when we had these 11,000 failures to pay suspensions, there was 121 demerit point suspensions. We have over 20 times less demerit point suspensions than many of our neighbors. We have a system that is currently working to essentially functioning as a revenue collection and not an accountability mechanism, which is very concerning. One of the problems is we do not have a unified court system and individuals can get tickets all over this beautiful valley, and if you are in different courts, they are often treated as a first offense in each court because they do not talk to each other. We do have a centralized traffic citation system that the AOC built—it is a wonderful system. However, only 15 courts are currently using that system, mostly rural courts, but anybody who is in that system, no matter what court you are at, they will be able to see if you have a history of speeding not just if it is your first time in that specific court.

Our recommendations for working with traffic here is to end the payment plan fee mandate where payment plans are available. There is at least 17 justice and municipal courts that currently do not charge payment plan fees. These are outdated fees from back in the day when there was a physical file with your name on it, and you had to write a check, and there was a copy of a check. There was a lot of staff time that went into allowing people to be on a payment plan. These are all electronic now, most people are making payments from their homes or their phones. We should end the driver's license suspension for failure to pay as we did in 2021. We should be focused on holding those dangerous drivers accountable and we should end that bond fee, which quite frankly might be unconstitutional. It is a fee to enter into due process, and it is a major barrier for our low-income Nevadans to seek justice if they feel they have been wrongfully accused. With that, we have a slide full of resources. The links here have been provided to you if anybody is interested in learning

more. At this point, we will take any questions on either part of the presentation that the Committee has. Thank you.

Chair Miller:

Thank you for that and for to everyone who shared in the presentation. Members, do we have any questions for anything under this agenda item?

Assemblywoman Cohen:

Thank you, Chair. I do have questions going back to the defender fee portion of the beginning of the presentation. What is the collection process like? Is there a collection process for the court system as far as how they are getting the funds back? What they are doing to get the funds, and what the cost is to the court system for collecting the funds?

Mr. Shepack:

Because we do not have a unified court system, collections are handled individually by each court. Some courts will use a county collection system. Some courts have their own collection systems. It is the same type of system they would use to collect any other court fines or fees. It is very likely with these low numbers that it is costing more in many courts to attempt to collect these fees than you are actually receiving in the fees. Then for individuals who are sentenced to prison time, there is a mechanism set up through a deduction scheme for anybody who has money deposited on their books by a family member or has a job and gets money deposited on their books from work, a certain percentage of all of that money is taken out to pay court fines and fees of which these would be included. I hope that answers your question.

Chair Miller:

Thank you for that. Members, any additional questions? Not seeing any. Thank you for everyone that presented under this agenda item. I will go ahead and close agenda item XI and go to agenda item XII.

AGENDA ITEM XII—PRESENTATION BY LAW ENFORCEMENT ON THE FEES CHARGED FOR BODY CAMERA FOOTAGE AND PUBLIC RECORDS

Chair Miller:

Agenda Item XII is a presentation by law enforcement on the fees charged for body camera footage and public records. We will have three co-presenters. We have Captain Joshua Martinez in Las Vegas from the Office of Intergovernmental Services from LVMPD; Eric Buck, the Deputy Chief of Police from Henderson Police Department; and we have Shannon Hardy, the Division Manager of Administrative Services Division from the Washoe County Sheriff's Office. There are PowerPoints and/or handouts from each.

[The following items were taken out of order.]

A. LAS VEGAS

Captain Joshua Martinez, Office of Intergovernmental Services, LVMPD:

I oversee the Intergovernmental Services office, and I have our Assistant General Counsel with us today, Matt Christian. He is going to talk about the topic of public records,

body-worn cameras, fees associated, and how our Agency handles those. I will support him with any questions the Committee may have. (Agenda Item XII A-1).

Matthew Christian, Assistant General Counsel, LVMPD:

Good morning. I am happy to be here today to speak on one of my most favorite topics, public records requests. To give a little bit of context, back in 2019 due to increasing demand as well as the Sheriff's dedication to transparency. We stood up a brand-new Public Records Unit. That Unit is managed by one full-time sergeant, and it consists of two separate sections. Those two sections are the public records section and the body-worn camera section. On the public records section, they handle your traditional public records requests that would be for traditional written documents. They also handle requests from the media for your everyday arrest reports and booking photos, which there are a lot of those—every day we can look in the paper or watch TV and there is news about our most current arrests and booking photos; the public records section handles that. The body-worn camera section handles all public records requests for body-worn cameras, but they also handle all requests that come in through civil subpoenas. As our last presenter suggested, those are sort of interchangeable. We have a lot of civil litigants that will send us public records requests for body-worn cameras, but they will also send civil subpoenas; it sort of interchangeable. The reason that we do the body-worn camera request that way is not only be that it is interchangeable, but there are so many requests that are coming in for traffic accidents. It is become very common, if you are in civil litigation or if you are in the insurance claim adjusting process. There will always be a request for our video because you never know if someone admits they are at fault or admits they are not injured. It has become a “check the box” to get the video when it comes to traffic accidents. Then the next largest volume of requests for the video is from other types of personal injury actions. For instance, if there is a shooting at an apartment complex, then the resulting litigation will mandate that our records about the investigation including body-worn cameras would somehow be produced.

This slide gives a little bit of context for how many requests we are getting. On the traditional record side, you can see that volume has pretty much doubled in the last couple of years. The body-worn camera requests have stayed the same more or less, but I would say that the volume of the footage has increased, which is making it more and more difficult to keep up. The officers are wearing their cameras or having the cameras on longer, and then any given request will be for more and more information even though the numbers are staying the same, the amount of work is definitely increasing. The next slide is another way of looking at the numbers, it reflects the total number of requests that we got last year. It also breaks down how many are from the media versus not media, as you can see, about half of the requests are from the media. This bar chart also demonstrates that some requests we have a category called “canceled” that represents the significant number of requests that come in that are ambiguous or very overbroad. Our staff interacts with the requester trying to either pare down the request or clarify it and then it will end up showing up in our system as canceled.

Getting back to the staff, on the last slide, I did not mention how many full-time employees we have devoted to this. We have six civilians that handle the traditional records requests, and then we have seven full-time police detectives that handle body-worn camera requests. It is roughly 14 full-time employees. The next slide is our charges and is focused on body-worn camera requests. We do charge, but it depends on what you are looking for, what the nature of the request is. For a large number of requests, there is no charge. For instance, if it is a matter of widespread public concern, then we do not charge anybody, we upload the video onto YouTube. I put some recent examples from that I thought of off the

top of my head; the recent shooting at the Prince Law firm or the UNLV shooting, nobody has ever had to pay for that sort of video because we recognize that the public is highly interested in that as there is more than one request coming in for it. We put it up on YouTube, that is reflective of our longstanding policy on critical incidents. I think, we all know that after an officer-involved shooting, we have the Sheriff's Assistant that does a press briefing at 72 hours, and the most relevant video is always showed at that briefing. However, we do charge for other body camera requests, namely these are what I mentioned before; if it is a subpoena or if it is a one-time request that only one person is asking for, then we do charge an \$83 per labor hour fee to process the video. That video is based on the labor burden, the actual labor burden to pay the detectives. It is their salary and benefits and comes out to \$83 per hour, and we charge the actual amount of time that it takes to process the request. We feel that it takes about four hours per every hour of video. We used to charge an estimate, so we would multiply \$80 by four to come up with \$320 per video hour, but the more accurate way to think of it is \$80 per hour of labor to process the video. Sometimes it takes longer than four hours per hour of video, but sometimes it will take less. One thing that is not reflected on this chart, that I thought of afterwards, is we also do not charge for your everyday routine requests for arrest reports and booking photos. I really could have had another column on there. The law permits us to charge a reasonable fee for an arrest report or a booking photo, but we have never charged the media for that sort of information.

The next slide reflects the amount of revenue the Public Records Unit brought in from this effort last year. You can see that it is about \$400,000. It cost about \$2 million to operate the Unit with all the employees in it. The \$400,000, the absolute vast majority of that will be from insurance companies and personal injury attorneys or defense attorneys seeking video relative to their civil lawsuit or their claims they are trying to adjust. I know the Committee is interested in turnaround time. This is very highly dependent upon exactly what is being asked, so it ranges wildly. Again, your everyday request for an arrest report with the booking photo, we are going to be able to respond to those either the same day or within a couple of days, but on the other end of the spectrum, right now, we have one particular request from an attorney who wants every report of every incident that ever happened at a particular apartment complex for a five-year period. There are literally thousands of incidents that have happened at that particular location. We estimate that it will take many months to respond to that request. The attorney is more than happy to wait several months and was also more than happy to pay a reasonable fee for the labor expense incurred in responding to that high volume of requests.

The next slide is about the challenges that we are facing. There is no question that the number of requests is increasing. There is no question that the breadth of the requests is increasing. We might get a request for every single email between the Sheriff and anyone on his executive staff for an entire year. That is not uncommon, or they could even be broader than that. I mentioned earlier in terms of body cameras, there is more footage and with the volume of footage there is an obligation to go through and redact it; so it is taking longer. We are getting a little bit further behind than maybe last year at this time. The other challenge is the redactions, and you know they are really a big challenge. We run across people on the worst days of their lives. This is not records from the assessor's office, these are police records. It could be a domestic violence, it could be a gruesome car crash, it could be a murder, there could be witness statements, there could be people revealing the most intimate details of their life, it could be criminal history information that is recorded on the video or recorded in our records—so we take people's privacy interests very, very seriously. There are certain statutory requirements that we have to redact certain things, but there is also the common law the Nevada Supreme Court has endorsed in terms of privacy interests. There are also our law enforcement interests as well. It is common for us

to get requests for an entire file. It could be a homicide file for instance, but we are still investigating the homicide. We have not even finished the investigation when we are getting public records requests for the witness statements or for the body-worn camera. That poses a challenge in terms of the integrity of the ongoing investigation and so for certain cases, we feel that in order to protect the case, it would be justified to redact or withhold records even, depending on the circumstances. The need to redact is very apparent and therefore the labor that is required to make sure that we protect those interests is something that we take seriously and that is why we have so much staff devoted to it. With that, I am happy to answer any questions. I am also authorized to extend an invitation if any Committee Member would like to come to LVMPD to view our Public Records Unit—we are very proud of it, and we have devoted a lot of attention to it, and we would be more than happy to give you a tour and show you our process that we have. You can always reach out to me if you would like to take a tour.

Chair Miller:

Thank you for that. Members, any questions?

Vice Chair Scheible:

I do have a couple of questions. First, I want to say that I think you had an excellent presentation which answered a lot of my questions, and I appreciate the professionalism of LVMPD with their Public Records Department because I think it is important to have the staff, the training, and the time devoted to that public facing part of your obligations. I did want to talk a little bit about the redactions, because I can appreciate having watched hundreds of hours of body cam footage myself that it is very hard for us as legislators to write specific rules that explain what does and does not have to be redacted. I think having detectives do the redactions is an excellent policy, because they have that training and that experience to know what is truly personal information versus when all of us walk down the Strip or through a grocery store every day and our faces are caught on camera, we are not entitled to have our faces blurred out in every camera that captures us. If we are the victim of a sexual assault and we are talking to an officer about it then absolutely, we have a right to privacy there. That is a very long context to ask you, in LVMPD's experience, are there areas of the law where you are getting slowed down because the statute requires redactions that you think maybe are not serving the purpose of actually protecting people's privacy?

Mr. Christian:

There are certainly areas of the law where it is not clear what should be redacted or not and there are certain areas that are very, very clear, right. This is common for a body-worn camera to capture the screen of an officer's patrol vehicle, that screen will have the scope print out sometimes of the subject. If a miscellaneous member of the public is asking for the body-worn camera, the statute is clear, we cannot provide that criminal history to anybody, so that has to be redacted. A sexual assault victim's identity always has to be redacted. There are other areas though that are not that clear. For instance, we always redact images inside of a home. We feel that the case law is clear enough that we all have a very high interest in the privacy of ourselves in our own homes, but we have a lot of videos where the officer is invited into a home or must go into a home—we do redact that. However, if you are in a divorce—I am giving you the most recent example that is coming to my mind—if you are in a divorce and there is a domestic violence incident between the husband and the wife and we receive a subpoena in the divorce case seeking the video from inside the home, then we are going to be more likely to leave it unredacted because there is a particular need for it and for the purposes of that case, theoretically it would not be

disseminated publicly. There is a lot of gray areas and nuances. The UNLV shooting is also coming into my mind right now, there was so much video of these victims and students who were being cleared from buildings with terrified looks on their faces and with their hands up in the air. I know for me personally I would not want my face broadcast all over the media as this is the worst day maybe of my life. The look on my face, to me, I would have a privacy interest in, but there is no statute that protects that. On the other hand, if we are interviewing someone because they had relevant information about the shooting and the case has not been even charged yet, we would be more likely to redact that because we would want to protect the integrity of the investigation, or if we knew the interview caught on camera someone who is at risk for their own safety, then we would have to think at least about redacting. There are some gray areas, but we feel like we have it down now pretty much. There are still questions that come up every day, but our staff now is pretty well in tuned as to what the Department considers to be confidential, and what the law considers to be confidential even though there are some gray areas.

Vice Chair Scheible:

I think that answered my question. I have a follow up that you may have also answered. Do you make different redaction decisions based on who the requester is, and do you feel like the law is sufficiently nuanced to allow you to do that? Like you were saying, it might be different if the district attorney is requesting the camera footage from a domestic violence incident, and you want to hand over the whole thing versus the nosey neighbor submits a public records request. Can you tell the difference, and are you empowered to make that determination about what is appropriate for this requester?

Mr. Christian:

The Supreme Court of Nevada borrows heavily from federal law governing the federal Freedom of Information Act, 5 U.S.C. § 552, and it is very clear under federal law that a public records request must be treated without regard to who the requester is because if it is really a public record, then anybody would be entitled to it. In my example of the domestic violence, if the nosey neighbor were asking for the video of the inside of the neighbor's home, then as a public records request, no, they would not receive it. If the husband or the wife asked for that video as a public records request, they would be given the same answer because they are asking for it as a public records request. In our system that we purchased in 2019, when we stood up our unit, every public records request is available on our website to anyone that wants to look at it. That video we would not be able to make public because it is not a public record. In that case, we would have to encourage the husband or wife, whoever wants this record, to issue us a subpoena because under the subpoena then, yes, we would treat it differently. I hope that answers the question.

Vice Chair Scheible:

I think that does, and to clarify, those are both fulfilled by the same Unit though? The same six detectives are trained to prepare body cam footage for that subpoena or that public record request.

Mr. Christian:

Yes, in terms of body-worn camera footage. Yes, in terms of records. We still are using our Records Bureau to respond to subpoenas. They all get advice from me whether it is the Public Records Unit or the Records Bureau. I think we have it down where it is pretty consistent.

Chair Miller:

Members, any additional questions? My question would be, there seems to be a pretty dramatic drop in the body-worn camera request from what it was in 2021 to 2023. Do you have any idea why we see a significant change which increases and then decrease?

Mr. Christian:

I noticed that myself, it is staying about 2,000 per year, but I questioned that myself. These requests come in in all sorts of different ways. So let us say that you get one request, it could be one request, asking for every report and every video about ten different events or it could be the media will do this. They will want the arrest report, the booking photo, and all video from the same event. I am questioning whether or not our numbers are really capturing everything. What I do know is that the Body-worn Camera Unit tells me that they are falling further behind because there are more and more requests coming in from their perspective. I would just throw that out there. You would have to do a really, really deep dive into the numbers to discern year over year how many actual requests are coming in for traditional requests versus body-worn camera requests and sort of parse that all out. I definitely know what you are saying there, and I appreciate the question and the opportunity to try to clarify it.

Chair Miller:

Thank you. With that variable considered, then the trend is probably consistent based on that.

Mr. Christian:

Absolutely. Because as you can see from the other column, the overall number of requests is definitely doubled from what it was two years ago. I guess I would say too, that because so many of the requests that go straight to the Body-worn Camera Unit are more along the lines of civil litigation requests that maybe those would be the same over time because maybe there is the same amount of traffic crashes or litigations that are happening year over year. I do know anecdotally the workload is increasing.

Chair Miller:

Thank you for that. Well, with that, thank you for your section of the presentation. We still have the City of Henderson, so I am going to invite them up.

Captain Martinez:

I want to say for the record, we submitted the cost sheets too if you want to look at our breakdown for what we charge. They do change on July 1, so we provided the next year as well. Thank you for your time. (Agenda Item XII A-2).

B. CITY OF HENDERSON

Chair Miller:

The next part of this agenda item will be the City of Henderson's presentation with PowerPoint and handouts available as well. Please proceed when you are ready.

Michael Cathcart, Business Operations Manager, City of Henderson:

I want to thank the Committee and the Chair for the opportunity to be here today. I want to introduce Deputy Chief Eric Buck who will be giving you the presentation (Agenda Item XII B-1) on how we handle our body-worn camera records requests.

Eric Buck, Deputy Chief of Police, Henderson Police Department (HPD):

Good afternoon. The HPD's Public Information Office (PIO) currently handles all media records pertaining to the Police Department to include body cameras, dash cameras, 911-calls, photographs, radio traffic, and police reports requested by the public. The 16-month graph shows our PIO's ability to complete records requests within five days or less. It should be noted that over 90 percent of these requests to our PIO are for body camera video. Body camera takes longer due to the complexity and certain considerations that have to be made. As you can see, our length of time for fulfillment over the last 16-months has increased. This is due to the increasing number of and complexities of the body camera requests. Public records requests come in from the media, citizens, lawyers, students, researchers, and commercial businesses. Between 2020 and 2023, the HPD has experienced a 96 percent surge in records-related request submissions from 368 annual requests to 723 requests, which is the highest level of requests in our history. This highlights the growing demand from our community, which has been a challenge on the limited resources of our PIO unit. At this time, the PIO averages 7 to 15 incoming records related requests weekly; and on the body camera requests, it is not uncommon to have an estimated date of completion several months out, or more, due to the large amount of requests. As of today, we are working to fulfill 54 pending public requests in our PIO, 49 of these requests are for body-worn cameras. A couple of months ago, we had over 170 requests in our backlog. To mitigate this backlog, the PIO went through the entire list of body camera requests to ensure requesters were still actively seeking to fulfill their body camera requests. The vast majority of these customers were attorneys seeking these items for their civil litigation cases. Many indicated these records were no longer needed and their requests were closed as such. This cut our active caseload down to approximately 80 cases.

The City of Henderson's fee structure as it pertains to body cameras is the rate of pay for the employee working on the request times the actual work hours it takes to fulfill the record. The typical rate is \$95.75 an hour plus a one-time \$75 technology fee for body camera redaction services. There are two exceptions to this fee structure. The Chief of Police can waive the fee for any reason upon request and anyone can make an appointment to come in and sit with a PIO officer. They cannot make any recordings of the video; however, they can review the body camera footage at no charge. If a request for a body camera video is made, the first 30 minutes are free. The chart on the right side of this lists the Henderson fee categories (Agenda Item XII B-2) which were submitted, and the body camera fees fall under the "research fee."

Video redaction takes place in two forms, visual redactions and audio redactions. While redaction software uses artificial intelligence (AI) technology to assist in efficiency of redaction by blurring faces, there is still a manual component to ensure sensitive information is protected. The manual process is done frame by frame. Some considerations for redaction that must be observed are, on the video, the officers faces must be redacted per Chapter 289 of ("Peace Officers and Other Law Enforcement Personnel") of NRS, juvenile faces under certain circumstances, sensitive graphic images, and personal information. The body-worn camera is situated in the center of the officer's chests and will capture things like information on a computer, like the criminal history information on a field interview card or an identification card. There is Health Insurance Portability and

Accountability Act of 1996 (HIPPA), Pub. L. 104-191, 110 Stat. 1936 (1996), content that must be considered. We have to do heavy redaction when an officer enters a hospital, if there are photographs in the background, or there are reflections in windows that have to be considered. Then there are things that we have to unredacted. Our software is famous for confusing the spotlight on the car as a face, which we have to go in and unredacted it and then we have to go in and review the audio on everything we release. We have to mute personal information like date of birth, social security numbers, personal information, there may be privileged conversations, there could be sensitive radio transmissions, or any police tactics need to be taken out. As you can imagine, each and every video carries its own intricacies and factors that can affect the redaction process itself such as lighting, movement, number of officers on the scene, reflections, and other content. Due to these individualized factors, a single five-minute body camera can range anywhere from 15 minutes to many hours to complete the redaction process. Remember that manual redaction is done frame by frame, to put that into perspective, our body cameras record at 30 frames per second. Quick math is that is 1,800 frames per minute or 108,000 frames per hour; then you multiply that by the number of officers on scene that are recording.

A quick snapshot of what our PIO looks like—the HPD’s PIO is currently staffed with two full-time sworn officers. As of January 2024, to assist with the growing number of public records requests, the office was supplemented with one part-time law enforcement support specialist from our Police Records Unit to assist with records requests for reports—this employee works up to 19 hours a week. The HPD’s PIO is responsible for responding to and the completion of all publicly submitted record requests for video, body cam, dash cam, 311 and 911 audio requests, and photo requests, in addition to all the police related media requests for police reports, videos, audios, and criminal statistics. The PIO also handles any other media requests like coordinating interviews, on-scene briefings, news releases, public service announcements, and monitoring and posting to all of our Department's social media accounts.

One huge concern that we have is from large commercial requests. The HPD has received requests from large production companies for body camera footage and case reports. The cases requested are large homicide investigations that have sometimes taken years to solve and involve many officers. This can result in hundreds of hours of video, which must be reviewed by the PIO team before being released. At 1,800 frames per minute, this request becomes overwhelming. In addition to the video these requests include any 911 calls, photographs, reports, and recorded interviews that are associated with that case. These requests are coming in not just locally, but from across the world. Just this year, two large production companies requested all documents from a homicide case that HPD solved. This request would necessitate a dedicated PIO officer to set aside all other duties to complete, impacting our Department's level of service in all other categories fulfilled by the PIO.

The HPD values its positive relationship with the community, striving for transparency, cooperation, and providing premier services. While we aim to accommodate requests for body camera footage in a timely manner, there are several factors that can inhibit these goals. We queue our records requests on a first-come-first-serve basis. There is no priority given to any certain requester. Complex videos require more resources and time, as I stated before, we encourage the number of body cameras requests to be thoughtful and concise, to capture the required content for the requester in a timely manner. There are other pressing departmental concerns that take priority over the records releases which divert our PIO resources, examples are officer involved shootings, large scale incidents, city events, media releases on notable events, and unforeseen obligations. That concludes the presentation. I am happy to take any questions.

Chair Miller:

Thank you. Members, any questions? Yes, we will start with Vice Chair Scheible.

Vice Chair Scheible:

Thank you for your presentation. I think you did a good job helping us see the nuances, and I did not know that about going frame by frame and the number of frames per second, it sounds tedious if I may say so. I want to ask you the same question that I have asked other presenters, which is whether the statute, as it is written, is for lack of a better term working for HPD or whether there are areas that are either so unclear that it is taking more time than it needs to or redactions that you think are required by statute that do not necessarily reflect the purpose of a redaction.

Deputy Chief Buck:

I personally am not one of the boots on the ground doing the redactions. It is a great question, and we need to look at. I would like to take that question back to my team, run it by them, and then respond to you in an email.

Vice Chair Scheible:

That would be great, because to be clear if there are ways that we can narrow the scope of work by improving the statute, I think we are all open to doing that. We also want to balance the privacy concerns that we have been talking about all day. The other question I wanted to ask, if I may, is also for you to clarify—is it the same employees who provide the public with specifically body worn camera footage as provide to attorneys and prosecutors, or do you have separate departments for those two?

Deputy Chief Buck:

It is the same group.

C. WASHOE COUNTY

Shannon Hardy, Division Manager, Administrative Services Division, Washoe County Sheriff's Office (WCSO):

I am virtual. Sorry, I am off usually today, and I am in Napa. (Agenda Item XII C). I am presenting on requests for information, I put a few statistics together and some different information. The WCSO currently is using the GovQA system. Per NRS, there is a certain amount of time that we have to respond to these requests. The system sends out the response to them immediately when they sign up for a request, which is done through our website; there is a link that takes you straight to GovQA. As you can see on the stats there for the requests for information, we had an increase of 60 percent this year so for this fiscal year we are at 8,048. I have no staff for this either. I have one person that does body-worn camera, and I am using a supervisor to handle the other requests. The system allows for tracking and responding to requests. It has a request for information, body-worn camera, and then we also track all the subpoenas that we get even though subpoenas are court ordered, they are asking for all the same information. They want all the videos, the photos, the emails so it is all very time consuming. There has been, like I said, an increase of 60 percent more requests. These requests can be simple so we could get simple ones that is just a report, citation, or a booking photo, and those we can get done pretty quickly. We can get those done in about seven days. They are not all simple like that, many of them

are emails, visits, photos, phone calls, body-worn cameras, all the video from our fleet dispatch, logs, audio, and sometimes they want all of our contracts, or they want murder cases. Currently, I have one that has been open for about 58 days. We have a media company who keeps requesting everything on five murders. We are trying to get everything together for five murders to give to a media company so they can post it on the Internet, and we only have one staff member for this. We have requested yearly an above-base position to get positions—I thought perhaps I would get three positions this year, and I got none. Additionally, we use light-duty deputies to assist, so if we have anybody that is on light-duty, I bring them in to try to assist to get these done more quickly. Then again, we have to train them what they are looking for—it is not as easy as people think—you need to know where to find the information and everything has to be redacted. That is the part that is really hurting us right now.

I am going to go on to the next slide, which is the body-worn camera request and redaction. Body-worn camera requests have increased 121 percent since last year, and I have one person. I have purchased additional software to make it a little easier for her to get that done but for every ten minutes of a video, it takes one hour of redaction and a lot of our stuff runs through [inaudible], so that is very time consuming as well. Media groups, I talked about, we have seen an increase within the media groups who post body-cam footage on private people, victims, witnesses, and it is for-profit that are doing this. There is no legal mechanism for the private individuals involved in a record that requires them to be notified of the request. If somebody is in a video, there is nothing that says they have to be notified that we are releasing this to someone. It has become so time consuming to redact all of this information, and I do not know how we are keeping up with what we are doing right now. I have nothing on the fees. I think that was some questions. The County does, but not the WCSO per se, the County does have a fee schedule. I have put in for six [inaudible] ever to charge someone and nobody has ever paid it. That is, it. Any questions?

Chair Miller:

I think the first one before we begin with questions is, if you could share that fee schedule since we do not have it.

Ms. Hardy:

I know exactly what it is, I have a copy right here with me. The fee schedule with the County is for personnel costs shall be charged at the minimum of the hourly rate of an office assistant, which is our lowest position there is with the County; I think somebody said it was \$24. They had the [inaudible], so I think that went up a little bit from \$19.96. They have it here, that the first ten hours are done for free but after that, they would be charged. Another example I can give you, is we have 40.96 hours of video right now which is 2,185 photos. That is for one request that somebody is asking from us, which is an estimated of 248.76 hours of work for my one staff member to do. We are getting ones like this that is insane, and we cannot keep up with this demand. Then like I said, ten minutes of video takes an hour of redaction because we have to redact everybody's faces.

Chair Miller:

We are not just charging for the redaction of it. You is saying the first ten hours of work or labor would be free and then after that, we would be charged, let us say the \$24 an hour for however many hours that it took in order to supply.

Ms. Hardy:

This one was 248 hours, and we give them 10 hours for free. We would we have not done that yet.

Chair Miller:

You have not done that yet, but that would be what the policy is right now.

Ms. Hardy:

That is what the policy is with the County, yes. There has to be something put in place; we cannot keep up with this. There is no possible way and then everybody is angry, because they are not getting the information they have requested. They do not realize we have to per NRS, we have to redact everything, and we do not have the staff to do it. You should see how many we have—it is insane. We are trying to keep up with it.

Vice Chair Scheible:

Let me start by asking if the WCSO is prepared to support a bill to remove the redaction requirements from the NRS?

Ms. Hardy:

That would probably be something I need to discuss with the Sheriff. Doing completely no redaction? I think that would also have to go by associations because of the police officers.

Vice Chair Scheible:

Well, I would appreciate an answer to that because you presented us with a problem, and you are saying that your Office cannot do it.

Ms. Hardy:

I apologize because they threw this at me like in two days, and I threw this together. I had no idea what I was even really coming to discuss or what anybody wanted from me. I would have been more prepared if I would have known. I apologize.

Vice Chair Scheible:

That is okay. I am trying to solve the problem that you presented to us.

Ms. Hardy:

I will get an answer for you on that one. Thank you. I will ask that, and I will get an answer back to you.

Vice Chair Scheible:

I am also interested to understand a little bit about the transition from the days pre-body cam to the days post-body cam. I understand that today you have one staff member who is responsible for providing this.

Ms. Hardy:

Before the bill was passed. We are getting simple. I do not know why this is unstable now, I only heard part of what you said. As far as the body-worn cameras and how things have changed over the years.

Vice Chair Scheible:

Yes, and more specifically, I am understanding there is one person who is responsible for providing body camera footage to both the public and the prosecutor's office. I will follow up offline.

Chair Miller:

Yes, we think there is a delay—you are going in and out where you are at, because even when you respond it is not necessarily matching the question. Vice Chair Scheible said she will contact you via email or something like that.

Ms. Hardy:

I would say, we have one person for the body-worn camera. She is the only one that knows how to use the software, but it takes so long and so many people are asking for those requests.

Chair Miller:

Thank you. This of course is open to any Members that may want to contact you directly offline for this question.

Ms. Hardy:

If you send me any questions, I will respond back to you. Okay. This was not good.

Chair Miller:

Members, any additional questions? All right, not seeing any. Thank you for your presentations. I will go ahead and close this agenda item.

AGENDA ITEM XIII—PRESENTATION BY THE LEGAL AID CENTER OF SOUTHERN NEVADA ON THE SEALING OF CRIMINAL RECORDS IN NEVADA

Chair Miller:

I recognize that people are probably getting hungry, but I also recognize this is our last agenda item before public comment, so we are going to move ahead with our next agenda item, which is the presentation by the Legal Aid Center of Southern Nevada (LACSN) on the sealing of criminal records in Nevada. When you are ready, please proceed.

Jonathan Norman, Statewide Advocacy, Outreach, and Policy Director, Nevada Coalition of Legal Service Providers (NCLSP) and LACSN:

Chair and Members of the Committee, thank you for having us. It is my pleasure to be joined by Ellie Roohani, she is a former State Court District Judge and she was also an

Assistant U.S. Attorney, prosecuting child sexual exploitation cases. We are very lucky to have her at LACSN.

Today, we are going to be discussing record sealing, and we are going to discuss three avenues to a “clean slate” which are decriminalization, record sealing, and vacatur. I think it is important when the public hears these terms, they only know record sealing as how they move forward. Even me, every time I see the word vacatur, I swear it is misspelled, and I Google it and I think Microsoft Word thinks it is misspelled. With that, I am going to turn it over to our expert. With the LACSN, we have two full-time attorneys that only do record sealing, and then we have other departments, like Ms. Roohani who work on record sealing when it is a human trafficking victim. (Agenda Item XIII).

Ellie Roohani, Human Trafficking Survivor’s Rights Attorney, Resiliency and Justice Center, LACSN:

Good afternoon, I wanted to start with the statutes that are implicated and give you a broad view of what we are looking at. The statutes that we work with on sealing and vacatur are set forth here. It also includes two other subsections that are not commonly used but are also included within the statutes with respect to reentry programs and certain controlled substance offenses. Nevada is unique in that we also provide for the restoration of civil rights automatically by statute if a person does get their record sealed or vacated. Finally with what Jonathan started with, which is the decriminalization of the offenses and that is where I wanted to start. Decriminalization is set forth in NRS 179.271, and I want to be clear, it is not a record sealing petition. It is done a little bit differently, and we have not had occasion to use this statute often, but you heard earlier from the ACLU with respect to decriminalization, this is a much more straightforward process that does not require stipulations and things like that. This is a written request to the court, and the process is settled here, and it is fairly delineated within the statute.

Getting to what Jonathan was talking about, what is the difference between record sealing and vacatur, which is a real thing, and works differently than record sealing. I like to think of it as record sealing as a band-aid that will cover the conviction and it will cover the court proceedings; it is like the proceedings never happened. Vacatur is a little bit different, and it takes into consideration who it is available to. Vacatur is available to human trafficking victims, sex trafficking, labor trafficking, as well as victims of involuntary servitude. Vacatur deletes everything related to the case, the conviction, and it assumes that the acts themselves never occurred in the first place. We do that by vacating the judgment and vacating the accusatory pleading. This is more trauma-informed for our victims of trafficking because it gives them solace that their acts, that they did under duress, was a result of victimization and not their own volition. That is the first big difference between vacatur and record sealing. The next is that the record sealing statute can be used by anyone for any misdemeanor, gross misdemeanor, felonies—with a few exceptions that I will note in a moment—and also for arrests. The vacatur statute is limited to only be used by victims of human trafficking and involuntary servitude. Then the last and biggest difference is that the record sealing statute available to typical candidates has statutory waiting periods of “stay out of trouble” so nothing other than a minor traffic infraction during the statutory period. Those periods are between one year for misdemeanors and up to ten years for certain Class A felonies and that waiting period does not trigger when the conviction or the judgment of conviction is entered, but rather when the case is completely finished—so when all parole, all probation, the case is closed with the court, the person is discharged, and there is no more court involvement. To make sure it is different, there are no statutory waiting periods. Again, this is trauma-informed because victims of trafficking should have

the right to rebuild their lives as quickly as possible. For any conviction related to the trafficking or sustained during the period of trafficking, there is no waiting period.

Talking about eligible charges with respect to record sealing, it is easier to talk about what is not included because that is how the statute is written. I wanted to note that rather than reading this slide to you, one of the things that I think is important is the way the Nevada Supreme Court has interpreted this statute; it is not what you would colloquially think about a crime against a child. It is only what is specifically delineated and notated within the statute when the other statutes are pointing to another place. With crimes against a child, they are defined by particular statute, for sexual offenses there are 17 specific offenses, and then with respect to the driving under the influence that includes both if you are driving an actual vehicle versus a vessel—which seems redundant but the reason why is it wants to be all-encompassing because there are a lot of statutes that a person could potentially be charged under.

For vacatur, it is a lot more broad and again, this is trauma-informed in the sense that trafficking victims, you would be surprised with the amount of things they can get themselves in trouble with when they are under duress. The fairly common ones that you might think about are prostitution, solicitation of prostitution, or loitering for the purposes of prostitution—so long as the person is not the actual customer of the prostitution—and then everything else other than a crime of violence. Interestingly, a crime of violence is not defined within this statute, it is included in a different chapter that includes general criminal definitions and that definition is set forth here: (1) there has to be the use or threatened use of force against a person or property of another person for it to be a crime of violence; (2) includes that there has to be a substantial risk that force or violence would be used against the person or property of another. I only wanted to note here that language similar to subpart two has already been determined to be unconstitutional in two cases by the United States Supreme Court, specifically in *Johnson v. United States* in 2015 and *Sessions v. Dimaya* in 2018. To date in Nevada, that second subsection has not been challenged as being unconstitutional.

You might be wondering why are petitions denied or what is causing the delays for some individuals. The first, the most common, is that the person has not met the specific statutory time periods. For a Class A felony that would be eligible, they would have to wait for ten years—so at year seven, if they come in and they are trying to get it sealed, of course, they cannot—they have not waited that sufficient time period. The next is the definition of “current” that is set forth in both the vacatur statute, as well as the record sealing statute, says that a person has to provide their current verified records from the central repository. There is no definition of current. The general judicial interpretation in this State so far has been somewhere between six months and one year. When I talk on the next slide about the time it takes, you will understand why this becomes problematic for some individuals. Judges will maintain a judicial preference to have a prosecutor's stipulation or agreement that the records can be sealed. That triggers what was called a rebuttable presumption—you all are familiar since you passed these laws—so the rebuttable presumption is if a prosecutor stipulates or all the prosecutors involved would stipulate to the sealing of the records, it creates a presumption which takes discretion away from the judicial officer so the judges appear to have that preference, many of them do. The last is that prosecutor's offices do have these “all or nothing” stipulation policies, so if a person has one offense that is not sealable by statute, the prosecutor's office typically will not stipulate. I will note that there is a reluctance there with respect to that, but when there is a human trafficking victim, they have been very gracious and are willing to recognize the person as a victim, and they have agreed to partial sealings on those instances as well as the courts.

This is the most important slide, because I think this is where the statute differs from practice, so I think this is where I want to spend whatever time I have left—I am not even keeping track. The first thing to get the process going is fingerprinting. The applicant would have to go to a local law enforcement agency or a private place to get a fingerprint card completed—only one fingerprint card is needed. Then they would send that fingerprint card at step two to DPS, which is the central repository of the criminal records of the State, once the fingerprint card reaches there, the central repository will produce a Criminal History Report (CHR) that is certified and dated. From the time of the mailing of the fingerprint card, the amount of time that it takes for the applicant to get that CHR certified back is somewhere between 45 and 60 days. Then the applicant will use the information they get from the CHR which would show them the arrests and convictions—some arrests and most convictions—they would identify every law enforcement agency that might have the records of their arrest or any other criminal records. Additionally, the applicant should check, sometimes they do not, but they should check every local court docket for additional cases that might not be reflected in the CHR. Once that big grouping of jurisdictions is identified, then the applicant would go to the individual law enforcement agencies within those jurisdictions to get the records of their arrest. That is done in a Shared Computer Operation for Protection and Enforcement (SCOPE). Shared Computer Operation for Protection and Enforcement is the law enforcement Agency's record of the arrests and convictions. You would be surprised to hear that the records of the State of Nevada often do not match the SCOPE and many of the records of the law enforcement agencies do not actually match the court records. It is important to include all of these things so that we have a full view of all the things that need to be sealed. Obtaining a SCOPE can take anywhere from a few days to a month depending on the law enforcement agency; then the petition is prepared. That petition, if it includes more than one jurisdiction—just for an example, if the person would have a felony offense in Clark County, as well as an arrest in North Las Vegas or an arrest in Henderson—they would produce what we call a Super Sealing Petition where the statute would allow the applicant to submit that petition directly to the district court which would have the jurisdiction to seal everything below it. Las Vegas Justice Court does not have the ability to seal Henderson's records, so if there are multiple jurisdictions, you would do a Super Sealing Petition, and then of course, if there is only one jurisdiction, you would do it in that individual court. The number of steps in this little bit depends on the number of courts to be sealed and caseloads, but that particular amount of time for the production of the petition for a pro se individual can be quite lengthy and even for some attorneys depending on workloads it will depend.

Our process, where we differ in the legal aid process, is then we send our prepared petitions back to the individual law enforcement agencies to get certifications that the records that the applicant is trying to seal are actually eligible for sealing. The law enforcement certifications do overall expedite the process and this step can take anywhere between 1 week and 30 days depending on the law enforcement agency. After the applicant will receive those law enforcement certifications, then the petition would be sent to each prosecuting office in succession. What I mean by that is that because we deal in Clark County—so the Clark County District Attorney's Office does not have access to Henderson's records or North Las Vegas's records—so the request has been made to us to get Henderson's stipulation, to get North Las Vegas's stipulation, and then it is given to us so that we can do a final sign off. Every prosecuting office has their own process for review. It typically takes between 30 days and up to 4 months to get a stipulation from each of these prosecuting offices, assuming they give the stipulation in the first place. Next, the petition, all of the documents, everything we have collected along the way, the CHR, the SCOPEs, the certifications, and the stipulations are all put together in the packet, and it is filed with the court. Now once it is filed the length of time that it takes to actually get an order depends on the judge and we have 32 judges in Clark County, which means

32 different timelines and 32 different ways of doing it. Once the court order is obtained, then the applicant has to take that order and send the order to each agency who might have the records—so everybody they identified in the CHR, everybody they identified in the SCOPE, everybody they identified in the court records, they send that out and those certifications they have actually been sealed and those compliance letters trickle back in. The applicant typically waits six to eight months to get all of them back and the last one that we typically get back is from DPS.

On average, from step one to step nine, the process can take up to 18 months. For human trafficking victims, you have to understand that they carry the burden of that victimization with them every step of the way, and it is preventing them from rebuilding their lives with employment and things like that. It is hopeful, but it is also very traumatic for them. Statutorily speaking, and I mentioned this at the beginning, the difference is that by statute the only thing required in the petition is the CHR. In an effort to expedite the process to get the stipulations, we have modified our processes to make sure that it gets done as quickly as possible for our clients.

The costs involved with this. The biggest difference here between record sealing and vacatur for trafficking survivors is that last session, Assemblywoman Hardy's bill, AB 275 (2023) was removing the financial burden. What I will note is that I do not think it is trickled down all the way yet to all these various agencies that need to make their adjustments. The one organization that has made that adjustment is the State of Nevada, so the DPS form to get the CHR with the fingerprints has now been brought down to zero. We are working, but it has not happened yet, so we are working through that. There are two organizations here in southern Nevada that will do record sealing for indigent defendants and also for victims of crime, those are Nevada Legal Services and us at LACSN. I will turn it over to my colleague.

Mr. Norman:

I would note that Nevada Legal Services is statewide, so they can do sealing throughout the State and also for legal aid centers a lot of our victims are not actually in Nevada, they may have moved on but their crimes are here and we will help them seal their records no matter where they are at in the country if there are records that are from Nevada. We are happy to answer any questions.

Chair Miller:

Thank you for that. What a great point to end that on the clarification for folks that are not in Nevada. Thank you. Members. Any questions? I do not see any questions. Thank you for that information. I really appreciate how you disseminated the information in a very basic level. I think that often regardless of whichever committee we are in, people speak in their professional jargon, and they assume that everyone in the room knows what they are saying and typically in this room today, yes, we may but maybe not so much for folks watching online or who will watch it in the future. That is why I speak at a fifth and sixth grade level so that the average person knows exactly what we are talking about so I appreciate that and with your graphs and charts as well, thank you for that. With that, I will go ahead and close that agenda item, which was our final presentation for the day.

AGENDA ITEM XIV—PUBLIC COMMENT

Chair Miller:

Our next agenda item is public comment, as stated before this is our second opportunity for public comment. Again, we ask that people keep their comments to two minutes. With that, do we have anyone here in Las Vegas that would like to come forward to present for public comment? I am not seeing anyone. Is there anyone there in Carson City that would like to make public comment?

Tonja Brown, Previously Identified:

Good afternoon. Thank you, Chair Miller. I would like to comment on the presentation given by Miss Jorja Powers. I did speak with Miss Powers outside just after her presentation. Regarding looking forward at the medical cost for the aging population and that information and all the data information that she had provided. She did agree with me that there was some data that is not available that should be available and that should be something that should be looked into, and that is dealing with the nutritional value in the food that the inmates eat every day versus the cost of the medical. When the diet of the inmates being provided affects the outcome of their health, which ultimately results in health issues. Their diet is a poor diet, I know they have a standard, but it raises the older they get, the more it affects their health, their cholesterol, their heart, so on and so forth. Also, there was no data information on the kite [messages] that the inmates put in for medical reasons. There was no data on the kite that was put in, and how long it took for them to be seen by a doctor or how long it took to get treatment should treatment be needed. There was no data on the length of that, and if it resulted in the medical conditioning worsening, which ultimately would cost more in medical costs. I have seen where inmates have gone days, months, and even years without any kind of medical treatment, some have died because they did not get the treatment and it still continues to this day. This is something that we believe that this data would be beneficial to this Committee in order to have a better understanding of the medical cost of NDOC and when you are looking at the budgets and so on and so forth. Look at the kites and see the data because it is telling when you have a person who could be treated and it goes on for weeks, months, and even years and then ultimately, it winds up being something like cancer or a condition that was so easily treated and now it is costing the State hundreds of thousands of dollars in medical costs. This is something that I think should be included. Thank you.

Chair Miller:

Thank you, Ms. Brown. Is there anyone else there in Carson City that would like to make public comment? It does not appear that anyone else is approaching. With that, we will move over to the phones, Broadcasting. Will you please open the lines?

BPS:

Certainly. Thank you Chair. To provide public comment, please press *9 now to take your place in the queue.

Anne Marie Grant, Previously Identified:

I am the sister of Thomas Purdy murdered by Reno Police and Washoe County Sheriff's Office. I want to thank Vice Chair Scheible for the suggestion of limiting redactions. The majority of redactions are of the police officers' faces. That is probably what is taking them the most time is blurring officers' faces. Washoe County does not even have a body-warn

camera fee schedule on their website. The County Sheriff's Office in December of 2020, Sheriff Balaam tried to get the County Commissioners to allow them to charge \$200 an hour to redact body cam footage. Based on the fees I am getting quoted it is pretty much at that. At the time, Sheriff Balaam apologized to the community, so I am not sure what has changed in regard to him perpetuating the idea that he is for transparency and accountability. There is no uniformity in any of the fee schedules or in the redaction processes. There is too much left to the discretion of the individual person fulfilling the request. There should be legislation regarding redaction. We need to change Chapter 289 ("Peace Officer and Other Law Enforcement") of NRS concerning the Peace Officers' Bill of Rights as soon as possible, because that is why they are blurring the officers' faces out on the body one camera footage. Axon Evidence has many tools that are available to these agencies to assist with redaction, skin blur redaction, smart cracker redaction, and there is an add-on feature of call redaction assistant which can swiftly scan through the footage for sensitive information with real time results. If you look at the fee schedules that were provided, many fees are unattainable for the average person, not just the indigent, I am an average person and I cannot afford some of these fees. Fees should not be a barrier to transparency and accountability. I know how important those videos were of my brother being murdered when law enforcement killed my brother and lied to us and told us he just suddenly stopped breathing and was talking crazy when in reality, they had hog tied him and asphyxiated him to death. They always use *Donrey of Nevada, Inc. v. Broadshaw* to deny request. That is all I have to say. Let us hold them accountable and get some laws in place so that there is some consistency with body-worn cameras and the release of them.

Chair Miller:

Thank you. If there are no additional callers at this time, then I will go ahead and close public comment.

Our last item is adjournment. This concludes our meeting for today. Our next meeting will be Friday, July 26, so if you are looking for a June meeting this was it. We will see you all Friday, July 26 at 9 a.m.

Please remember to prepare any solicitation for a bill draft request and have that in by August 7th at 5 p.m.

AGENDA ITEM XV—ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 12:47 p.m.

Respectfully submitted,

Jen Jacobsen
Research Policy Assistant

Diane C. Thornton
Deputy Research Director

APPROVED BY:

Assemblywoman Brittney Miller, Chair

Date: _____

MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item IV-1	Legislative Counsel Bureau	<i>Nevada Revised Statute</i> 209.4818
Agenda Item IV-2	William Quenga, Deputy Director and Acting Public Information Officer, Silver State Industries, Nevada's Department of Corrections	Memorandum
Agenda Item V	Leah Chan Grinvald, Dean and Richard J. Morgan Professor of Law, William S. Boyd School of Law, University of Nevada, Las Vegas (UNLV)	PowerPoint Presentation
Agenda Item VI-1	Deborah A. Kuhls, M.D., F.A.C.S., F.C.C.M., F.R.C.S.T. (Hon), Associate Dean for Research; Professor; and Chief, Acute Care Surgery Division, Kirk Kerkorian School of Medicine; Principal Investigator, Statistical Transparency of Policing (STOP) Project, UNLV Bertille Mavegam Tango, M.D., Ph.D., M.P.H., Traffic Safety Research Project Manager, Department of Surgery, Kirk Kerkorian School of Medicine, UNLV	PowerPoint Presentation
Agenda Item VI-2	Deborah A. Kuhls, M.D., F.A.C.S., F.C.C.M., F.R.C.S.T. (Hon), Associate Dean for Research; Professor; and Chief, Acute Care Surgery Division, Kirk Kerkorian School of Medicine; Principal Investigator, STOP Project, UNLV Bertille Mavegam Tango, M.D., Ph.D., M.P.H., Traffic Safety Research Project Manager, Department of Surgery, Kirk Kerkorian School of Medicine, UNLV	Report
Agenda Item VIII	Jorja Powers, Executive Director, Nevada's Department of Sentencing Policy	PowerPoint Presentation

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item X	Athar Haseebullah, Esquire, Executive Director, American Civil Liberties Union of Nevada	PowerPoint Presentation
Agenda Item XI A-1	Leisa Moseley-Sayles, Nevada State Director, Fines and Fees Justice Center, (FFJC) Nick Shepack, Nevada State Deputy Director, FFJC	PowerPoint Presentation
Agenda Item XI A-2	Leisa Moseley-Sayles, Nevada State Director, FFJC Nick Shepack, Nevada State Deputy Director, FFJC	Assembly Bill 518 (2023)
Agenda Item XII A-1	Captain Joshua Martinez, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department (LVMPD) Matthew Christian, Assistant General Counsel, LVMPD	PowerPoint Presentation
Agenda Item XII A-2	Captain Joshua Martinez, Office of Intergovernmental Services, LVMPD Matthew Christian, Assistant General Counsel, LVMPD	Chart
Agenda Item XII B-1	Michael Cathcart, Business Operations Manager, City of Henderson Eric Buck, Deputy Chief of Police, Henderson Police Department (HPD)	PowerPoint Presentation
Agenda Item XII B-2	Michael Cathcart, Business Operations Manager, City of Henderson Eric Buck, Deputy Chief of Police, Henderson Police Department (HPD)	Chart
Agenda Item XII C	Shannon Hardy, Division Manager, Administrative Services Division, Washoe County Sheriff's Office	PowerPoint Presentation

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item XIII	Jonathan Norman, Statewide Advocacy, Outreach, and Policy Director, Nevada Coalition of Legal Service Providers and Legal Aid Center of Southern Nevada (LACSN) Ellie Roohani, Human Trafficking Survivor's Rights Attorney, Resiliency and Justice Center, LACSN	PowerPoint Presentation

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