

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Ninth Session  
March 24, 2017**

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 8:33 a.m. on Friday, March 24, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/79th2017](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Edgar Flores, Chairman  
Assemblywoman Dina Neal, Vice Chairwoman  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblyman Chris Brooks  
Assemblyman Richard Carrillo  
Assemblyman Skip Daly  
Assemblyman John Ellison  
Assemblywoman Amber Joiner  
Assemblyman Al Kramer  
Assemblyman Jim Marchant  
Assemblyman Richard McArthur  
Assemblyman William McCurdy II  
Assemblywoman Daniele Monroe-Moreno

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Melissa Woodbury (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Michael C. Sprinkle, Assembly District No. 30

**STAFF MEMBERS PRESENT:**

Jered McDonald, Committee Policy Analyst  
Lori McCleary, Committee Secretary  
Cheryl Williams, Committee Assistant

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**OTHERS PRESENT:**

Eric Spratley, Lieutenant, Intergovernmental Services, Washoe County Sheriff's Office  
Kelle Seely, Sergeant, Critical Response Team and Peer Support Unit Coordinator, Washoe County Sheriff's Office  
John Fudenberg, Coroner, Office of the Coroner/Medical Examiner, Clark County  
Todd Ingalsbee, Legislative Representative, Professional Fire Fighters of Nevada  
Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers  
Ryan Beaman, President, Clark County Firefighters Union Local 1908  
Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada  
Mike Ramirez, Director of Governmental Affairs, Las Vegas Protective Association Metro, Inc.  
Michael Sean Giurlani, President, Nevada State Law Enforcement Officers' Association  
Trey Delap, Director, Group Six Partners, LLC  
Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson

**Chairman Flores:**

[Roll was called. Committee rules and protocol were explained.] I will open the hearing for Assembly Bill 301.

**Assembly Bill 301: Provides for the confidentiality of certain communications between parties during a peer support counseling session. (BDR 23-186)**

**Assemblyman Michael C. Sprinkle, Assembly District No. 30:**

I am here today to present Assembly Bill 301. As many of you know, for a long time now, my other job has been working as a firefighter and a paramedic. You can imagine, with me, with police officers, and others in the public safety profession, there are multiple times during our careers when we come across things that are very traumatic and very difficult for us to deal with at the time, but far more importantly, after the incident is over. We definitely rely on our training to kick in. For myself, I return to the fire station, and I start processing what it was we saw, what we did, the good things that occurred, and certainly those things that perhaps were not so good.

We have many systems in place, which you will hear about later from the others at the table with me, where we can debrief and actually go through formal sessions. Many times, some of the most important people we talk to as we are trying to clear our head as to what it was we dealt with, are our own peers—the people who were there with us. One of the problems we have come across is sometimes there are others who might be desirous of knowing about the conversations that occurred. In my mind, and the reason for this bill, these conversations are very much a part of our mental health and what we are trying to do to continue on with our profession and our daily lives after being through a significant event.

Ultimately, what we are trying to do with this bill is to protect those conversations as if they were health care issues and should, therefore, fall under the Health Insurance Portability and Accountability Act (HIPAA) protection rights, and things of that nature. These are protected conversations because it is a chance for us to open our soul to someone we know and trust. That helps with the healing process. That is what this bill does. I will turn it over to the people who actually brought this idea to me and allow them to go through it in more detail. I wanted the Committee to have a sense of why I brought this bill forward to begin with. I could take three or four hours going through all the difficult situations I have had over my 25-year career so far. Just know, this is an important issue for all people in the public safety and public service sectors.

**Eric Spratley, Lieutenant, Intergovernmental Services, Washoe County Sheriff's Office:**

With me today is Sergeant Kelle Seely, Critical Response Team and Peer Support Unit Coordinator. She is here to answer any technical or procedural questions you may have regarding peer support and this bill.

I would like to take a moment to explain the purpose of the bill, quickly walk you through the sections, and then take any questions you may have. Law enforcement officers, fire personnel, paramedics, and the myriad of first responders are exposed to a wide variety of critical incidents throughout the day and night, 24/7, 365 days a year. We are here to serve you and the communities where we live. While we do not know which particular call will have an adverse effect on a first responder, we do realize those calls involving children, major trauma, or mass casualty events will have an impact on our personnel—personnel we care deeply for and in whom we have invested significant time and resources. Sometimes it is the simplest of calls or circumstances that will have an adverse effect on a person. To put it plainly, our people are our greatest asset, and maintaining the well-being of our personnel is our highest priority.

Washoe County does have an official employee assistance program (EAP) wherein employees from all Washoe County departments may seek professional counseling services for free for any issue affecting them. In law enforcement in particular, there is an unspoken stigma to request help for problems. Additionally, there is an unrealistic yet very real fear of a fitness for duty evaluation if the agency suspects an employee may be struggling with any mental health matters.

To that end, public safety has been involved in establishing peer support groups, which are composed of personnel within the organization. For the Washoe County Sheriff's Office, it is deputy sheriffs and supervisors of the agency who are trained and certified to come alongside a struggling employee and discuss their matters on a personal, peer counselor level. Our peer support team has had great success with our agency professionals, and there is a high level of trust and respect for that peer support team.

The conflict, which is what the bill proposes to address, is the fact that a supervisor of a law enforcement agency can order a subordinate to answer a question or face insubordination, which may result in discipline up to and including termination. This bill does not seek to undermine law enforcement managerial rights, which I am in this building every day to protect, especially during an investigation of officer misconduct or criminal behavior. As law enforcement management, we do realize the benefit of having our personnel obtain some sort of support during a challenging time in their lives and using their trusted peers to provide that support.

This bill will codify into the statutes that the discussions between a public safety employee and a peer support professional are confidential without delving into the matters of *Nevada Revised Statutes* (NRS) Chapter 289. Where the two conflict at some point, we believe it would be left to a court or an arbitrator to decide. I will quickly go through the sections of the bill.

Section 1, subsection 2 states that communication, including all oral communications, notes, records, and reports made between parties during a peer support counseling session will be confidential, not a public record or admissible in court or arbitration. We do have an amendment regarding that section, and I will get to the friendly amendments I am aware of regarding this bill.

Section 1, subsection 4 states, ". . . communications between counselors who conduct peer support counseling sessions, or any communications between counselors and the supervisors or staff of a peer support counseling or employee assistance program" are allowed, but confidential. Ms. Seely could talk to other peer support members regarding the situation and the best avenues to counsel that person.

Subsection 5 is an important part of section 1 and addresses many of the concerns raised. It states, "This section does not apply to any of the following communications made during a peer support counseling session: (a) Any threat of suicide; (b) Any explicit threat of imminent and serious physical harm or death to a clearly identified or identifiable person; (c) Any information relating to child abuse or elder abuse, or any information that is required by law to be reported; or (d) Any admission of criminal conduct."

Washoe County Sheriff's Office does have an amendment to this bill ([Exhibit C](#)), which adds "peer" to section 1, subsection 7, paragraph (a), subparagraph (1) and again in section 2, subsection 1 to narrow the focus of the proposal to peer support instances and not general or sanctioned counseling sessions, which already have confidentiality under NRS. It adds "peer support" program and "peer" to section 1, subsection 7, paragraph (d). This is also the area where I wanted "employee assistance" program out. Our employees can already go to an EAP and an official counselor to get those services. This is a cop talking to a cop to try to vent some of the issues bothering him. The professional peer counselors at our agency level can point them in the right direction for the sanctioned services by Washoe County or other

governmental agencies. We are trying to pull it back to the agency peer level. The point is, our peer support counselors will generally point people in the right direction for professional help, which includes EAP services formally offered by the county or any other means.

Section 1, subsection 7, paragraph (c) of the bill goes on to describe the peer support, what the sessions are, and who it covers, which includes, but is not limited to ". . . peace officers, sheriffs' deputies, corrections officers, probation officers, firefighters, paramedics, emergency dispatchers or any other employee or volunteer reserve member of a law enforcement or public safety agency whose duties involve emergency response or criminal investigation." The forensics personnel who are out there taking pictures and gathering evidence are covered under this bill, as are search and rescue personnel or civilian personnel who are dealing with traffic accidents alongside the sworn personnel.

Section 2 adds into the privileges of NRS Chapter 49 the confidentiality needed between the parties of this bill. Section 3 deals with the confidentiality and public records. Section 4 states this is effective upon passage and approval.

I am aware of an amendment from the City of Henderson ([Exhibit D](#)) which addresses section 1, subsection 1, making these conversations inadmissible in court or arbitration. This amendment would add, "Unless waived by the employee participating in peer support counseling, or otherwise required to be provided pursuant to a court order or lawful subpoena . . ." We are good with this amendment. The theory behind this addition is the way it is written now, if I am confiding in Sergeant Seely and she is aware of my circumstance and trying to get me pointed in the right direction, but the following day I commit suicide or commit a criminal act, she is handcuffed. She cannot talk about what she knows because I did not divulge any criminal conduct. I only divulged the issue I was going through. She may have information that is relevant to providing closure to the family or something relevant to the court regarding the criminal case, or something like that. This amendment language opens it up to a court order or lawful subpoena, so she could discuss it. If the employee waived the confidentiality, Sergeant Seely could discuss it as well.

There is also an amendment from Group Six Partners, LLC ([Exhibit E](#)) that I will let them speak to when they testify. It is also a friendly amendment to open it up to other peer support services generally. That was our original intent. When we originally talked about this, we wanted something for cops, then we realized fire and medical personnel go through the same things. We realized how it needed to be opened up a little bit. We are good with the amendments we have seen so far. I am happy to answer any questions.

**Assemblyman Sprinkle:**

If I may, Chairman Flores, I would like to close with an anecdote before we start taking questions because I think it is relevant and important. Within the last couple of years, I ended up going on a call where two small children died. Within 24 hours, our organization put together a debriefing on the call. Everyone who was involved in the incident—fire personnel, police officers, and paramedics—got together. I have known Sergeant Seely for quite a while and she has seen me grow up in this profession. At the end of the briefing, she

approached me and asked how I was doing. I told her I was fine, but she asked if I would have coffee with her. A couple of days later we met for coffee and started chatting. She was able to pick up on things I was not recognizing about myself. It was so incredibly important for me and my own mental health to be able to continue on with my profession. I did not even realize it at the time. As horrible as the call was, I thought we did what we needed to do, and I would be able to move on. As it turns out, I actually did not move on. I was having a lot of difficulty with it and was able to pinpoint the fact that it was not really just that call. We call it "filling the bucket" in our profession. Sometimes that bucket gets full and starts flowing over because we go on so many of these calls.

I bring this up specifically because it is these kinds of situations where I am working with people who understand. These are my peers, and they understand what I am going through. They see me and they know me. You have heard it many times in the fire service that we are a family, and these are people I live with. They are going to know when I am off, even if I am not figuring it out myself. This bill is so important because these communications and relationships really are valuable and, speaking for myself personally, really helps the individuals who may not realize they need a little help. We would be happy to answer any questions.

**Assemblywoman Bilbray-Axelrod:**

Thank you for bringing this bill. I believe it obviously does address some issues. I am a little confused on who it actually covers as far as a peer counselor. It sounds to me like you would have to be within the scope of the job, but I am assuming from your story that sometimes a peer counselor is just a peer who happens to be counseling you at that time. Are those folks covered as well under this bill, or do you have to have a specific title or degree?

**Kelle Seely, Sergeant, Critical Response Team and Peer Support Unit Coordinator,  
Washoe County Sheriff's Office:**

That is a very good question. Section 1, subsection 7, paragraph (a) of the bill defines "counselor" as someone who is trained. Within our agency, we follow the International Critical Incident Stress Foundation model. We are required to have certain classes and certain training. Like-people are going to talk to like-people, so I would say that probably would not be included. However, if the agency has a peer group that has been hired into the group and follows the training, they would be the peer counselor.

**Eric Spratley:**

Section 1, subsection 7, paragraph (a), subparagraph (1) of our amendment ([Exhibit C](#)) states, "Has received training in peer counseling and in providing emotional and moral support to law enforcement or public safety personnel . . ." We added the word "peer" in the amendment. It is the person who has received training. It is not two buddies having a beer and receiving odd counseling. It is someone who knows what resources are available, knows how to ask the right questions, and has an actual toolbox of things they can do to push that person in the right direction for the correct help.

**Assemblyman Daly:**

I was rereading a couple of the sections of the bill to make sure I understand it. I am referencing the amendment where there is a suggestion to remove section 1, subsection 3 of the bill ([Exhibit D](#)). As I understand it, you are trying to set a standard so that people's information cannot be used against them. At the same time, if a person goes to a doctor and the patient has suspicious bruises, the doctor has to report. If a person goes to a psychiatrist and says certain things, the psychiatrist has a duty to report. That is the limit of the situations we are trying to address. You do not want someone who has given confidential information in a peer support group to have that information used against them in some type of investigation. Is that what you are trying to get to? If you are, I want to make sure we have it right.

**Eric Spratley:**

That is absolutely correct. The original bill was too tight. It was a lot more exclusive than even regular counseling sessions, HIPAA, or anything else. The amendment ([Exhibit D](#)) opens it up. As the bill is written, Sergeant Seely would not be able to divulge information even if she said she had information as to why a person went off the rails. At least the agency or the court can issue an order that allows her to share the information that led to the criminal conduct, the suicide, et cetera.

**Assemblyman Daly:**

I understand that. There are HIPAA concerns and other things, such as when people talk about their medical conditions that perhaps no one else needs to know, but it could be causing whatever the issue is. I just want to make sure we are in line with psychiatrists and doctors so there are protections on both sides.

**Assemblyman Ellison:**

Can you give us a situation that you know of in reference to this bill?

**Eric Spratley:**

For example, Officer Z is in briefing and is out of it, looking like he is drunk. His friends may joke with him and tell him he looks drunk. Officer Z pulls out of the parking lot and gets into an accident, which will be investigated. Officer Z looks wobbly, and we may have a criminal investigation regarding the officer possibly being under the influence of something that caused the crash. There will certainly be an internal investigation.

The next day, Officer Z contacts Sergeant Seely in the parking lot, and they have a conversation. As the lieutenant, I see the two of them having a conversation. Currently, I can ask Sergeant Seely what they were talking about. She has to answer me because I have asked her a question relating to work and an ongoing investigation. If she does not answer, she is insubordinate. Officer Z has to answer me, or he is insubordinate. It could be he is going through marital problems or has sleep deprivation and is so tired because of working so much overtime. He is trying to figure out how to get some sleep and thinks he may have a mental or physical problem. He talked to her about where he could get some help. As the lieutenant, I am assuming it is alcohol or controlled substance related, so I want to know the

answer. This bill would give Sergeant Seely the opportunity to say it was a peer counseling situation and was a confidential communication. She would not have to discuss it. I would have no cause to order her to answer my question. The bill gives the two of them together, and the employee separately, the ability to continue to try to get treatment for what is not a controlled substance abuse or alcohol issue.

**Assemblyman Ellison:**

Section 1, subsection 5 of the bill lists what the section does not include. Could you provide more information regarding that subsection?

**Eric Spratley:**

We did not want people to be able to speak about the sorts of things that could cause more harm to other people or that person. Anything that may come up that a normal counselor, clergy, or others who have mandatory reporting, we wanted the peer support group to have to report that as well. There has been some discussion about "any" criminal conduct. Some amendments want to make that "felonious" conduct. I do not agree with that. I believe someone who is spinning out of control, terrorizing or threatening his family, or shooting his firearm into the ground in his backyard, is not committing a felonious crime. If he admits that he is about to go off the rails in a peer counseling session, Sergeant Seely has a duty to report he is shooting his gun into the ground when he gets angry, and something needs to happen quickly. She would have the duty to report that kind of conduct that is not a felony but a gross misdemeanor or misdemeanor crime. I do not want to make it felonious conduct.

**Assemblyman Ellison:**

We had three officers involved in a shooting in Elko. Two had counseling and one did not. The two who had counseling went on to finish their careers and did a very good job. The one who did not have counseling ended up having some problems. This happens all the time. Those who do have a session and talk to the right people, I believe it really helps in those situations.

**Assemblyman Carrillo:**

You indicated there are 19 states that currently have this type of legislation. Is this bill being modeled after any other state? For the 19 states, is this legislation already in place?

**Kelle Seely:**

There are 19 states that currently have it. There are about 16 other states that are working on it. Michigan just passed theirs, and we are working on ours. We did look at Oregon's legislation because it is the closest state, but we also looked at others. Arizona and Colorado have great ones. We took what we thought was best for our state and put it in the bill.

**Assemblyman Brooks:**

You have an employee assistance program that is currently in your agency, and the peer support groups and teams you have set up under that program. How many other agencies in the state do these programs currently exist in and where they are already doing good work with the officers and employees?



**Eric Spratley:**

I do not know how many agencies in Nevada have an EAP program. It is very common because agencies, counties, and municipalities realize it is good to have healthy employees. Perhaps Sergeant Seely can answer that question.

**Kelle Seely:**

Almost every agency has an EAP, and they can help with anything from finding a dog sitter to psychological counseling. The problems occur when cops do not want to talk to someone who does not understand police culture. I know Las Vegas Metropolitan Police Department (Metro) and Henderson Police Department have a full-time peer program. In the last five years, we helped the Sparks Police Department get their program. The Reno Police Department is working on theirs. We also helped the Nevada Highway Patrol, Department of Public Safety with their program. The larger agencies tend to have an EAP. We often help facilitate the smaller agencies.

**Assemblyman McCurdy:**

Thank you, Assemblyman Sprinkle, for bringing this bill forward. I believe it is certainly needed. Everyone deserves an opportunity to have a safe outlet. In section 2, subsection 1, can you go through that for clarification. I am looking at the friendly amendments, but the bill in section 2, subsection 1 states, "Any law enforcement or public safety personnel who participate in a peer support counseling session and any counselor providing such counseling have a privilege to refuse to disclose, and to prevent any other person from disclosing, any confidential communications set forth in section 1 of this act."

**Eric Spratley:**

Section 2 locks in to NRS Chapter 49 what section 1 is saying. If Sergeant Seely is part of the peer support team and is having a one-on-one with Officer Z but does not have the answer to what he has disclosed is the problem, she can speak to another peer support group member about the session. One of those members can then recommend someone or something for Officer Z, but the person she disclosed that information to cannot communicate the information either.

**Assemblywoman Monroe-Moreno:**

You mentioned the larger agencies have an EAP. Do you know if we have a standardized training program in the state that all the EAP personnel go through, or does each agency have their own criteria?

**Kelle Seely:**

Every agency can have its own criteria to follow. In general, employee assistance programs are private companies that provide clinicians who are licensed clinical social workers, psychologists, et cetera. A peer support group is not that; we are a bridge. If you and I were to have a conversation about something you are going through, I might not understand it, but if you spoke about the issue with another Assembly member, that member would understand it better. The Las Vegas Metropolitan Police Department calls their program

Police Employees Assistance Program. As I mentioned, we follow the International Critical Incident Stress Foundation model, so we do receive training. We know we are not clinicians, so when something is above our head, we have a list of clinicians who are vetted and understand our culture and are able to work with us.

**Assemblyman Carrillo:**

We are talking about paid fire, police, and paramedic positions. What are we doing for the volunteer positions? Would they have access to this type of program? They may run into the same situation with a bad crash and see things that could create a situation for them.

**Eric Spratley:**

Section 1, subsection 7, paragraph (c) of the bill states, ". . . or any other employee or volunteer reserve member of a law enforcement or public safety agency whose duties involve emergency response or criminal investigation." That would cover search and rescue, civilian, reserve, and the Citizen Emergency Response Team—which is part of the Federal Emergency Management Agency, U.S. Department of Homeland Security—who cover the Great Reno Balloon Race. We could not run that free event, which is a major event in our area, without our volunteers. When there is someone who cannot steer an aircraft that involves flame and gas, bad things can happen. Something could happen there that critically affects many people. We would certainly want this to apply to them as well, and that is our intent.

**Assemblywoman Neal:**

I appreciate the bill, but I have a level of discomfort. Section 1, subsection 7, paragraph (c), includes ". . . any other employee or volunteer reserve member of law enforcement . . ." and other "or" statements being captured under a privilege. You are trying to create a new testimonial privilege to me. I get it when a person has an experience and they want to talk to someone, but when you start using the words "traumatic experience," especially for an officer, a "traumatic experience" could be that they were in an officer-involved shooting. I know an excited utterance falls under hearsay, but are you trying to say if the officer says something to another employee or volunteer, I would not be able to get that information or have it disclosed unless the officer waived that privilege? I think that is stepping into a criminal area. I do not like how wide it is and how broad it could be interpreted. To say authorities cannot have certain information even if that information could be vital to a case makes me uncomfortable.

**Eric Spratley:**

I appreciate your comment. That is not the intent of this bill. When we received the bill draft request language, it went into NRS Chapter 289 and addressed some things there. I had to take the chance of sending it back to drafting at the last minute to get NRS Chapter 289 removed so management rights regarding investigations, criminal conduct, and those types of things can still happen. If they are ever challenged, that is for the court to decide. This simply says when a person is involved in an incident or sees something happen and needs to talk to someone but does not know how to get help, Sergeant Seely and the people like her across this state who are willing to have the conversation and try to point them in the right

direction, up to and including if there is something the officer is not disclosing about information he knows, can tell the officer he needs to go to the shift sergeant to tell them about it because it is an important piece of information. Much of that is covered under criminal conduct. If the officer intentionally used force or intentionally did something that is criminal conduct, those are already outlined in NRS. The intent of this bill is certainly not to make it so officers who have done wrong have a cloak they can hide behind. It is simply to provide some direction where a person can get help for a traumatic experience or somehow otherwise deal with it.

**Assemblywoman Neal:**

When I first read the bill, it led me to NRS Chapter 49. I am going back to the same section regarding "any other employee." Giving a privilege to "any other employee" in and of itself is broad to me. Who is "any other employee"? I like having a closed class of where a privilege attaches to individuals. I do not like "any other employee or volunteer," even though it says "volunteer reserve member of a law enforcement or public safety agency," getting a privilege that is not necessarily anticipated in law, what that means, and what that stretches to.

**Eric Spratley:**

I respectfully disagree. In fact, I think this could go broader. If someone goes into the Washoe County complex with an AK-47 and starts mowing people down today, I believe Kelle Seely and her team could get some people who are not even covered under this bill the help they need. I would want employees of Washoe County to have the same protections as well. We see these types of things happening throughout the country. An employee assistance program is the right place, and many people will take advantage of that, but there are some who cannot figure out how to make that step. These peer support professionals in our agency can come alongside them to let them know they know what they are going through; they are going through it with them; and this is what can help. They are pointed in the right direction. I wish it was broader, but this is the bill we have before us, and I certainly think it will help the ones who are most likely to experience these traumatic events. For me, it was a rollover crash involving four teenagers in a car. It was the worse day of my life. I barely made it home and almost quit the next day. We do not know which event is going to ruin our people. To the extent that it only covers the people listed, I am good with it. I hope in the future it covers more people.

**Assemblywoman Neal:**

I understand what is happening, but I have to think through this for a couple of days. In section 1, subsection 2, it states, "This section applies to all oral communications . . . ." Does this mean every single oral communication unless that person waives confidentiality? Help me understand that subsection.

**Eric Spratley:**

The subsection you are referring to states, "This section applies to all oral communications, notes, records and reports arising out of a peer support counseling session." When an officer is standing in a parking lot having that conversation with Sergeant Seely and she is making

notes, those are confidential regarding that peer counseling session. If the officer says, "I am going home to kill my family," that is not confidential. She would not let that happen. I believe the bill covers your concerns.

**Assemblywoman Neal:**

There are incidents when a person immediately recalls facts and states facts to another person directly after an incident that may later become blurry but may be of interest in a court proceeding.

**Eric Spratley:**

Yes.

**Assemblywoman Neal:**

What happens then?

**Eric Spratley:**

The Henderson Police Department's amendment ([Exhibit D](#)) covers that situation with the language in section 1, subsection 1, ". . . a court order or lawful subpoena . . ." which can make the parties disclose that information. We are good with that amendment.

John Fudenberg from Clark County also has an amendment regarding some things, and we are good with his as well.

**Assemblywoman Neal:**

Is there any appetite to give some parameters to "traumatic experiences?"

**Kelle Seely:**

A "traumatic experience" could be an officer-involved shooting, mass casualty, active shooter, et cetera. However, a "traumatic experience" for me is if I go on a call involving an injured child that looks like my daughter. It may not mean anything to my partners, but it is something very traumatic for me. We lost a female in our facility, and the woman who passed away looked like one of our officer's grandmother, whom she loved and took care of while she was dying of cancer. That would not fit a normal "traumatic experience." It cannot really be defined because sometimes it is very specific to individuals. She struggled with that incident for a long time. We had coffee and worked through it. She is functioning very well and is a very good deputy to this day.

**Assemblywoman Neal:**

I am asking questions not because I do not understand your intent, but I am trying to get comfortable with scenarios I think could apply. Section 1, subsection 6 of the bill states, "This section does not limit the discovery or introduction into evidence of any knowledge acquired or observations made by any law enforcement or public safety personnel in the scope of their employment and outside of a peer support counseling session . . ." What if

a person says something in peer support counseling that should be in discovery? You are saying that the City of Henderson amendment ([Exhibit D](#)) takes care of that through a subpoena, but how do you know if it was said if the person is refusing to disclose?

**Eric Spratley:**

I believe this would be things I, as the lieutenant and without asking Sergeant Seely, would know. I gave an example of Officer Z being tipsy at briefing and then getting into an accident when he left. People suspected substance abuse. Officer Z revealed to Sergeant Seely that it is actually sleep deprivation. They are working on that, but then I see him at the carwash in his patrol car throwing back a bottle of Jack Daniels. That is my observation and that becomes relevant to the case at hand. Section 1, subsection 6 covers that. I can introduce that absent the fact that I have already asked her about what she knows, and she indicated it is peer support counseling.

**Assemblyman Carrillo:**

Are there different procedures for an officer-involved shooting? Do they already have peer-to-peer or counseling services for those individuals involved?

**Eric Spratley:**

Yes. Our officer-involved shooting protocol involves a regional team. I do not have the expertise to answer that directly, but there are certain things that have to happen and certain questions that have to be answered during one of those events.

**Assemblyman Carrillo:**

Obviously, this bill is for when an officer goes to a residence and someone has blown their head off or something else devastating has occurred. Is that correct?

**Eric Spratley:**

Yes. It is for those kinds of incidents. As I said, mine was the rollover crash. It could also be an officer-involved shooting where all of the normal steps have taken place and everything is being communicated, but three weeks, a year, two years, or five years down the road, that officer is just not getting over it. Everything has been adjudicated, but the officer is still rattled by it. That is where the safety of this comes in and the communications involved.

**Chairman Flores:**

Are there any further questions from the Committee? [There were none.] Those wishing to speak in support of the bill, in either Las Vegas or Carson City, please make your way to the table.

**John Fudenberg, Coroner, Office of the Coroner/Medical Examiner, Clark County:**

I signed in as neutral, but I would like to change that to support. We have some language we have been working through with Mr. Spratley in reference to immunity that I will get to momentarily. However, the concept of peer support is very important. Where I work at the

Office of the Coroner for Clark County, as you would imagine, every day our employees are exposed to things that are so horrific, 99 percent of the population will never be exposed to those types of things. We cannot ignore employee wellness.

This bill will not affect the Office of the Coroner because we are not peace officers, and we are not considered public safety. I am speaking from a point of view that recognizes how important these types of peer support programs are. In reference to Assemblywoman Neal's comments about the confidentiality, I understand where she is going with that. However, one way to think of it is the people who are exposed to these types of incidents and who see a psychologist or a psychiatrist, those conversations are confidential. Oftentimes, the feedback I receive from our staff is when they talk to the trained professional, the trained professional cannot relate to them because they have no idea what the employee is really exposed to. The employees will lean on their peers for support. We have three individuals in our office who are certified in peer support. Based on the feedback our staff gives me, I believe peer support is the most effective program for employee wellness and emotional well-being.

Someone asked about the certification. In southern Nevada, I happen to be on the board of an organization called the Trauma Intervention Program (TIP) of Southern Nevada, which is an amazing program. They offer a certification for peer support. I believe almost every one of the police agencies and fire departments have people certified through the Trauma Intervention Program in peer support. It is a certification. It is not just someone they want to talk to. It is a pretty intensive training program that results in a certification. I am available for any questions on the peer support program.

If you do not mind, I would like to speak to the language we have been working on with the bill sponsor. We are concerned about the immunity for the employer of employees who are participating in the peer support programs. In other words, if that confidentiality is violated by someone who is participating in the peer support, we would like to add some language that holds the employer immune from liability. As Mr. Spratley mentioned, we can work on some language. I apologize that we do not have a formal amendment at this point, but we will work with him in the future to get that language inserted if that is agreeable to you, Chairman Flores.

**Chairman Flores:**

Can you give me a hypothetical with your amendment so I understand what you mean by immunity?

**John Fudenberg:**

If we have someone certified in peer support who is speaking to another staff member, and that other staff member divulges some medical history or information that is not an exception in this bill. There are exceptions that have to be reported. Using a silly example, the staff member tells the peer support counselor that he likes to eat five apple pies a day. If that peer support counselor violates that confidential information, we would like to see that the employer is immune from liability if that employee violates that confidentiality.

**Todd Ingalsbee, Legislative Representative, Professional Fire Fighters of Nevada:**

I am a fire captain and a proud member of our peer support team for Las Vegas Fire and Rescue. I have personally seen the positive benefits this program has provided our members over the last five years, and I proudly support this bill. The protections it provides our peer support team members and the security it will provide for our members to seek the help they need is needed. I totally support this bill.

**Assemblywoman Neal:**

I have a question after reading NRS 49.285. I do not know if the question is better addressed to the officers presenting or not. This was added to NRS Chapter 49 in 1971 and has not been changed. It states, "A public officer shall not be examined as a witness as to communications made to the public officer in official confidence, when the public interests would suffer by the disclosure." I read the bill and then I read this NRS. It is a 1971 law that is still there, and I asked myself if it should still be there because what is the public interest? There are two sides to a public interest: the public interest of the agency and the public interest of the community itself in seeking information. There is currently no balance in the 1971 language. I cannot release myself from trying to figure out when the community public interest is at stake in the disclosure. How do we protect that? The example I heard was the lieutenant could ask the peer counselor, but what are the rights of the community or a family to ask questions or seek information that was disclosed in this context if they feel it is vital to a case? Not criminal, but maybe civil. Can someone help me with that question? I apparently cannot let this issue go.

**John Fudenberg:**

I do not know for sure if I have the answer to that question, but I think the exceptions seem to cover the community interests as far as criminal acts. The part about the confidentiality and the analogy of a psychiatrist or a psychologist—the people who are exposed to these types of incidents and horrific tragedies every day—they should have the ability to speak to a peer confidentially about the mental health issues. When they are speaking to a psychologist or a psychiatrist, those programs and those conversations are confidential. I do not think there are any exceptions to those. There may be an exception when it comes to safety or criminal issues. That may be one way of thinking about it. These are mental health conversations and not necessarily for evidentiary purposes.

**Assemblywoman Neal:**

I guess it does make sense. I may be comfortable with it tomorrow.

**Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers:**

I am the Executive Director of the Nevada Association of Public Safety Officers and a member of the statewide law enforcement coalition. We thank Assemblyman Sprinkle for bringing this bill. We believe it is necessary and long overdue.

In the privilege I have of representing law enforcement around this state, I have responded to nearly 80 officer-involved shootings and critical incidents in which life and limb had sometimes been given up. I am emotionally affected when I am out there. When I look at

a 25- or 30-year old police officer who had to perform some act that I could never do to save themselves, family members, friends, or community members, I can only imagine when I look in their eyes what they need. They do not always need me from a legal perspective; they need peer support. I am privileged to represent people at Henderson Police Department, Metro, and the Washoe County Sheriff's Office where they have excellent peer support programs. Confidentiality is a cornerstone of that relationship. Make no mistake. They need this bill to round out the vital roles they give. It is that simple.

I understand some of the colloquy we have had here today, but I want to offer this perspective: When I walk out and I look in the eyes of these police officers, who I am dedicated to represent, they are victims. The incident is the incident is the incident, and it will come forward, there will be investigations, and if there is criminal conduct, this bill takes care of that. The exceptions are very well noted. Make no mistake, ladies and gentlemen, these officers are victims of the emotional toll it takes on them. They do not do the things they have to do gladly; they do the things they have to do because we want them to; we ask them to. They do so with their own lives and their own families on the line. These are certified professionals we are talking about. I am not a certified professional. I have my confidentiality through other means when I speak with my members, but they are going to be talking to people who will give them the support that may help them proceed with their careers and to proceed with their lives. Do not take this lightly. This is not an attempt—never has been, never will be—to insulate the public or community from any information they need about the incident itself. These people are victims. Each and every one of you support victim's rights. This is a victim's right bill in one fashion. As a result of that, we absolutely and clearly support A.B. 301 with the amendments that have been suggested here today.

**Ryan Beaman, President, Clark County Firefighters Union Local 1908:**

I have been a firefighter for the Clark County Fire Department for over 20 years. I have seen many different incidents over those 20 years. Our firefighters have also seen every kind of unimaginable emergency incident in their careers. As firefighters, we are people who see people on their worst day. These incidents happen on a daily basis, and these incidents we are talking about are horrific. As emergency responders, we now realize we are more susceptible to post traumatic stress disorder (PTSD). The International Association of Fire Fighters, which represents over 300,000 firefighters across the country, recently did a study that found 30 percent of the firefighters across the nation have thoughts of suicide. The fire service in Clark County recognizes this. We have set up our own peer support teams, which the individuals who have volunteered have gone through training. Some of that training has been outlined by the National Fire Protection Association (NFPA) in the NFPA 1500 Standard, which deals with behavioral health programs. Unfortunately, PTSD is among a list of behavioral health issues and occupational diseases that firefighters are dealing with. We have recognized over the years that our EAP works, but many people do not reach out to the EAP the employer offers. They now reach out to peer support because they feel the person sitting next to them in the fire truck understands what they are going through with the incident that took place. They are able to improve their self-esteem, confidence, and reduce isolation. The most important thing is the peer support is able to help them get the support



they need through the EAP. They know the resources that are available. Unfortunately, this last year we actually had one of our firefighters commit suicide because of the job. I wish over the last few years we had the program in place. This last year we have gotten into the peer support by trying to help our members. I appreciate Assemblyman Sprinkle bringing this bill forward and the Committee hearing this bill.

**Assemblyman Carrillo:**

Thank you for bringing that testimony forward. Many times we do not think about this, but you are the ones running into the building when we are running out. Thank you for the service you provide. Obviously, not everyone always gets out. I could not even imagine what you guys have to deal with after the fact. That is something firefighters are dealing with on their own, and they do not have something like the program Assemblyman Sprinkle is bringing forward in this bill to create that safeguard. Firefighters have 24-hour shifts at a time, so those other firefighters are family. Even in my own household, when one of my family members is not right, I wonder what is wrong and question it. Again, thank you for your service.

**Chairman Flores:**

Are there any further questions from the Committee? [There were none.] Is there anyone else wishing to testify in support?

**Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada:**

The Libertarian Party of Nevada believes that a well-functioning society requires a well-functioning public safety force. We agree with the amendment from the Washoe County Sheriff's Office. Assembly Bill 301 is about people and implementing it will help dispel the warrior mentality, improving the lives both of public safety employees and those they serve.

By protecting the privacy of first responders in peer support sessions, you make it easier for them to open up when they need to. It is, therefore, easier for them to receive the treatments they need to be effective. Nevadans rely on first responders to be at their best in moments of crisis, and we believe A.B. 301 will help them better serve those in need when called to do so.

We have only one minor concern about the bill in section 1, subsection 5, paragraph (a) regarding the exemption of threats of suicide from the confidentiality requirement. While we understand the importance of being able to communicate the risk of suicide to those outside the counseling session, our concern is that suicidal individuals be protected from having their private admissions used against them, either in a court of law or regarding their employment. Individuals who experience suicidal thoughts need to feel safe in expressing them so they can receive treatment, or they may conceal the urge until it is too late. In the interest of compassion, we would suggest striking or modifying section 1, subsection 5, paragraph (a) to protect the employment and legal standing of suicidal individuals.

We also agree with Assemblywoman Neal that community well-being must come first. Accountability to those communities must be prioritized. However, we believe in combating the warrior mentality that can lead to unjustified use of force, and A.B. 301 is a step in the right direction that will help first responders serve their communities better. We are, therefore, happy to support A.B. 301.

**Mike Ramirez, Director of Governmental Affairs, Las Vegas Protective Association Metro, Inc.:**

I want to reemphasize what everyone has said. We appreciate Assemblyman Sprinkle for bringing this bill forward. I would like to clarify a couple of questions I heard from Assemblywoman Neal when she was talking about the officer-involved shootings.

As Mr. Spratley said, officer-involved shootings are completely separate. I have been involved in two officer-involved shootings. I was shot three times during one of them. Those are completely separate incidents. The officer sees a professional and it takes its course. As Assemblyman Carrillo said, this is for the times when an officer is on the street and sees a baby in the pool. On one of the last calls I went on, the baby was crying, and the boyfriend had put the baby in the microwave. My partner and I showed up and completed our business.

We have a program at Metro called Police Employee Assistance Program. Currently, whatever we say, if there is a supervisor watching the peer support counselor talk to the officer, they can ask what was said. My partner at the time had just had a baby. The incident messed him up pretty bad. He was afraid to go to this program because he was afraid they would repeat what he said and move him to a desk job. It took him about a year before he finally got some help. He started drinking more, and it bothered him to the point where he did not feel comfortable. This bill would resolve some of those issues for our first line officers who are dealing with these things and be able to get help right away instead of prolonging it. We support the bill.

**Assemblyman Carrillo:**

I want to thank all the officers for their service. Again, you guys are running in as we are running out.

**Assemblywoman Neal:**

I am not insensitive to what is happening. Being a policymaker, sometimes forcing myself to detach emotionally so I can read the words in front of me, see the policy clearly, and make a fair decision is very important to me. It is not a reflection of my insensitivity or the fact that I do not understand the plight or issues those public officers face. It is sometimes very difficult when we have conversations, and there is emotion attached to the testimony. I want to make sure I am not making emotional decisions—and I have a particular bar for emotional decisions. I try to be logical and see the policy for what it is in order to make the appropriate decision. When I am removed from the emotional situation, I can then say I made a good policy decision, and I asked the appropriate questions, even a year from now, or three weeks from now, when I am not associated with the testimony. I understand. Do not think I am

insensitive to what you go through, what you have to deal with on a daily basis, and the things you face or your partners face. I am not, and I never have been. However, I force myself to detach so I can see the policy for what it is and then think it through. I think we can cloud our judgment when we get into emotional situations. For policy, it is a very big deal to me to read the words and understand their impact. I need you to understand that in all of the things that have been said this morning, I am not some robot who is not hearing what you are saying. I am trying to stay clearheaded in policy.

**Mike Ramirez:**

Assemblywoman Neal, I did not mean in any way to make it seem that you do not care or that you are a robot. I was trying to clarify your questions regarding officer-involved shooting and what this bill would cover. Please do not take anything I said personally.

**Assemblywoman Neal:**

I get it. I am just trying to make sure. We are all human. We all have emotions. I know I say things and things are sensitive because we have experienced it personally. I just wanted to make that statement to clear it up because I know there are personal experiences. Sometimes I do appear insensitive, but I need to help people understand my point of view so when we talk to each other later, they are not thinking I did not hear them out. We are clouded through our personal experiences, so I needed to make it straight for everyone.

**Mike Ramirez:**

I have never thought that way of you.

**Michael Sean Giurlani, President, Nevada State Law Enforcement Officers' Association:**

I am president of the Nevada State Law Enforcement Officers' Association and part of the statewide law enforcement coalition. I am a 25-year veteran of the Nevada Highway Patrol. I retired three years ago. Like Mr. Ramirez, I was involved in three officer-involved shootings. The fourth one was the IHOP shooting in Carson City. I was one of the first officers on the scene following the deputies. When we got there, it was a horrific scene. It was something that I cannot escape from, and it is always there in my mind. The crisis intervention counselors were paramount, not only to law enforcement, but to the firefighters, the paramedics, the flight crew, and everyone else who responded to that scene. Even after we removed the victims from the crime scene, the ones still alive and the ones we had to remove later who died on the lawn or perished inside the restaurant, the scene was so horrific, the people who were getting there later, like the administrators, were traumatized.

This is the kind of program that reaches out to those people who need the help. It is not trying to circumvent anything, hide anything, or be surreptitious in any way, shape, or form. It is help that is direly needed, and it is appreciated. When I experienced my first officer-involved shooting in 1994, the crisis intervention program was just getting off the ground. It has come light-years to where it is today. I just want to say thank you to Assemblyman Sprinkle, Eric Spratley, and Kelle Seely for bringing this bill forward to help first responders.

**Trey Delap, Director, Group Six Partners, LLC:**

We are in support of A.B. 301 and have offered an amendment ([Exhibit E](#)). Essentially, the intent of our amendment is to extend the privilege to the relationship of peer support as it occurs not only in public safety and law enforcement, but other professionals. Some of the experiences I have had that brought me to this place is I am a youth mental health first aid instructor. I have worked in professional regulation, and I have worked with impaired professionals. One of the greatest barriers to effectively engage and restore an impaired professional is the stigma to any sort of supportive peer recovery service. With that, if the communication is privileged in this way, that will hopefully increase access, and I think that could sum up a lot of what was said here today regarding access to peer support and being beneficial in the circumstances. This amendment certainly covers the nature of the relationship. We are in support of the bill. Our thanks to Assemblyman Sprinkle and the Committee for hearing this bill.

**Chairman Flores:**

Is there anyone else wishing to testify in support of A.B. 301? [There was no one.] Is there anyone wishing to testify in opposition to the bill, either in Las Vegas or Carson City? [There was no one.] Is there anyone wishing to speak in the neutral position, either in Las Vegas or Carson City?

**Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson:**

We want to thank the sponsor for accepting the City of Henderson's amendment as a friendly amendment ([Exhibit D](#)). The purpose of our amendment is essentially not to create an absolute privilege within this bill moving forward. I think that has been discussed thoroughly by the Committee. If the Committee were to include our amended language into the final version of the bill, we would be supportive at that time.

**Chairman Flores:**

Do the presenters of the bill have any closing remarks?

**Eric Spratley:**

Time is valuable to me, and I know it certainly is to you in these busy times of deadlines. I thank you for allowing a meaningful dialogue, and we appreciate Assemblyman Sprinkle for bringing this forward on our behalf and for the Committee paying attention and considering it.

**Chairman Flores:**

Ms. Stolyarov mentioned a few concerns pertaining to suicide specifically. Do you have any remarks to that comment?

**Eric Spratley:**

I do not have a remark. I feel it is splitting hairs. Section 1, subsection 5, paragraph (a) states, "Any threat of suicide." Do we need to say "explicit" threat of suicide? I think we have a duty to report that, and I like the bill as it reads now. We can entertain making it a little more specific and making it an "explicit" threat if the Chairman or the Committee would like to see that amendment.

**Chairman Flores:**

It is not necessary. We just wanted to get your opinion. [([Exhibit F](#)) was presented but not discussed and is included as an exhibit for the hearing.] I will close the hearing on A.B. 301.

Is there anyone here for public comment, in either Las Vegas or Carson City? [There was no one.] Having no further business, this meeting is adjourned [at 9:54 a.m.].

RESPECTFULLY SUBMITTED:

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Lori McCleary  
Committee Secretary

APPROVED BY:

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Assemblyman Edgar Flores, Chairman

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to Assembly Bill 301, presented by Eric Spratley, Lieutenant, Intergovernmental Services, Washoe County Sheriff's Office.

[Exhibit D](#) is a proposed amendment to Assembly Bill 301, presented by Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson.

[Exhibit E](#) is a proposed amendment to Assembly Bill 301, presented by Trey Delap, Director, Group Six Partners, LLC.

[Exhibit F](#) is a document dated March 22, 2017, in support of Assembly Bill 301, submitted by Kelle Seely, Critical Response Team and Peer Support Unit Coordinator, Washoe County Sheriff's Office.