

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

**Eightieth Session  
May 10, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 8:44 a.m. on Friday, May 10, 2019, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/80th2019](http://www.leg.state.nv.us/App/NELIS/REL/80th2019).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Edgar Flores, Chair  
Assemblyman William McCurdy II, Vice Chair  
Assemblyman Alex Assefa  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblyman Richard Carrillo  
Assemblywoman Bea Duran  
Assemblyman John Ellison  
Assemblywoman Michelle Gorelow  
Assemblyman Gregory T. Hafen II  
Assemblywoman Melissa Hardy  
Assemblyman Glen Leavitt  
Assemblywoman Susie Martinez  
Assemblywoman Connie Munk  
Assemblyman Greg Smith

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator David R. Parks, Senate District No. 7  
Senator Nicole J. Cannizzaro, Senate District No. 6

**STAFF MEMBERS PRESENT:**

Jered McDonald, Committee Policy Analyst  
Asher Killian, Committee Counsel  
Connie Jo Smith, Committee Secretary  
Trinity Thom, Committee Assistant

**OTHERS PRESENT:**

John Fudenberg, Coroner, Government Affairs, Office of the Coroner/Medical Examiner, Clark County; and representing Clark County  
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department  
Duane L. Thurston, Constable, Mesquite Township, Clark County  
Kimberly Thurston, Private Citizen, Mesquite, Nevada  
Robert Eliason, Constable, North Las Vegas, Clark County  
Mike Ramirez, Director of Government Affairs, Las Vegas Police Protective Association Metro, Inc.; and representing Nevada Law Enforcement Coalition  
David Roger, General Counsel, Las Vegas Police Protective Association Metro, Inc.  
Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers  
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Lisa Rasmussen, Member, Board of Directors, Nevada Attorneys for Criminal Justice  
Alma Chavez, Private Citizen, Las Vegas, Nevada  
Jonas D. Rand, Private Citizen, Las Vegas, Nevada  
Corey Solferino, Legislative Liaison, Washoe County Sheriff's Office  
Nissa Tzun, Private Citizen, Las Vegas, Nevada

[Roll was taken and Committee rules and protocol were explained.] There are two items on the agenda this morning. We will take them out of order. We will open the hearing on Senate Bill 462 (1st Reprint), which revises provisions relating to constables.

**Senate Bill 462 (1st Reprint): Revises provisions relating to constables. (BDR 20-754)**

**Senator David R. Parks, Senate District No. 7:**

Thank you for the opportunity to present Senate Bill 462 (1st Reprint) to you today. Senate Bill 462 (1st Reprint) revises provisions relating to constables. First, it revises certain requirements for constables in certain townships to become certified as a category I or category II peace officer as a condition to run for office. Second, it provides for the appointment and compensation of a deputy constable to be subject to the approval of the board of county commissioners. It also revises fees a constable is entitled to receive. Finally, S.B. 462 (R1) changes the office of constable to a nonpartisan office.

Mr. Chair and Committee members, I think, in looking at the bill, you probably can see that there are a number of lesser changes that have been put forward in the bill, and I would be happy to go through those if you wish. Joining me today at the table is John Fudenberg representing Clark County. With your permission, I would like to pass it off for him to make some opening remarks. I stand ready to answer questions.

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

Mr. Chair, I can give you an overview and walk through the bill, if you would like. In the state of Nevada, there are 14 constable offices, 11 of which are in Clark County. Three of the 11 within Clark County are enterprise funds, and that will become significant in a moment. Those three funds, or constables' offices which are enterprise funds, are Las Vegas, North Las Vegas, and Henderson. The other three constables' offices in the state include Incline Village in Washoe County, East River in Douglas County, and Hawthorne in Mineral County.

If I could bring your attention to section 1.5, subsection 1. The changes in this section would revert the language from the 2013 language, which was changed in 2015, to include requiring Peace Officers' Standards and Training (POST) certification for all constables in townships with a population of 15,000 or more within one year after the date of the commencement of their term. To clarify, that is category I or category II POST certification. In section 1.5, subsection 2, these changes would require all candidates running for the office of constable in townships over 100,000 to be POST-certified as a category I or category II peace officer prior to filing for the office. Instead of having to become POST-certified within one year of being elected to the office, these constables with a population of over 100,000 would have to be POST-certified prior to running for office. This is consistent with the language that is in *Nevada Revised Statutes* 248.005 that refers to the sheriffs.

Section 1.5, subsection 3, sets out clear legislative intent regarding a constable leaving the office, and how the vacancy is created to the office of the constable. Section 1.7, subsections 1 and 2 clarifies how that vacancy of the office of the constable is to be filled.

Section 2, subsection 1, clarifies that all deputy constables in townships with a population of over 15,000 must be POST-certified. Currently that language is 100,000, so here we are referring to the deputies that the constable hires. Those deputies must be POST-certified prior to taking the position within a population over 15,000.

Section 2, subsection 3, clarifies that deputies appointed by constables in an office established as an enterprise fund—and again, that is currently Las Vegas, North Las Vegas, and Henderson—shall have the compensation approved by the board of county commissioners.

Section 2.3, subsection 2, paragraph (b) clarifies that clerical and operational staff appointed by a constable may not carry a weapon or a firearm. Here we are not referring to the deputy constables or the constable; we are referring to the clerical staff and operational staff who are not allowed to carry firearms per statute.

Section 2.7, subsection 6, paragraphs (a) and (b) allow for a means of collection for constables. Constables are currently permitted to collect a fee; however, there are no means for collection when a citation is issued, so this will ensure that these fees are collected and that the courts are forwarding those fees to the constable's office.

Section 3, subsection 1, makes clarification for how the constables collect fees and by deleting the verbiage "by which a suit is commenced," the constable would get paid when he or she serves the summons, not when the lawsuit is commenced.

Section 3, subsection 2, paragraph (a) mirrors the language for the sheriff's civil division for compensation and uses the verbiage "trouble and expense," which, again, is in the sheriff's civil section for executing an order of arrest in a civil case.

Section 3, subsection 2, paragraph (b), changes the amount that may be collected by a constable for all sums on execution or writ over the amount of \$3,500 from 0.5 percent to 1 percent. The majority of judgments are less than \$3,500, so this fiscally is not a large amount. I do not have the exact calculated amount, but I am told that it is not a very large amount.

Section 3, subsections 5 and 6, makes changes to those constables' offices established as enterprise funds that they must account and pay the county treasurer for any fees collected every five business days. This section is to ensure that the county can monitor the activities of the enterprise funds on a more regular basis. Current language requires them to do that on the fifth working day of every month. This mirrors the current practices in Clark County. This will solidify what we are currently doing in mandating that they are to pay and account for their fees every five business days, so once a week. Section 4, subsection 1, simply makes the office of constable a nonpartisan office.

Section 5 states that sections 1.5 and 4 do not apply to constables currently in office unless they file for office after October 1, 2019. What this does is ensure that no one currently in office would have their appointment or their election affected, and it ensures that if they want to run for election for another term, then they would have to become POST-certified. Mr. Chair, that is the entire bill, and I am happy to answer any questions the Committee may have.

**Chair Flores:**

Before we open the hearing for questions, if I could have you repeat that last part one more time. I want to make sure I understood you correctly.

**John Fudenberg:**

Section 5 states that the provisions of sections 1.5 and 4 of this act do not apply to a constable who is in office on October 1, 2019, unless the constable files for a declaration of candidacy or is elected or appointed to a term of office on or after October 1, 2019. The way I understand that is this will ensure that it does not affect any constables currently in office unless they run for office after their term expires, and then it would affect them—they would have to become POST-certified.

**Assemblywoman Bilbray-Axelrod:**

I remember having some spirited discussion last session on this very issue. I want to ask, and I think some of us on the Committee might not understand what a constable really does and why it is important that they have POST certification. Could you go over that?

**John Fudenberg:**

The constable has full police powers. The reason we feel that it is important for them to become POST-certified is that POST certification is much more than just doing push-ups and sit-ups. When you go through the police academy and become POST-certified, there is an academic component to the police academy, and when they have police powers, we feel that it is very important that they should be trained as any other police officer should be trained. That is why the POST certification is so critical.

**Assemblyman Smith:**

I am wondering about category I and category II training. Is category II training a full-blown law enforcement officer at that point?

**John Fudenberg:**

I do not know the exact differences. I know you are a POST-certified peace officer even with a category II, but I believe there are certain elements in category I that do not exist in category II. I believe we have some officers in the room; maybe they can clarify that. If not, I can get you the answer to the exact differences between those two categories.

**Assemblyman Smith:**

That is fine. I was kind of curious. My second question deals with citations. I read some of the charges they can place, but what kind of citation would be issued?

**John Fudenberg:**

I do not know exactly, so I do not want to misspeak, but I am told that one of the citations that will be issued is when a person is a resident and still using out-of-state license plates. I can get those details and the descriptions of what types of citations will be issued. I believe there might be constables in the south who maybe could answer that. I am not exactly sure.

**Assemblyman Smith:**

I would appreciate that. You have described it fairly well, but I am trying to picture who would issue the citation. Who would get one and what would it be?

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

As you know, our agency controls the Las Vegas township constables, which were put under us several years ago. To answer your questions, Assemblyman Smith, a category II officer, for example, has very specific duties, like school police, or in some cases, a correctional officer. They have a very specific duty and so their training is tailored toward that specific duty. A category I officer has complete police power, so the training for category I is more involved and more intensive than the category II training, if that answers your question.

Second, as to the type of citation—because a constable has full police power, depending on their category, of course, they have the ability to issue a citation. So often the constables will handle calls that do not rise to the level to send out a patrol officer. For example, we have a lot of calls of abandoned vehicles that get turned over to the constable's office and, of course by statute, those vehicles [owners] have to be given notice. If the vehicle is not moved after 72 hours, the constable will go back out and issue a citation to the owner, and the vehicle will be towed. That is one example. As was stated, per statute, constables also enforce the statute for getting your license plates updated within the period of time mandated by law. If the constable encounters someone, or if somebody calls on their neighbor and says, This guy next door has lived here five years and he still has Alaska plates on his car, the constable has the authority to investigate that and issue a citation, if appropriate. Typically, we have had cases in the past where certain constables are issuing traffic citations, but under normal circumstances they are not doing that type of activity.

**Assemblyman Leavitt:**

The constables currently have full police powers, is that correct?

**Chuck Callaway:**

Yes. I believe that under statute, and I would have to defer to the Legislative Counsel Bureau, they may be category II in statute but many of them, in fact most of them from what I am told, receive category I training. Let me clarify. There is a common misconception that statute may designate someone as a category II officer, but school police, for example, may complete full category I academy and have category I training, even though statute designates them as a category II officer. It would be similar to when I was in the Air Force—there was an exchange program where Air Force guys were sent through Army Ranger training, and so you have an Air Force guy who receives Army Ranger training but he is still an Air Force guy. Statute still designates them as category II even though they have the training of a category I officer, if that explains it.

**Assemblyman Leavitt:**

Yes, the clarification was just my second question. These constables can do everything from assisting your officers in raiding a house fully armed to pulling someone over for a traffic violation, correct?

**Chuck Callaway:**

Their primary responsibilities are civil actions; for example, evictions are one of the primary things they do. They also do writs of execution. They serve people with notices, temporary protective order services, things that might not go through the sheriff's civil bureau. To be frank, under previous constables in the Las Vegas township, there were examples of their stepping out of their lane, so to speak, and getting involved in police activity that did not really fall under their role—that may be one of the reasons why they were put under our authority. That is not their typical day-to-day duty to serve search warrants and kick in doors and that type of thing. Their typical day-to-day duty is civil services and evictions.

**Assemblyman Leavitt:**

I get that. The POST certification is for that purpose though, right? So, in the instance that you need them to serve in that purpose, they can do so. I am not saying that in the normal course of their duties they do that. If they are professional, they are not going to step on Metro's toes on any investigations or things they are involved in. But if the call comes that you need them, they have to be prepared to do those duties, correct?

**Chuck Callaway:**

Sure. I think a perfect example of what you are talking about is, let us say that one of our officers did a traffic stop and needed assistance and a constable was nearby, then of course the constable could assist that officer with effecting an arrest or taking someone into custody if the officer needed backup. They definitely have a specific role, and we encourage them to stay within the role of their duties.

**Assemblyman Leavitt:**

Are they currently required to have any POST certification—any of the constables in any capacity in Nevada? Are they required to fulfill any POST certification currently?

**Chuck Callaway:**

My understanding, and I may be incorrect on this, is that the line-and-file constables who go out daily and do writs of execution, who do all those duties we described, have to be POST-certified. I think this statute currently addresses issues that have arisen with the actual constable himself who is the elected person who oversees them.

**Assemblyman Leavitt:**

I am trying to give kudos to the bill for the fact that there might be some constables out there doing duties that they are not trained to do in some circumstances. My other question is regarding collecting fees, because that is a big portion of their job—collecting fees on different things, such as evictions and things of that nature. Would this statute affect a lot of constables in coordinating with third-party vendors when they are doing that type of collection because they may not have the staff to really do it effectively? The 0.5 percent collection fee that is going to 1 percent, is that to stay in-house to pay for administrative costs, or does that money also get sent back to the enterprise fund?

**John Fudenberg:**

When it is an enterprise fund, the revenue does stay within the enterprise fund to pay for the expenditures of an enterprise fund.

**Assemblyman Leavitt:**

Is it broken down per precinct? If I am constable of Timbuktu, and I collect a certain amount of fees and I get the 1 percent and bring it back into Timbuktu, do I now have to send it off to a larger entity? The enterprise fund? Or do I keep that in-house to pay my own administrative fees or pay my staff? How does that work?

**John Fudenberg:**

When it is an enterprise fund, no, they do not send that revenue elsewhere. They keep it within the fund. The expenses are paid for by the revenues when it is not an enterprise fund. I believe they are sent elsewhere, but I can find out the details. I am not sure when it is not an enterprise fund. If there are revenues that go elsewhere, those revenues are very minimal. We looked up a few revenues last night on some of the smaller constable's offices, and I want to say they were \$800 or \$900. In some of the more rural areas, the expenditures are not paid for with the revenues. That is the idea of the enterprise funds—the revenues cover the expenses for that fund.

**Assemblyman Leavitt:**

The reason I ask is that I read in the paper a year or so ago that there were allegations that a constable was collecting money and keeping the money in-house and then compensating themselves with that money. I want to be sure this bill is set up so that could not occur, or if it was occurring in error, then it cleaned that up. That is what I am trying to get at.

**John Fudenberg:**

The section that requires them to account for and send fees to the [county] treasurer's office every five days is one of the reasons we want that change—to make sure we can monitor them more closely to ensure that does not happen.

**Assemblyman Assefa:**

My first question is, why the population cap? We have 100,000 or more; why would a constable in a place like Las Vegas be trained differently from a small town in Nevada, or Timbuktu, that may be populated with fewer than 100,000?

**John Fudenberg:**

I understand what you are saying. The question is, if you have a population of 10,000, why would that be any different than if you have a population of 150,000? We did not want to change that number below 15,000. We simply reverted back to the population that was in statute in 2013; it may have been 2015. That came from the Legislature. That is not a number that we came up with. So we are simply reverting it to the old language of 15,000.



**Assemblyman Assefa:**

I am not familiar with the constable's office, so my second question is, Is this a one-person operation? Are there other officers under that elected official?

**John Fudenberg:**

In the larger townships, there are multiple deputies who work for that elected constable.

**Assemblyman Assefa:**

Are they POST-certified as well?

**John Fudenberg:**

Yes. The statute requires the deputies be POST-certified prior to being hired.

**Assemblyman Assefa:**

That alleviates my concern under section 1.5 of the bill which gives one year after election for the constable to come to compliance with the provisions of this bill. I was concerned with what might happen during that one-year period if the operations of this office required an action by that constable exercising police powers if he was not trained during that period. Would we be exposing him for possible liabilities? But you have answered my question. How long does a POST category I or II certification take?

**Chuck Callaway:**

I think the academies vary. I would have to get that answer for you from POST. I can call them and get you that information to find out exactly how long the category I academy is versus the category II.

**Assemblyman Assefa:**

I was trying to figure out why we have one year; if this is something that will take 90 days to complete, then why are we allowing an entire year for this individual to come into compliance?

**Chuck Callaway:**

I believe the POST academy is at least several months long. I can get you the exact time. I just do not know off the top of my head.

**Assemblyman Carrillo:**

In section 1, subsection 2, when it talks about any person who is a candidate for the office of constable in a township whose population is over 100,000, I know that a few cycles ago the constable's office in Las Vegas came under the direction of Metro. As Mr. Callaway had stated, they took over. When you are saying it is an elected position, right now it is not an elected position. The Las Vegas constable's office is under the direction of Metro. Will this take it back to where someone will be able to run for office, or is this still going to be under the direction of Metro?

**Chuck Callaway:**

The county commission dissolved the elected position, so the constable deputies fell under our control. My understanding is that the county commission would have to choose to reinstate that position, and then it would be open for a candidate to run if they chose to do that. Right now, my belief is that it is running smoothly under our operation, and I have not heard any desire to do that.

**Assemblyman Leavitt:**

Just for clarity on my part, for instance, I live in unincorporated Clark County. I do not live in the City of Las Vegas. You do not know the area where my district is, and I am not sure if I have a constable under my direction. Maybe Senator Parks could speak to this because his district overlaps the district I represent and I am in his district.

**Senator Parks:**

Yes, you live in the Las Vegas Township, which includes the entire incorporated City of Las Vegas, as well as most of the urban area, with the exception of Henderson and North Las Vegas. It then goes south to Sloan, where it is picked up by Goodsprings Township. There are various boundaries, but if you lived in Mt. Charleston, you would be under the Las Vegas Township.

**Assemblyman Ellison:**

How many areas have a constable that is 15,000 and below? Are there any at all? I thought there was just one, down by Las Vegas. Can you give us an idea how many are out there at that size?

**John Fudenberg:**

I have a list of the populations; the Bunkerville Township, Goodsprings, Laughlin, Moapa, Moapa Valley, and Searchlight are all under the 15,000 population. I cannot speak to the three outside of Clark County because I do not know the population of those three.

**Assemblyman Ellison:**

Are any of them not POST-certified now, do you know?

**John Fudenberg:**

They are not required to be POST-certified. I do not know currently who has POST certification and who does not.

**Assemblyman Ellison:**

Some of these that are doing this might not be POST-certified because they are basically a server, not a police officer, and this will make them a category II. What about these people who have been doing this for 10 or 15 years at that point in time? At the next election, they will have to get their certification. I do not know what kind of health they are in. For POST certification, a person has to run and be able to show physical abilities, is that correct?

**John Fudenberg:**

This bill requires POST certification for townships with a population of over 15,000, so it does not affect the townships where the population is under 15,000.

**Assemblyman Ellison:**

So these other ones are right under that?

**John Fudenberg:**

Correct.

**Assemblyman Assefa:**

The website for Peace Officer Standards and Training, the Nevada Commission on Peace Officer Standards and Training, shows the maximum time period it takes for completion of POST category I training is 17 weeks; category II is concurrently running 10 to 11 weeks, and category III is 8 weeks. That one-year period, I think, is a little too much for an elected official to come into compliance. If a person ran for office, and if that person wants to do the job, I think the one-year period is way too much time. I do not know what their scheduling is. If they do not conduct training throughout the year, then that may be a conflict. Just looking at it from my outside perspective, it only takes four months and one week to complete the highest level of training. That is one of the points I would like to see if you could address it for me. The second is the population cap. I know the Legislature put it in place; I do not know if my fellow Committee members are willing to look into that and remove that population cap. I do not see a reason why a public servant who serves in Las Vegas versus a small town in Nevada is trained differently. They should be held to the same standards I would think.

**John Fudenberg:**

To answer your first question regarding the one year, I would imagine there are two factors that go into that. One is scheduling. They do not have police academies starting every month. I am sure they are allowing the one year to ensure that they can finish the academy within that one year based on the scheduling. I do not know if an allowance is made for them. At times, people go through the police academy and they fail. This way they may be allowed to attempt it again, perhaps. I know we deal with that in the Coroner's office where a doctor is board-certified—we give them two years to become board-certified. If they fail, they can attempt it again, so I would imagine this is a similar process to allow them the opportunity to become certified.

In reference to the population cap of 15,000, that would create issues to require POST certification for under 15,000. Certainly the concept is hard to disagree with. But as Assemblyman Ellison stated, there are smaller jurisdictions that may have a difficult time getting somebody who is POST-certified. That would certainly create issues in the more rural areas.

**Assemblyman Assefa:**

What happens if this elected official does not qualify and fails these classes? Are they now disqualified from their elected office?

**John Fudenberg:**

Yes, they are, in populations over 15,000, if this bill goes through.

**Assemblyman Assefa:**

Are there provisions in this bill that would disqualify that elected official?

**John Fudenberg:**

Yes, there are.

**Assemblyman Leavitt:**

This follows up with my colleagues. The small township constables have full police power, correct? No different, correct? I am seeing you nod, so I am assuming that is correct. So you have a non-POST-certified individual. He or she could have been a janitor or an accountant, and now the person is elected and is supposed to be a peace officer with no training whatsoever. They are supposed to carry a firearm, make calls, and sometimes, in a township, that person may be the only officer in town at the time. So, you are requiring this person who has no certification whatsoever, no training, to accomplish his or her job. Three out of the six you named are in my district. I want those little towns to be just as protected and the constables trained.

I think I would agree with my colleague on maybe looking at that population cap and looking at the safety of the individuals who live in that township over the difficulty of someone to get a POST certification. I think the POST certification should come before you ever run or are appointed, because the second you are a constable, you have full police power and you are not trained; you have one year to figure it out. During that year, what if something happens? You are not trained. Let us say I was an accountant and now I am a constable. For that year, I am doing what? Trying to figure it out? I think if you are going to bring this bill, we need to take a little closer look at what we are trying to accomplish. I hope the ultimate goal is to protect the citizens under that watch.

**Assemblyman Ellison:**

If I am correct, I do not think most of those guys carry a weapon. One of them I saw had a gun in his car and he had some rubber bullets. I would rather carry a squirt gun. I think they do not carry a weapon. Is that correct?

**John Fudenberg:**

I do not know which of the elected constables carry weapons and which of them do not. I definitely do not know what type of bullets they use if they are carrying weapons. I would imagine Chuck Callaway could clarify that. I believe when they are elected, they have the authority to carry a firearm.

**Assemblyman Ellison:**

But they could do that under a concealed weapons permit anyway, right?

**John Fudenberg:**

Correct.

**Chuck Callaway:**

First, let me say I support the bill. Metro supports the bill, but who receives POST certification and the population caps, that is a policy decision for you also. I am not necessarily taking a position on that.

Yes, we struggle all the time working closely with the Nevada Sheriffs' and Chiefs' Association. Nevada is not a one-size-fits-all state, and what is good for Clark County or the more populated areas or Washoe County does not necessarily work in White Pine County or some place that is much smaller, so we understand that. I think some of the intent behind this was to give some flexibility for those areas. I have been told that there are some constables who do not carry firearms. I think when some controversy came up during last session about one particular constable not being POST-certified, his response was, I do all administrative duty; I am at a desk all day filing paperwork. My deputies are out doing the police work and they are actually POST-certified. That was some of his reasoning why he did not need POST certification. I am not trying to justify or say yes or no or take a position, but I think what you see a constable doing with their functions in a very small community or in a rural area are definitely not the same functions that a constable may be performing in the Las Vegas Township.

**Chair Flores:**

We will have one more question, and then we will move on. I think at this point, the Committee is just split on whether or not we agree on the population cap. We agree on the certification, but I think the questions as to the policy have been addressed.

**Assemblyman Carrillo:**

I know Gary Rogers, the constable in Goodsprings. Goodsprings has a population of 229 people, so I am just concerned about the population cap for 229 people. Yes, there are good people and bad people everywhere. But by the same aspect, his jurisdiction is so minute and every time I have met Gary, from what I can see, he does not have an open carry as you would expect a peace officer to have or you would expect to see. If we were to remove this population cap, would it be capturing Goodsprings? Would it be capturing Mesquite? Goodsprings is a very small jurisdiction with only the 229 people. You could fill this room and probably get 229 people in here. I am trying to justify the reason to leave the population cap in. Would you speak to that?

**John Fudenberg:**

I think the question is, if we remove the population cap, the example being Goodsprings, are all of those townships affected? Absolutely, they are. If the population cap of 15,000 goes away, then it would be required that the constables elected to all townships be POST-certified. You are correct.

**Chair Flores:**

With that, I would like to invite forward anyone wishing to speak in support of Senate Bill 462 (1st Reprint). [There was no one.] Is there anyone wishing to speak in opposition to Senate Bill 462 (1st Reprint)?

**Duane L. Thurston, Constable, Mesquite Township, Clark County:**

I am against this bill. It has discrimination on it. I have been a constable for 24 years. With this, I serve papers; we have nothing to do with the criminal aspect. We do not do citations. What we do is serve papers for court. In 24 years, I have never been to the point where I have been threatened. We have a police department and also Metro that covers the City of Mesquite. As I have looked at POST, it has nothing to do with what we do. It is more related to criminal. On the physical part, I have never had to run after somebody to serve them papers. A lot of times I can have them come to me just by calling them, or they will come to my office. To give you a little update on POST, when I first started 24 years ago, none of the constables had to be POST-certified. It was after our first term, when a constable had a 19-year-old young man run against him. He went and had POST certification put in this bill so that it would eliminate a lot of people running against him. Since then, they made it the same as the judges; if the judge's jurisdiction had a population of over 150,000, that judge had to be an attorney. They put that the same as a constable back then, that we had to be POST-certified for over 150,000 population. So with this, that is where it started over 20 years ago. That is why POST has been put in there. I am not opposed to training, but what POST has right now, they have nothing to do with constables. I am opposed to this bill.

**Assemblywoman Duran:**

My question is, if you are doing, as you say, not policing but maybe more desk duties, and if you are just serving papers on those who need to go to court, is there a different classification, or are you classified as a constable?

**Duane Thurston:**

I am a constable, and we serve these papers. They are just documents for court dates, child support, et cetera. We do evictions, and with that they have up to 24 hours to get out once we serve them with the first document. There has never been a time in my 24 years that I felt like I was in danger.

**Assemblywoman Duran:**

In other words you feel that you do not need to carry a weapon or get POST-certified as a category I or II?

**Duane Thurston:**

No, I do not feel that what POST has would do any good for my department training, and I do not feel as if I need to carry a weapon.

**Chair Flores:**

Is there anybody else wishing to speak in opposition to Senate Bill 462 (1st Reprint)?

**Kimberly Thurston, Private Citizen, Mesquite, Nevada:**

My father is Constable Eric Laub, who has been a constable for probably 30 years. Constable Duane Thurston is my husband. I just have some questions on this. Some of it was brought up in the beginning. I do not understand why you would have to take it from a 100,000 population cap down to 15,000—that is quite a gap. Why such a gap? That is a big jump. If all the constables do not have to be POST-certified, to make it fair for everybody, I know that some communities are smaller, but some of the smaller community constables serve in larger areas. There is a constable who comes to Las Vegas and has an office here and runs papers through Las Vegas. I know that when Constable Thurston is out of town, Constable Laub covers his area and vice versa if a constable is on vacation and papers need to be served. I do not understand the big, drastic changes. I think it is being a little discriminatory. I think there were some personality issues that happened in the past, and they are being targeted. I feel they do not have to be POST-certified to run for the office, even with 100,000 population, because it is office staff things they do. If an elected official, or anyone, is running for an office dealing with finance, for example, do you have to have a master's degree in finance? I do not understand why all this keeps coming up and it keeps changing year after year. It is just not the same. I think every constable should follow the same laws.

**Robert Eliason, Constable, North Las Vegas, Clark County:**

I have quite a few concerns with this bill. Tell me the difference between an eviction in Laughlin and an eviction in North Las Vegas? There is no difference—an eviction is an eviction. And yet you are going to allow 9 of the 11 of us not to be POST-certified. It is one of those things where it is either all of us or none of us. I hate to say it like that, but it is that way. I have an answer to some of those solutions. What if we created a category IV in the POST academy, where it deals with civil law instead of criminal law, and work on some of the physical aspects of qualifying for that? Let us go through the civil side. If you want to teach us about our job and make us POST-certified, let us create a category just for elected constables.

**Chair Flores:**

If there is anybody else wishing to speak in opposition, could we have those two seats vacated so we can have them come up? Is there anyone else wishing to speak in opposition? [There was no one.] Is there anyone wishing to speak in the neutral position on Senate Bill 462 (1st Reprint)? [There was no one.] Senator Parks, do you have any closing remarks?

**Senator Parks:**

I appreciate your hearing this bill. One final comment in response to the speakers in opposition: The 15,000 was a population cap that was in place for a number of years. It was changed, and we are just suggesting changing it back. There was no intent for any form of discrimination.

**Chair Flores:**

We will close the hearing on Senate Bill 462 (1st Reprint) and, Committee members, the conversation about a population cap is just something we have to figure out. At some point we will see where everybody falls, and we will speak with the chairman [Senate Government Affairs, Senator David R. Parks] and let him know. Last on the agenda, we have Senate Bill 242 (1st Reprint), which revises provisions relating to peace officers. Senate Majority Leader, welcome.

**Senate Bill 242 (1st Reprint):**    **Revises provisions relating to peace officers.**  
**(BDR 23-1066)**

**Senator Nicole J. Cannizzaro, Senate District No. 6:**

I am here to help in presenting Senate Bill 242 (1st Reprint), which makes various changes related to the way in which officers are treated with respect to their labor situations when they find themselves in those types of issues. I will say that most of the presentation of this bill will be handled by Mr. Ramirez. Also, in Las Vegas we have Mr. David Roger from the Las Vegas Police Protective Association (LVPPA), who will be able to fully walk through the bill with the members of the Committee.

Senate Bill 242 (1st Reprint) first came to my attention by request from LVPPA to address some of the concerns they were having when their officers were disciplined by management. In substance, this bill addresses some of the management and labor relations concerns so the officers can be treated fairly through the process of their employment issues. A lot of work has been done on this bill. I want to thank Mr. Ramirez for working on this bill with me, as well as Mr. Roger and a number of other individuals. I still have some concerns that we are talking about and have worked through to amend this bill to address some of the concerns that were initially raised. I wanted to mark that for the Committee. This bill is really just intended to get at labor disputes with officers and their management, and is in no way intended to be some work-around of anything else or other protections that we have put into the law for citizens in the community. There has been a lot of work on this bill to amend out sections and to clarify sections in the bill to ensure that it is seeking to do just that. I think the bill you have in front of you is something that will provide those sorts of protections for those officers when they are involved in these management and labor disputes.

I know there are a couple of clarifications from some of the individuals we have spoken to, and I think Mr. Roger and Mr. Ramirez will also speak to that so that we have a clear record for the Committee as well. Mr. Chair, what I would like to do is turn it over to Mr. Ramirez and Mr. Roger to walk through the bill and then further discuss some of the changes that are reflected in the language.



**Mike Ramirez, Director of Government Affairs, Las Vegas Police Protective Association Metro, Inc.; and representing Nevada Law Enforcement Coalition:**

As Majority Leader Cannizzaro stated, we met with the stakeholders to address their concerns as far as what they had in the original bill. I hope you have the first reprint in front of you to see the different changes that we did. Mr. Roger is in southern Nevada, and he will explain each section as far as what we amended, what we deleted, and the reasoning why. I would like to turn it over to Mr. Roger.

**David Roger, General Counsel, Las Vegas Police Protective Association Metro, Inc.:**

I represent 3,000 police officers, and I believe I speak for the coalition that represents 10,000 police officers statewide. I want to take a moment to talk a bit about my background, because I think I have a unique perspective. I was a prosecutor in the Clark County District Attorney's Office for 25 years. Most of that time I was in the major violators unit where I prosecuted murder cases and special assignments from the district attorney. In 2002 I was elected district attorney in Clark County and reelected two more times. I supervised officers and investigators who had the protections of *Nevada Revised Statutes* (NRS) Chapter 289. I have prosecuted police officers and now, since 2012, I defend police officers. I have been on both sides of the table.

*Nevada Revised Statutes* Chapter 289 is the peace officer's bill of rights. That was passed, I believe, in 1983. This legislation, NRS Chapter 289, deals with internal administrative investigations of police officers. What it does not cover is criminal investigations. Criminal investigations are outside the protections of NRS Chapter 289, and officers are investigated for criminal misconduct just like any other citizen.

Police officers are highly scrutinized, as they should be. They are given a badge. They are given a gun. They can take away someone's liberty and, sometimes, someone's life. At least with respect to Metro [Las Vegas Metropolitan Police Department], they are investigated by a number of different layers; for example, internal affairs investigates complaints regarding police misconduct. They investigate performance issues and from there, the sheriff makes a decision on what punishment might be appropriate. They have a diversity section comprising detectives who investigate the Title VII types of issues and some types of discriminations. They have a FIT unit, the Force Investigation Team. That is the criminal unit that falls outside of NRS Chapter 289. They investigate all officer-involved shootings to determine whether the officer's conduct was criminal. They have a CIRT unit. This is the Critical Incident Review Team. They administratively investigate officer-involved shootings and use of force to determine whether the officer's actions fell within policy, or whether there are training issues or policy issues.

They have a criminal IEB (Investigations and Enforcement Bureau). These are investigators who investigate officers for criminal misconduct. Once again, NRS Chapter 289 does not apply to them. In a year when you hear the often-used term "transparency," this bill has nothing to do with transparency. What this bill does is make sure that police officers get a fair shake when they are investigated internally, administratively, for either misconduct or performance issues.

When I first took office in 2002, I met with then-sheriff Bill Young. Sheriff Young had been with the department for a long time and he was the newly elected sheriff. We talked about a number of things and one of them was internal investigations because I, too, had peace officers who fell under my administration. He told me that he wanted me to get away from "gotcha" investigations. He wanted to be able to investigate police officers fairly, change conduct, and discipline when necessary, but he also wanted to get to the truth. And if the truth meant that an officer had committed misconduct, so be it. If it meant that their policy issues or things they did within the department as far as training [were in violation], then he wanted to get to it.

At least with respect to Metro, and I would guess that it is the same with every other agency in Nevada, if an officer is untruthful during an internal investigation, the punishment is termination. No questions asked. When we went in with the original bill in front of the Senate, there was a lot of discussion. I hope to narrow the discussion to what this bill really is and its internal investigations. It is about getting officers a fair shake. The original bill was sliced and diced. We believe that this bill is pretty lean, and it passed on a nonpartisan vote 21-0 in the Senate.

With that, I would like to get to the meat of this bill. There are a couple of sections that deal with what happens to a police officer when an investigation is initiated. The departments have a number of options. They can allow the police officer to stay in place and continue working. Sometimes this might be a complaint about performance issues. The officer can be placed on administrative leave with pay. That happens when the allegations may be a little more serious or when an officer is charged criminally and charges are approved by the district attorney or the prosecuting authority. The law enforcement agency has the option to, and almost always does, place the officer on unpaid leave pending the resolution of the case and/or the administrative investigation. In those cases in which an officer is charged criminally, more often than not, the law enforcement agency places them on unpaid leave. The officer does not get a paycheck. The officer also has to ask for permission to have outside work. You can imagine, in the criminal justice process, sometimes these cases take up to a year to prosecute, so that officer is without pay for an entire year—that is a substantial penalty. The department could, if they chose, continue with their internal investigation and terminate the police officer long before the criminal charges are resolved, but more often than not, the department decides to wait until after the criminal investigation to start their own internal investigation, and all the while the officer is left without pay and he or she has to ask for permission to get another job.

Section 1 deals with what happens when an officer goes through the criminal justice system, is on unpaid leave, and charges are either dismissed or a jury acquits the individual. We have had such a case in Clark County. This bill provides that an officer is entitled to back pay at the end of his or her case when the case is either dismissed or there is an acquittal. Metro objected to this, and so we amended the bill and added some exceptions. One exception is that if the department decides to thereafter discipline the officer despite the fact that criminal charges are dismissed or there is an acquittal, back pay does not have to be awarded. That is a huge windfall because if an officer is suspended for 40 hours, their punishment is not only

the 40 hours, but the time he or she went without pay from the department. Nevertheless, in the spirit of negotiation and cooperation, we agreed to that amendment. As the bill stands before you right now, an officer can get back pay if he or she has criminal charges dismissed or is acquitted by a jury so long as the department does not decide to turn around and discipline the officer.

Section 2 is the codification of the U.S. Supreme Court case in *National Labor Relations Board v. Weingarten*, 420 U.S. 251 (1975). In that case the U.S. Supreme Court held that an employee who reasonably believes that the questions they may be asked to answer may lead to discipline is entitled to representation. It does not mean that they do not have to answer the questions. It means the employee is entitled to representation. That is the U.S. Supreme Court's decision. It is the Nevada Labor Relations Board's decision, and it is the law of the land. We are merely codifying that in the bill.

Section 2, subsection 4, is a slight modification to the present statute. The present statute provides that if an officer is requested—and that is the key word—requested to cooperate in a criminal investigation and refuses to do so, the officer may be disciplined or terminated for insubordination. This language attempts to follow the U.S. Supreme Court case in *Garrity v. New Jersey*, 385 U.S. 493 (1967). In that case, the U.S. Supreme Court held that if an employee is ordered to provide a statement as a condition of his or her employment under the threat of insubordination, termination, or discipline, that statement cannot be used against them in a criminal case because it is coercive. The same can be said for all public employees. But the key is that it must be an order. The department's policy and every police policy in the state of Nevada, provides that if you are ordered to do something and you refuse to do so, that is insubordination. We are changing one word. We are changing "request" to "order." With that change, that would comport with the U.S. Supreme Court's decision.

Section 2, subsection 5, is another provision that deals with *Garrity*-protected statements. This provision states that if an officer is compelled to give a statement in an administrative investigation, that statement cannot be used against the police officer without his or her consent. There are two exceptions to that. One is that the statement can be used against the officer in any civil proceeding dealing with his or her employment. If the department compels an officer to give a statement to IEB or any of the other investigative internal investigations, that officer's statement can be used to terminate him or her and can be used in any arbitration or any civil proceeding dealing with the officer's employment. There was some objection on the Senate side, and we added another exception. If an officer is a witness in a civil case and the officer's testimony is inconsistent with the *Garrity*-protected statement, the trial court judge or an arbitrator can review the officer's statement *in camera*, meaning just on his or her own, and if it is found that the statement is inconsistent with the officer's testimony, that statement will be turned over to the parties in the litigation.

Section 4 deals with when IEB can initiate an investigation. As you know, there are statutes of limitations that apply to both civil cases and criminal cases. They are found throughout our statutes. The reason for statutes of limitations is to provide some finality to cases,

to protect against long-term memory and faulty memories. In civil cases there may be a three-year statute of limitations that says you have to file the case within three years. In criminal cases, it is generally three years as well, sometimes five years for a statute of limitations. Presently, there is no statute of limitations for an issue for initiating investigations of police officers. There have been times where we have had allegations that an officer had used a database improperly and the allegation was raised 18 months to 2 years later. Officers use these databases on a daily basis. It is difficult for them to remember whether they used the database properly or improperly.

Section 4, subsection 1, provides that an IEB, an internal investigation, must be initiated within one year of the alleged misconduct. That was amended and the bill you have in front of you provides that the one year statute of limitations still applies; however, if the alleged conduct is criminal under state or federal laws, there is no statute of limitations. If an officer was found to be using a computer for sexual motives or some other conduct or commits murder, obviously, those are allegations of criminal misconduct and there is no statute of limitations.

The second part of section 4, subsection 3, paragraph (c) deals with when a department may reopen an internal investigation. Right now, a department can clear an officer, issue that finding, and then if someone higher up decides they do not like the finding, they can order that the investigation be reopened. This section deals with some finality in these investigations, and the original bill provided that an employer could not reopen an investigation once they concluded that the officer did not commit misconduct. There is an exception that was amended into the bill, and that exception is that if the department finds newly discovered evidence, they may reopen the investigation.

Section 4, subsection 4, deals with the reassignment of police officers. At the beginning of my comments, I talked about what happens when an internal investigation of a police officer is initiated. They can leave the officer in place. This happens with minor issues. They can place the officer on administrative leave with pay pending an investigation. Of course, in criminal charges, the officer can be put on unpaid leave.

What this next section deals with is the department deciding to reassign a police officer to another assignment in another area within the department while the investigation is ongoing. Many police officers feel that is a type of punishment before they have even been investigated. So this provision states that a department cannot reassign an officer pending an investigation. The department still has options. They can leave the officer in place; they can place an officer on administrative leave; or they can expedite their internal investigation. To use an accounting term, there is nothing that says an investigation has to be first in, first out. They can expedite investigations. At times, our officers have been reassigned to the cameras where they sit in front of monitors and view cameras for ten hours a day—that is painful and the officers believe it is not fair—it is punishment before they have been investigated.

Section 6, subsection 4, paragraph (a), deals with the disclosure of evidence to officers in an internal investigation. We have criminal arms of the department—criminal IEB and FIT that investigate officers for criminal conduct. This does not apply to their investigations, and sadly, I think there are times when police officers do not follow the conduct that Sheriff Young tried to establish. There are police officers who investigate alleged criminal conduct and they treat their own as criminals as well. This provision provides that prior to an internal, administrative investigation, they are allowed to view evidence against them. Just like in any criminal proceeding when a criminal is charged, they are entitled to look at the evidence. Prior to their interview, the officers are allowed to watch the body cameras, third-party video, and statements attributed to them, and this is just a matter of fairness.

Finally, section 7 is the remedy if a criminal prosecutor messes up a case, if a police officer violates someone's *Miranda* rights or Sixth Amendment rights. The remedy is suppression in almost all cases and dismissal of the case. This section provides that if the department violates an officer's NRS Chapter 289 rights, the remedy is dismissal of the proceeding with prejudice. Early on we also had in the bill attorney's fees and costs that were amended out.

Finally, section 8 adds sections to the statute that says NRS Chapter 289 protections do not apply to criminal investigations. If an officer is investigated for criminal use of force or other criminal conduct, they do not get these rights. They are treated as any other criminal suspect.

That concludes my presentation. Thank you for your time, and I am here to answer questions.

**Chair Flores:**

Committee members, are there any questions?

**Assemblyman Ellison:**

I was looking at this, and there was an amendment proposed by Mr. McCann ([Exhibit C](#)). It clarifies who is an officer under NRS 289.150 to 289.360. It was proposed as a friendly amendment. Is that a friendly amendment?

**Senator Cannizzaro:**

That is correct. It just clarifies what constitutes a law enforcement agency.

**Assemblywoman Bilbray-Axelrod:**

I am looking at section 4, subsection 4, which says, "A law enforcement agency shall not reassign a peace officer temporarily or permanently without his or her consent." If something happens and then the peace officer is put on desk duty, is it the intent of the bill to have the peace officer be okay with that? Otherwise, the officer will go on administrative leave?

**David Roger:**

This provision is protection of an officer pending an investigation. Prior to being adjudicated of any misconduct, these police officers believe they should maintain the status quo. So, the department has three options:

1. They can either leave the officer in his or her current assignment;
2. They can expedite the investigation; or,
3. The officer can be placed on administrative leave with pay.

Those are their options and it is not like they do not have options, but it would prevent the department from reassigning them to something outside of their job responsibilities. For example, if an officer or a detective in narcotics is being investigated for performance issues or something else that is not criminal, the narcotics officer will typically be assigned to handle paper issues, and that is fine; that is not within the intention of this bill. This bill covers the situation where the narcotics officer is taken out of the unit and then put in the fusion center to watch cameras for ten hours a day. That is what this provision entails.

**Senator Cannizzaro:**

We have been talking with some of the other departments because we understand that in this state there are smaller departments and much larger departments. I think the intent of S.B. 242 (R1) is that if you do not need to place an officer outside of where they are currently working—I know Mr. Roger brought up the example of a narcotics officer. It is hard to try to get back in to that bureau if you were wrongfully taken out and asked to watch cameras for ten hours. We also understand that there are smaller departments that are unable to comply with that. There are also situations where if an officer is abusing his position, it may not be appropriate for him to remain in there. We are discussing potential amendments to that section to make it workable so that it is balancing that an officer should not be retaliated against during an investigation before there is a finding of that investigation while also making some adjustments for both smaller departments and in situations where there may be very clear reasons why that officer cannot remain in that particular department or division.

**Assemblywoman Bilbray-Axelrod:**

I think that section needs some clarification, so I appreciate that.

**Assemblyman Assefa:**

Section 4, subsection 1, says that for internal investigation purposes, if an allegation is filed against an officer, there is a one-year period to file a complaint unless it rises to criminal conduct. Right now, from your experience, how long does it take after a complaint is filed before an internal investigation is initiated?

**Mike Ramirez:**

Right now, it all depends on what the allegation is. Sometimes it could be within a week; other times it is six months down the road. More recently, last year, it was found that an officer had used a computer in his vehicle to run some things, and it was from about four years ago. They brought him in to question him on that and he said, I do not know; I run

plates; I run different things. I do not know that specific intent, and they said, Most likely you are lying, and, therefore, we had to fight that and that situation. It could take anywhere from a week to six months down the road to make an allegation or to make a complaint.

**David Roger:**

If I heard the question correctly, it was how long does it take an investigation to be completed by IEB (Investigations and Enforcement Bureau)? That is a matter of priority for IEB. Metro's IEB unit has, I am guessing, maybe close to 20 investigators including supervisors. They can expedite their investigation if necessary. But this provision states that they have one year from the date of the alleged misconduct to initiate the investigation. There is no limitation on how long it can take to finalize the investigation and come to a conclusion.

**Assemblywoman Duran:**

We have time limits to present a complaint against you. I cannot remember what happened last week, let alone a year ago as to something happening. Sometimes, when an investigation is begun, they will try to charge you with dishonesty because you do not remember. I know it is clarity. You have to be honest during the investigation.

In section 7, when the arbitrator dismisses the case, do the charges or the record get expunged from his or her file, or do you know?

**David Roger:**

If an arbitrator listens to the evidence and concludes that there has not been an NRS Chapter 289 violation and dismisses the case, that is reported as charges exonerated, and it is no longer in the peace officer's file. That is also provided in NRS Chapter 289. I cannot recall the exact number right now.

**Chair Flores:**

Committee members, are there any additional questions? [There were none.] I would like to invite those wishing to speak in support of Senate Bill 242 (1st Reprint) to please make your way forward.

**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 I am a member of the Nevada Law Enforcement Coalition, representing about 10,000 officers across the state of Nevada. We fully support Senate Bill 242 (1st Reprint) with the amendment that is on the Nevada Electronic Legislative Information System ([Exhibit C](#)). That simply adds a definition, as Senator Cannizzaro indicated, concerning the law enforcement agency. Ironically, NRS Chapter 289, the peace officer bill of rights, defines very adequately what a peace officer is but it does not define a law enforcement agency. The amendment will simply clarify that.

I represent about 18 to 20 different groups around the state of Nevada, including some Metro people, and you are right, those of you who have asked questions, it varies. There are small groups, medium groups, and large groups like Metro. But we have to have some consistency with respect to the manner by which these officers are given their rights. I think S.B. 242 (R1) does that. We ask for your support.

[([Exhibit D](#)) is a letter in support of S.B. 242 (R1), dated May 10, 2019, and submitted by Ronald P. Dreher but not discussed.]

**Chair Flores:**

Committee members, are there any additional questions? [There were none.] Is there anyone else in support of Senate Bill 242 (1st Reprint)? [There was no one.] Is there anyone wishing to speak in opposition to Senate Bill 242 (1st Reprint)?

**Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association:**

We are here in opposition to Senate Bill 242 (1st Reprint). I represent the law enforcement agency leadership, the elected sheriffs and appointed chiefs of police of the law enforcement agencies in Nevada. These are the persons charged with the responsibility to manage all of the police and sheriffs' deputies—the good and the bad in their organizations. We have met with Majority Leader Cannizzaro and the bill proponents, the union representatives you heard from today, and have made some progress in our concerns with the bill. The Nevada Sheriffs' and Chiefs' Association has not proposed our own amendment to this bill, and we have been working in good faith with the union representatives. Some of what we agreed to has not made it into the amendments, despite their word it would be. This is disheartening. While not the most pressing part of our opposition, the Nevada Sheriffs' and Chiefs' Association really needs to emphasize the rural agency with section 4, subsection 4, regarding reassignment. It is sometimes impossible for a smaller rural agency to function during the complaint investigation without the ability to reassign the person. The most pressing issue before you today, and the one in which you will need to decide your vote on this bill, is the issue of truth.

Section 6, subsection 4, paragraph (a) of the bill before you allows for the cop being investigated to see all evidence that the investigators have prior to having to answer questions. We would suggest that bad cops be required to tell the truth during an interview rather than being allowed to prepare testimony around what evidence the agency holds. We believe allowing this would also allow for bad cops to see witness statements from other cops or the public—your constituents—regarding the complaint and allow for retaliation by bad cops against those persons. This may result in a decrease in reporting against bad cops.

The large number of law enforcement professionals in our organizations are all excellent officers who do exemplary work. The large number of cops in your agencies are amazing—but we all know bad cops. Some of you representing underserved districts have entire communities that can name the bad cops who perform in a discriminatory or oppressive or racially motivated manner. Your people can name them. Our sheriffs and chiefs, the good cops and union representatives here today, have all said at one point, How the hell is that guy



still a cop? He should have been fired. The provisions in this section which will allow that bad cop access to all of the evidence, witness statements, video, audio, will only perpetuate the inability for our law enforcement agency leaders to remove bad cops from our community.

You have heard that in Las Vegas and Mr. Roger's neighborhood, they have all of these specialized units to try to keep bad cops in line. In the rest of the state, law enforcement agencies might not be afforded these luxuries to help them investigate bad cops. What applies to the massive machine of the Las Vegas Metropolitan Police Department (LVMPD) sometimes simply cannot logistically or mechanically happen in our rural and frontier jurisdictions with these investigations. Not being able to reassign an officer is an example of that. We have to be able to pull a guy out of the field environment who is sexually harassing somebody and have him work the jail because there are two deputies who can run a shift: one is working the jail in the rural jurisdiction; the other one is out on patrol. We have to be able to swap them so that the sexual conduct or the discrimination or that harassment stops—not a crime; we are talking about conduct. We have to have that remain.

Here is my ugliest tie. The reason I wore this ugly tie is because it makes me nauseous. It reminds me of nausea. I have been nauseous all morning because I have not seen the amendment we agreed to that I was told was going to be here. If you decide to move this through and you get nauseous because you see a bad cop who continues to do bad things, I hope you remember this ugly tie, and the fact that we asked you not to pass this bill as it sits before you today.

**Chair Flores:**

Before we go on, I would like to have Assemblyman Ellison get his questions on the record.

**Assemblyman Ellison:**

From some of the comments that were made, they have an option. It did not say it was mandatory to keep somebody on or transfer them. Apparently, if they were not sure if there was a violation, they could keep an officer on versus putting that officer on administrative leave without pay, or with pay, so it would seem to me it was an option. Maybe I am seeing this wrong, but if there was a sheriff's deputy who was fired, and he or she goes to court and the deputy is found innocent, they still would have to pay that deputy back pay, would they not?

**Eric Spratley:**

Yes, to that, and I do not oppose that section of the bill.

**Assemblyman Ellison:**

What section in the bill are you opposing?

**Eric Spratley:**

We are in section 4, subsection 4, page 4, beginning at line 9 where it says, "A law enforcement agency shall not reassign a peace officer temporarily or permanently without his or her consent during or pursuant to an investigation conducted pursuant to this section or when there is a hearing relating to such an investigation that is pending." It is that section. Not being able to take the guy who is sexually harassing the lady in Eureka—we cannot pull him in and make him work the jail and have somebody else go out and work patrol.

**Assemblyman Carrillo:**

My question is on the clarity of the language you are referring to. Are we looking for clarification for a smaller agency?

**Eric Spratley:**

Yes, we—the unions and the law enforcement leadership representatives—agreed that in section 4, subsection 4, we would reword that and made a note of that earlier even before the Senate hearing. We would reword it so that it still got to what they needed at LVMPD, but still allowed management to manage their folks and reassign them as needed. It was something like—without specific articulable facts, we could not reassign them. For example, you are the only person on patrol in your section. If you are accused of sexually harassing these people, we need to pull you back and have you work the jail. We would have those specific articulable facts. That did not come into the amendment. It passed unanimously, and I was guaranteed that this would be worked out well before the hearing today, and that did not happen. We did not create a big stink at the end, and the deadline days start moving fast and things get horse-traded, but this is a pretty important thing to us. It is why we are up here in ugly ties making these statements.

**Assemblyman Carrillo:**

Going back to the testimony that the majority leader had given, I believe she did say that she would look at working on an amendment. I am a bit concerned about the whole approach. We are here to work together to get these things done and we have to keep that in mind. I know time is of the essence. All I can say is I think the majority leader is doing her best in trying to work with you.

**Eric Spratley:**

I agree with you, and I trust her to do that. My complaint, my nausea, my ugly tie is due to the fact that I have been waiting and meeting in hallways trying to get some reassurance that we are all on the same page and that this is actually happening. I have been reassured that it is, that our concerns were addressed, that these things were going to happen, and what makes me sick is that here we are at the hearing, and I am trusting that we are going to work through that. But I have to come in opposition and express my opinion so that you know that if it does not, then you live with the way this works.

**Assemblyman Leavitt:**

In accordance with section 4, subsection 4, page 4, line 9, and perhaps you are someone who is more informed, but the way I am reading it is that it looks like the officer can be reassigned if they give consent. If they do not give consent, maybe they go home for a while until the investigation is over. There is nothing prohibiting that or prohibiting administrative leave if they do not consent to be reassigned, so I feel as if this language puts it into the hands of the person who is being accused. If they firmly believe they are innocent, then they would say, Yes, I will accept a reassignment while you are investigating. Sure, I will give that consent. If I am not going to give that consent, then maybe I just need to be on administrative leave for a while. I do not know if that is even possible under this, but that is how I interpreted that section.

**Eric Spratley:**

You are correct, and by and large, we have all these awesome cops working for us and they are going to say, Yeah, I see what you are getting at, sheriff. I need to go work the jail. I will do that. We are talking about bad cops and they are going to say, No, prove it. Yeah, send me home. You have nobody to work for you. You have one guy working the jail and one guy working patrol; you go work patrol, sheriff. Sheriff, you work the jail, and send them out to patrol. It ties their hands to efficiently manage their organizations. We are not talking about the machine of the LVMPD where there are thousands of cops. We are talking about a sheriff and six deputies—these really small agencies that this will have a direct impact on. The majority of time, Assemblyman Leavitt, they are going to say, Yeah, I see what is going on. I accept this investigation; I want to get through it. I will work the jail—no problem. We are talking about the bad apples; the ones we all know are out there and working for our agencies who say, No, prove it. Talk to my rep. That is who we are trying to avoid here.

**Assemblyman Leavitt:**

If they are a bad apple, I do not want them working in the jail. I do not want them working patrol. I want them sitting at home. I do not understand. That logic makes no sense to me. If they are a bad apple, prove it? Okay, we will go on proving it while you sit at home not getting paid because you are a bad apple. I am not going to move you to a jail because you are a bad apple. That is the logic I see.

**Eric Spratley:**

My response to that is, Amen. I am with you on that, but here is the deal. The law says the sheriff has to run the jail. The law says the sheriff shall do searches and rescues. The law says the sheriff has to respond to crimes, so we absolutely have to say, Well, the lesser of two evils, and I keep using the sexual harassment example—he is sexually harassing this population while out on patrol, but he can function in the jail making sure that the inmates are kept safe while this other person goes out and works patrol. Yes, I agree those bad apples should stay at home for a while.

**Chair Flores:**

Committee members, we also have to remember that not every single time we are going to find that the officer was, in fact, a bad apple. In that scenario, we want to make sure we give that officer the opportunity to make his or her case and, at times, we will learn that, in fact, everything was okay and it was a false accusation.

**Eric Spratley:**

I agree. Amen to that.

**Assemblywoman Duran:**

But you also have the ability to suspend that person. If you have someone who is sexually assaulting somebody in your community, you do not want to put them somewhere else or in the jail to sexually assault the inmates or whoever is there also. I think you have the ability to suspend them during the investigation, correct?

**Eric Spratley:**

That is correct. You just named a crime, sexual assault, that absolutely would suspend the officer or allow us to do what we needed to do for that. We are talking about internal investigations, as was relayed to you earlier. And so, on a sexual harassment complaint, or oppression, or some kind of racially-motivated situation that does not rise to the level of a crime, we are talking about a citizen or a fellow employee complaint that this officer is behaving in this particular manner which does not rise to the level of a crime.

**Chair Flores:**

I appreciate the back and forth, but I really do want to focus and have the hearing move along. I think we have addressed the concerns, and you have done a great job of bringing that forth. I see people in Las Vegas, so I would like to move to Las Vegas and give them an opportunity to put their opposition on the table. Whoever would like to go first in Las Vegas, please do so and then we will come back to Carson City.

**Lisa Rasmussen, Member, Board of Directors, Nevada Attorneys for Criminal Justice:**

I do not often testify before this Committee, so for those of you who do not know what Nevada Attorneys for Criminal Justice is, it is the statewide criminal defense bar. We opposed this bill when it was in the Senate, and some of the portions that we opposed have been removed. For example, there was a portion to allow an officer to not want body camera video released if it was embarrassing to him. Thankfully, that has been removed. However, we are still in opposition, and our opposition focuses on section 5, which I do not think there have been any real questions about this morning.

Let me explain why we oppose section 5 [section 2, subsection 5]. When Mr. Roger introduced the bill, one of the things he said was that this does not apply to criminal investigations, but it actually does. The amendments do apply to circumstances where there

is a criminal investigation of an officer. But it also addresses, in section 5, what would happen in the instance where there is civil litigation against an officer, and generally, the bill sets up the scenario where a court could not order the officer's statement or portions of the internal affairs file to be released to any litigants.

**Chair Flores:**

I do not mean to interrupt, but I just want to make a point of clarification. We are looking at the reprint with the amendment adopted on April 18, 2019. Pursuant to our read here, section 5 has been completely deleted by amendment.

**Lisa Rasmussen:**

I am sorry; I misspoke. It is in section 2, subsection 5.

**Chair Flores:**

Okay, section 2, subsection 5. Please continue.

**Lisa Rasmussen:**

Thank you for correcting me. In this section, it is our belief that this is not just a labor reform issue, because we have no issue with any other parts of the bill or the protections for the police officers that are proposed and even the suggested changes by Mr. Spratley. What we think section 2, subsection 5 does is it basically masquerades as a protection of liability in a civil context and also, it potentially prevents people from getting discovery in a criminal case. Section 2, subsection 5 says, and this was an amendment that was made, that the officer can decide not to release the statement unless it "shall not be disclosed or used in a civil case against the peace officer without the consent of the peace officer." Then it carves out an exception if it is an employment-related civil litigation.

That should be amended. It should not just be relevant, and it would not potentially be relevant in a civil case having to do with the employment of the officer. It is potentially relevant in, for example, an officer-involved shooting where there is a fatality. A court should be able to decide that it is relevant and release it without having to do an *in camera* review as to whether or not the statement is inconsistent. I can certainly propose an amendment on this. I objected to the very same language, although it was amended to allow it to be released in a civil case involving the employment of a peace officer. That does not help anyone who might be suing the officer or the department for wrong conduct. I agree that almost all of the officers do a great job most of the time, but sometimes things go wrong. I think we do not have to look any further than today's or yesterday's *Las Vegas Review-Journal* to see that there was an officer who was arrested on multiple charges of lewdness with minors under the age of 14 who was investigated by the department two years ago to see that the information could potentially be relevant in civil litigation against the department in something other than an employment litigation context.

We are adamantly opposed to the way that subsection 5 of section 2 is written. I am happy again to propose an amendment, but I think that while this is presented to you as labor protections for police officers, this particular subsection really has an alternative damaging

effect on the community and on the ability to get to the truth in a context where it would be very important to someone who is potentially harmed by those few bad apples that we are talking about.

That is our opposition, and I am happy to work with Mr. Roger or Senate Majority Leader Cannizzaro on a proposed amendment, but I think that subsection 5 is simply untenable. I would encourage you to reject the bill if that language is going to remain.

**Chair Flores:**

We will go to Las Vegas and whoever wishes to go next.

**Alma Chavez, Private Citizen, Las Vegas, Nevada:**

I am a resident of Las Vegas, Nevada, for 30 years. I am the mother of Alonzo Rafael Olivas, who was gunned down by Metro (Las Vegas Metropolitan Police Department) in 2011. I am in total opposition of the same section that the previous person was speaking of because I was present at the moment of my son's murder. I know how many inconsistencies my case had. I did not have the opportunity to bring the cops to court. Everything was denied to me. They have all the opportunities to put their case together, and even though with all the rocks I found in my journey for around seven years, I finally went to the Ninth Circuit Court of Appeals. I did not get the results I was expecting, but at the end it gave me a little bit of peace seeing someone reviewing the entire case and seeing that my son did not put the cops in danger, as their statement was in the beginning. My son followed their commands. The reason why the case was given to the cops was because the law is not clear in how the cops are supposed to react when they encounter somebody with mental illness. Once again, the internal investigation should be part of the public record for our benefit for so many people who, in my case, could face the civil cases. Also, I do not agree with the cop providing a statement and later on, if he has a citation, he has [an opportunity] to review all the material, everything that he said, everything that is in his camera because he is going to put his story together. If he was true in the beginning, he has to submit his statement and stay with it. We did not have any opportunity. I did not have any opportunity.

I am the voice of my son, Rafael Olivas, and I am the voice of hundreds of people who have been gunned down here in Las Vegas. No one, not one cop, has been found guilty. They prepare and, once again, I am in opposition of the bill because this is giving them more protections. Who is protecting us? Who is protecting the citizens? I am afraid of the cops. I do not see in any way the transparency that they continue flogging. I am here just representing the community and, once again, representing my son.

**Jonas D. Rand, Private Citizen, Las Vegas, Nevada:**

I am a recent graduate from the University of Nevada, Las Vegas (UNLV), with a bachelor of arts in anthropology. I currently host a weekly show on UNLV's KUNV 91.5, The Rebel-HD2 radio station. I spoke about this bill during a public hearing in March of this year. Today I have come to speak as it has become relevant to me personally. Not long after midnight on April 20 I was arrested by officers of the North Las Vegas Police Department, who stopped me while I was waiting at a bus stop at Eastern and Owens. After stopping me

with my hand in my backpack and telling me to remove it, I asked the reason for the stop. The officer only repeated himself. I asked again and, then, during the arrest which happened subsequently, the main arresting officer slammed my head into the pavement causing bloody wounds to my face, including this laceration which is still visible. Before he arrested me, I asked the reason for the stop, which he refused to explain after he handcuffed me, after which he then told me that I appeared to fit the description of a suspect in a home invasion.

Following this, the arresting officer seated me in the back of his vehicle for what seemed like upwards of an hour as my wounds bled, and the officers alternately would stand outside talking or enter the vehicle for brief periods of time. When I had a chance to speak to one of the officers when he climbed in the passenger seat, I asked what my charges were. The officer replied "Fuck. Obstruction." This seems to indicate significant uncertainty on the part of the officer which deserves to be mentioned. This was the only time I was informed of the charges against me or even explicitly told I was under arrest.

If this bill were to pass, I would be highly concerned about the integrity of any relevant records or proceedings pertaining to my case and similar ones. The prospect that an officer could simply order that the statement be taken out of evidence or be kept secret is concerning to me. Section 2, subsection 5 of this bill would allow police officers to totally concur and restrict their statements from being used everywhere except *in camera* in a civil case regarding their employment or an administrative hearing. This privilege would also pose an obstacle to holding police officers accountable.

As I have spoken against this before, I should note that my concerns with this are not limited to my experience. I see no good reason why police deserve the unreasonable and exclusive privilege of being able to stop their own supervisors from questioning them about their activities just because they are police, which can impede investigations into police misconduct. As section 2, subsection 3 would stipulate, it would serve to thwart the slightest measure of accountability even within the cops' own internal investigations. Indeed, it deserves to be asked why police deserve special protections at all above the laws that apply to the rest of us when the historical record for police shootings of unarmed civilians in Clark County proves, time after time, that if anything, police have been more protected from legal culpability for their actions than the average citizen.

In conclusion, it is my belief that this bill, if passed, would stand in the way of police accountability, act as an obstacle to transparency, and disgrace the principle of equality before the law.

**Chair Flores:**

Is there anyone else wishing to speak in opposition in Las Vegas? [There was no one.] We will come back to Carson City.

**Corey Solferino, representing Washoe County Sheriff's Office:**

I am conflicted being here today in opposition as a union member for over 20 years and on the executive board for the deputies association for five years prior to promotion. I am well versed on both sides of the issue, and I do believe in police officers' rights. But I also believe in the rights of management and policing our police. There are a couple of provisions here that I want to continue to work forward with Majority Leader Cannizzaro, and I was happy to hear that we addressed some of those issues on the record, specific to section 4, subsection 4, regarding the transfer. I understand that time is of the essence so I will be brief in my comments. I want to look at it from a more contextual concept as far as the egregious offenses that have been mentioned here today and look at it for the far majority. A lot of our law enforcement officers are doing excellent work; they truly are. It boils down to a training issue. Law enforcement is not exempt from bad home life, if you will. We continue to lead the nation year after year in suicide for professions and getting our law enforcement officers help. We have a motto: If home life is bad, then work life is probably bad too. A lot of our officers go through divorces and family situations. I am not trying to give that as a means of justification for their actions, but a lot of these result from courtesy complaints or work performance. When we have an inability to reassign a person based for cause, which was something that we worked with the union representation to be able to have that provision in leadership to remove an officer for cause while an investigation is being conducted, we would be able to protect not only the agency but that officer as well, to prevent future conduct or future complaints.

Now should that come through and the investigation goes and they find things unfounded or that it was not sustained and that officer goes back, at least the officer has been put on notice that something is going on in their work performance, something is going on with their contact with the public, and they need to understand that. So with that, we would hope that section 4, subsection 4 could be reworked, and that the rights of management are able to reassign. I understand what the union's perspective is from that, which is for the proverbial head hunting or a supervisor has an issue with a particular officer and targets them unfairly and discriminatorily and reassigns them for no cause at all—that we do not agree with. But for cause to protect the agency, to protect the officer from future complaints, we do believe that is essential.

Furthermore, in section 6, subsection 4, paragraph (a), there is a part of that I think leads to a contentious and volatile situation by Director Spratley's points: being able to review all of the evidence beforehand. When we go to court we have the ability—before technology came into this profession—to refer to our reports, refer to our recollection to answer questions. I remember times when I had three DUI arrests in one night, and I had to go back to review my audiotape to see what circumstances resulted in which arrests and which facts and circumstances when I came back and wrote my paper.

I do not have an issue with it, and it is permanently in our policy that an officer can review their body cameras or their in-car vehicle [camera] prior to appearing before an administrative hearing and prior to writing their report. I think that is available and should stay in if that is available. However, looking at some of the statements and some of the other



provisions already leads to a contentious and a volatile situation. When you start knowing all the facts and circumstances, we are a profession that is bred on integrity, that is bred on telling the truth, and rather than trying to look at what the evidence is to carefully craft and curtail your statement to what evidence is out there, I just think that is problematic. I will be an advocate and continue to work with the union representatives and Majority Leader Cannizzaro and appreciate the Committee's indulgence. I would be happy to entertain any questions you may have.

**Chair Flores:**

Is there anybody else in opposition here in Carson City? [There was no one.] We will go back to Las Vegas.

**Nissa Tzun, Private Citizen, Las Vegas, Nevada:**

I am here in various capacities, first and foremost on behalf of several families impacted by police violence in the Las Vegas area, including the families of Junior Lopez, Tashii Brown, Tanner Chamberlain, Keith Childress, Rex Wilson, and hundreds of other impacted families in and outside Nevada who are watching this state go backwards on this issue of addressing police violence while other states like California, Washington, New York, and Wisconsin are moving forward and passing police accountability and transparency laws.

I am also here in the capacity as a Plan Action intern and also as a board member of Families United for Justice, which is a nationwide coalition of families affected by police homicide organizing for systemic change. Lastly, but probably most importantly, as this is where you and I have more commonalities than differences, I am here as a citizen of the human race, here to talk to you about one of the most pressing human race issues in the U.S., which is recognized internationally, as parallel nations do not have this policing problem. It is not being taken seriously here in America. While I am glad the item to redact officers' faces from videos was removed, I am disappointed that section 2, subsection 5 remains: any statement an officer is compelled to make shall not be disclosed or used in a civil case against the officer without the consent of the officer. The language clearly states that an officer has the power to redact his own statement, which is a privilege no other public official has that I am aware of.

If you or I were to be involved in a crime, any statement we make can be used against us without our consent. This is problematic on many levels. Number one, it gives the officer the power to hide the truth; number two, it gives the department the power to hide the truth; and number three, it is allowing the ability to hide the truth to be legal. Excessive use of force cases in Nevada for the most part mirror the policing issues nationwide. Mapping Police Violence, a comprehensive research project and database, found that Nevada police actually kill people at a higher rate than the national average, despite Metro's claim that they are the national model for reform. The Las Vegas Metropolitan Police Department ranks anywhere from the third- to the fifth-highest department in deadly force in the country. And just as mass incarceration disproportionately affects communities of color, the same

communities are being killed at a higher rate by the police here. Since 1990, a conservative estimate of 200 people have been killed by police. I know it is actually higher than that, and not one on-duty officer has been held accountable for taking a civilian's life. Not to say that there are not possibly justifiable shootings, but not even one is a little difficult to perceive.

I am going to talk a little about a micro example as I gave some macro statistics. The case of one I referred to is of Junior Lopez. Two eyewitnesses, Junior's fiancée, Amber Bustillo, and their friend Kim Gonzales, witnessed the police shooting of Junior Lopez last April. Amber was interviewed briefly for about seven minutes. Kim was handcuffed and treated like a criminal, and she was not interviewed. Only one mainstream media outlet went to interview the two witnesses.

**Chair Flores:**

I am sorry to interrupt you. In the interest of time, and I do not want to minimize anything you are saying, but can we just stick to the bill?

**Nissa Tzun:**

Yes, this is going to the bill—I promise you. Police constructed the official narrative that Junior picked up his gun and pointed it at the officers, which prompted them to shoot. To back their narrative, they utilized body cam footage which is unclear and pixelated. Junior's arm is blocked by the police car door and at no point do you see Junior pick up the gun and point it at the officers, yet these are the findings of the LVMPD Force Investigation Team. You would think that investigators would want to interview eyewitnesses thoroughly if they were interested in the truth, but this is not what happened. According to this bill, if an officer's statement is inconsistent with what internal investigation finds, then their statement will be exposed, but how can we be sure investigators are doing actual investigations?

I am going to close with this: there is no oversight of internal affairs, and that is an issue. With this bill passing, it is just moving more into the imbalance of the power dynamic with more police secrecy, more police protection for themselves, and more police immunity.

**Chair Flores:**

Is there anybody else in Las Vegas wishing to speak in opposition to Senate Bill 242 (1st Reprint)? [There was no one.] Is there anybody wishing to speak in the neutral position? I do not see anyone in Las Vegas. We will stay here in Carson City.

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

Initially, on the other side, we came to the table in opposition to this bill. I am here today in the spirit of compromise. We have worked very closely with the Majority Leader and with Mr. Ramirez and the union. Although the bill, from our point of view, is not perfect at this point, it is still a work in progress, and I am confident that we can strike that balance between police officer rights and management rights. So we are here as neutral today.

**Chair Flores:**

I think we do not have anybody else in the neutral position so, with that, Senator Cannizarro, would you like to make closing remarks?

**Senator Cannizarro:**

I just want to clarify a couple of things. First and foremost, I want to be very clear, which I was intending to do during the hearing, but I just want to make sure that I am very clear about the intent and conversations that have been happening on this bill. We are going to make some changes to make sure that the language regarding reassignment works for the departments because it is not my intention, nor is it the intention of anyone who has been working on this bill, to allow for officers to remain in placements where they are continuing to engage in harmful conduct. That is not the intent of this bill; that is not my intent, and if that was unclear earlier in the hearing, I just want to be abundantly clear that we intend to work on language that will address some of those issues. As I mentioned, we deal with departments here in Nevada that are very large and departments that are very small. Obviously, we need to have language that will work for all departments, but it is not my intent to have that language remain in its exact form, but rather to make adjustments so that will not happen. I just wanted to clarify that for the record.

In addition, there were a couple of things that were brought up that I think are really important that I want to address. When we talk about inconsistent statements, we are talking about if an officer is giving a statement during a hearing or during a case that is inconsistent with prior testimony, those statements could be reviewed by the judge and then would be allowed for impeachment. The very practical example of that is if somebody gives testimony during a hearing, and then the judge says, Well, that is inconsistent with the statement that you had previously given in the course of an investigation; that then could be brought up and the officer could be confronted with that so that a jury or a judge, whoever is making this determination in a case, would be able to do that. That is the applicability of the inconsistent statements part.

The other thing that I wanted to talk about briefly is section 2, subsection 5. That is also the area that we attempted to clarify as well. This is supposed to apply to civil cases involving employment and administrative hearings. I know Ms. Rasmussen made reference to that. We also spoke earlier this week with the public defender's office and the American Civil Liberties Union because that was a concern as well, so we tried to clarify that. If there is additional language, and it sounds like there may have been some discussions to clarify that, that it is for those very narrow purposes so that it would not be for some of these larger contexts which were mentioned—that is not the intent. If we need to do some tweaking for that language just to assure that that is not an issue, we are happy to do so.

I want to remind the Committee that this is not a bill to give special protections to police officers over and above. Section 2, subsection 3, was also mentioned, where the officer is asking for representation. This is just if an officer says, Hey, I am going to be questioned by internal affairs, I just want my union representative to be with me. The officers would be allowed to have the union representative with them. There would not be some sort of

additional, special protections that are given to officers over and above what we see in almost every labor union context, even in cases where someone asks for an attorney to be present with them. That is the purpose of that language. I just wanted to clarify that that is what this is referencing. Obviously, we want to make sure that this does not—and this is not my intent, this would never be the intent of anybody who has been working on this bill—allow for bad actors to remain in their positions of authority, nor would it be to allow for loopholes in which bad actors do not have to be accounted for in all of that. When this rises to criminal conduct, this bill does not and is not meant to address that. If an officer engages in criminal conduct, then that is, number one, completely unacceptable; and number two, will be dealt with accordingly.

Furthermore, for officers who are bad actors but whose actions do not rise to criminal conduct, this bill is just meant to say, Listen, we are going through those administrative proceedings so that you are treated fairly—and that is it. This is not meant to protect lying cops; this is not meant to protect cops who abuse their power in any way, shape, or form or who are not doing their job with the dignity that we must demand and that we must expect from our officers—I expect that. I know that the members on this Committee expect that. I am grateful for the members of the public who showed up today to express their concerns because we want to make sure that we are holding bad actors accountable. At the same time, we also want to make sure that, when they are treated in the administrative process, there are protections for them as well. This is nothing above what we ask for in any other sort of labor context or outside of that and, certainly, this would not cover criminal conduct. This would not cover officers who abuse their office—that is not what this bill is meant to do. Obviously, as the Committee has heard, the bill is a work in progress and you would expect an amendment to come from me for the Committee's consideration should you choose to consider this bill at a work session, Mr. Chair. My door remains open to anyone who may have additional concerns so that this can be a good piece of legislation moving forward. Thank you for the Committee's time. I appreciate it.

**Chair Flores:**

With that, I think it was made abundantly clear that the two biggest sections that are in question with that point of clarification will likely put everybody in a place where all the stakeholders likely agree and the opposition will move to support. Regarding the concerns that were brought up in section 6, subsection 4, paragraph (a) related to inspecting all the evidence, I think that is something that is afforded to all of you. Think of somebody who is accusing you of something—you want to be able to know what evidence is there. You have an opportunity to look at it, and then you go to a formal court hearing and push back against that in whatever way. You would be afforded something like that. I do not think that is necessarily a special privilege that anybody is asking for. You want to know what evidence is out there against you. You present your case based on that.

Regarding the rural issue, I think all of us agree that we needed to work on that. I think, hopefully, we are all going to be there.

[([Exhibit E](#)) and ([Exhibit F](#)) were submitted but not discussed.]

With that, I will close the hearing on Senate Bill 242 (1st Reprint) and invite those wishing to come up for public comment to please come forward. [There was no one.] This meeting is adjourned [at 10:59 a.m.].

RESPECTFULLY SUBMITTED:

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Connie Jo Smith  
Committee Secretary

APPROVED BY:

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Assemblyman Edgar Flores, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a copy of a proposed amendment, dated May 9, 2019, regarding Senate Bill 242 (1st Reprint) submitted by Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers.

[Exhibit D](#) is a letter dated May 10, 2019, to Chair Flores and members of the Assembly Committee on Government Affairs, from Ronald P. Dreher, Retired Reno Police Officer; and Executive Director, Advocacy Investigation Services, in support of Senate Bill 242 (1st Reprint).

[Exhibit E](#) is a copy of an online petition submitted by several individuals in opposition to Senate Bill 242 (1st Reprint).

[Exhibit F](#) is a copy of a petition with various signatures in opposition to Senate Bill 242 (1st Reprint).