

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eighty-First Session
March 31, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:03 a.m. on Wednesday, March 31, 2021, Online. 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/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblyman Steve Yeager, Chairman
Assemblywoman Rochelle T. Nguyen, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Lesley E. Cohen
Assemblywoman Cecelia González
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblywoman Heidi Kasama
Assemblywoman Lisa Krasner
Assemblywoman Elaine Marzola
Assemblyman C.H. Miller
Assemblyman P.K. O'Neill
Assemblyman David Orentlicher
Assemblywoman Shondra Summers-Armstrong
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Ashlee Kalina, Assistant Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Bonnie Borda Hoffecker, Committee Manager



Traci Dory, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Thomas E. Vilorio, Attorney, Reno, Nevada
Scott Coffee, Chief Deputy Public Defender, Clark County Public Defender's Office
Nancy L. Lemcke, Attorney, Las Vegas, Nevada
Cynthia Portaro, Private Citizen, Las Vegas, Nevada
Heather Snedeker, Private Citizen, Las Vegas, Nevada
Randolph M. Fiedler, Attorney, Las Vegas, Nevada; and representing Nevada Attorneys for Criminal Justice
Tyler D. Parry, Assistant Professor of African American and African Diaspora Studies, University of Nevada, Las Vegas
Michael Cherry, Private Citizen, Las Vegas, Nevada
Chuck Durante, Rector, Saint Thomas Aquinas Cathedral, Reno, Nevada; and Vicar General, Diocese of Reno
Nancy Hart, President, Nevada Coalition Against the Death Penalty
Holly Welborn, Policy Director, American Civil Liberties Union of Nevada
Drew Johnson, Senior Fellow, National Center for Public Policy Research
Donald G.T. Gallimore, Sr., Legislative Committee Chair, Reno-Sparks Branch No. 1112, National Association for the Advancement of Colored People
Monique Normand, Private Citizen, Reno, Nevada
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Tonja Brown, Private Citizen, Carson City, Nevada
Jodi Hocking, Founder, Return Strong: Families United for Justice for the Incarcerated
John Arrascada, Public Defender, Washoe County Public Defender's Office
Jim Sullivan, representing Culinary Workers Union Local 226
Martha Sharp, Private Citizen, Bristol, Tennessee
Nissa Tzun, Private Citizen, Las Vegas, Nevada
Karen Foster, Senior Minister, Unitarian Universalist Fellowship of Northern Nevada
Stacy M. Newman, Assistant Federal Public Defender, Capital Habeas Unit, Federal Public Defender, District of Nevada; and Member, Las Vegas Chapter, National Lawyers Guild
Alex Spelman, Private Citizen, Henderson, Nevada
Micajah Daniels, Private Citizen, Las Vegas, Nevada
Nathaniel Erb, Policy Advocate, Innocence Project
Marlene Lockard, representing Nevada Women's Lobby
Thomas Hassen, Private Citizen, Reno, Nevada
Tyler Ingram, District Attorney, Elko County District Attorney's Office; and President, Nevada District Attorneys Association
Steven B. Wolfson, District Attorney, Clark County District Attorney's Office
Christopher Hicks, District Attorney, Washoe County District Attorney's Office

Pamela Weckerly, Chief Deputy District Attorney, Major Violators Unit, Clark County District Attorney's Office
Lynn Chapman, State Vice President, Nevada Families for Freedom
Steve David, Private Citizen, Susanville, California
Candy Rankin, Private Citizen, Sparks, Nevada
Carolyn Sullivan, Private Citizen, Sparks, Nevada
Jennifer Otremba, Private Citizen, Las Vegas, Nevada
Dayvid Figler, Private Citizen, Las Vegas, Nevada
Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada
Annemarie Grant, Private Citizen, Quincy, Massachusetts
Emily Driscoll, Private Citizen, Las Vegas, Nevada

Chairman Yeager:

[Roll was called. Committee protocol was explained.] We have one bill on the agenda today.

[Assemblywoman Nguyen assumed the Chair.]

Vice Chairwoman Nguyen:

I will open the hearing on Assembly Bill 395. We have a tight schedule this morning, and I want to make sure that I ensure fairness and we allow enough time for the presentation, questions, and testimony. I have informed all of the presenters of our stop times, and I have no problem stopping someone to ensure we get to as many callers as well as have ample opportunity for the Committee to ask questions.

Assembly Bill 395: Abolishes capital punishment. (BDR 15-580)

Assemblyman Steve Yeager, Assembly District No. 9:

Today, I humbly present Assembly Bill 395 for your consideration. Assembly Bill 395 is not a complex bill. It eliminates the death penalty in Nevada and converts all existing death sentences to life without the possibility of parole. That means those offenders will die in prison because in Nevada life in prison means just that, life in prison. This morning's hearing is not going to be an easy one. Many people have deeply personal feelings about the death penalty; I certainly do. I am opposed to the death penalty for a number of reasons, many of which you will hear during the presentation of this bill. But the question for this Committee and for the Legislature as a whole is not a personal decision, but rather, it is a policy decision. The question is whether Nevada ought to keep the death penalty on its books beyond this legislative session. Even if you are fairly firm in your belief that we ought to have the death penalty, I ask you to listen to the testimony today and to keep an open mind.

Once I conclude, you will hear brief testimony from ten other presenters. That testimony will make the case for abolishing the death penalty. The testimony will demonstrate that the death penalty is both very costly and ineffective as a deterrent. You are going to hear that innocent and wrongfully convicted persons have been sentenced to death. You are going to hear about the lengthy litigation involved in the death penalty that can involve further trauma

for the family members of victims without any real closure since the state is unable to put anybody to death. You are going to hear the perspective of family members of the condemned. You are going to hear about the racial bias of the death penalty. You are going to hear faith-based opposition to the death penalty. Perhaps this testimony will cause you to reconsider your position on the death penalty.

That being said, this is going to be an emotional and difficult hearing. You may be brought to tears by some of the testimony, and I am here to tell you that that is okay. There is simply too much unnecessary pain in the world. People are capable of inflicting and do inflict immense pain and suffering on their fellow human beings. To feel that pain in today's hearing is what makes you human. It is what makes you empathetic. I hope we never lose the ability to feel empathy and share in another's pain. But even in the midst of sharing in that pain, we need to come together as Nevadans to evaluate whether the death penalty is working and whether it should remain as part of Nevada's justice system. China, Iran, Saudi Arabia, Egypt, Pakistan, Yemen, Somalia, South Sudan—these are among the dwindling number of countries that still have the death penalty.

Although I would like to see the United States remove itself from that list, that is a decision for our federally elected officials. The decision for us is whether Nevada should follow Virginia's lead and rid itself of the death penalty. I believe we should. I would like to hand it over to Mr. Thomas Vilorio to make some additional remarks.

Thomas E. Vilorio, Attorney, Reno, Nevada:

I am a former prosecutor in northern Nevada and was a member of the original Major Violators unit responsible at that time for the high profile cases, including death penalty and homicide cases in general. From 1992 through May 1998, my primary function was to handle all of the murder cases as well as all of the capital litigation. I was also the office's representative in the Association of Government Attorneys In Capital Litigation. This is a highly trained and specialized group of prosecutors across the nation whose focus is death penalty litigation. When I left the office, I had placed more people on death row than any other northern prosecutor. I was in support of the death penalty, obviously believed in it, and it was my mission as part of my responsibility to seek justice in the appropriate cases when aggravating circumstances were present to seek it.

I am here today in support of A.B. 395 asking that Nevada take action and abolish the death penalty. I want to talk a little bit about the process. The process of selecting those cases for the death penalty is inherently flawed. And when I say that, I can only speak to what happened during my time frame up north. I cannot speak to what happens in the south. But I could tell you that what would occur would be staffing of the facts of that particular case among those prosecutors with the most experience in murder cases and, generally, the district attorney or assistant district attorney would sit in on those meetings. Those meetings would generally only last somewhere between an hour to two hours. The prosecutor who was assigned the case was charged with presenting the facts and aggravating circumstances and arguing, if they elected to seek the death penalty, why the case was death penalty-appropriate.

The problem lies in the fact that not every person in that room had read the entirety of the file. Typically, the only person who had read the file front to back was the assigned prosecutor. At the end of the day you had really the motivation, desire, and will of that singly assigned prosecutor who was making the ultimate call to seek the death penalty. That prosecutor wants to hard sell the facts and aggravators and minimize those things that are important mitigators that should be taken into account; that prosecutor can do so. There is no check and balance on that individual prosecutor's decision.

Now, we can all say, Well, everybody discusses it and there is a staffing in its conclusion. I understand that, but at the end of the day, if you as the assigned prosecutor in the north wanted to seek and obtain the death penalty, you could present your case in the light most favorable in that staffing so that you could get the green light to seek the death penalty. That is problematic in many ways. There are, and of course, unfortunately, I had experience first-hand thinking some prosecutors whose agendas, personal motives, and reasoning for seeking the death penalty had very little to do with seeking justice. They had other reasons, whether it be advancement, prestige, notoriety, or just a general reputation of being a hard-nosed, bulldog prosecutor as they advanced through their career. The process of it in and of itself for the selection in when you are going to seek the death penalty is arbitrary, and in fact, there are no guidelines on that process, there are no rules on the process. It is solely at the discretion of each individual district attorney's office.

The next thing I want to address is the time and resources involved in these cases is tremendous. I prosecuted a serial killer, Mr. David Middleton, for example. That case, my investigator and I personally interviewed over 350 potential witnesses. I called over 100 witnesses in the case in chief and called over 19 expert witnesses in that matter and obtained two death sentences for the two homicides here that serial killer, Mr. Middleton, did. That case took me out of practice of any other cases for a substantial period of time, not to mention the costs associated with that case; I think the final bill on the defense side cost the county upwards of \$750,000 just in the trial fees alone for the defense lawyers. At that time, I was directed to file a motion to challenge those fees, but I felt it was inappropriate and it was a violation of the Sixth Amendment, so I did not file that motion. But that is the kind of commitment at the trial level. Of course, we all know the resources that it takes on appeal and the never-ending appellate and postconviction process—too much resource for too little result. The reality is most of these offenders are going to die in prison, not by way of the death penalty, but they are going to go through the process both at the state and federal level of review and appeal. Most of the guys that I put on death row will probably outlive me. None of them have been executed. The last death warrant I did was in 1997, and I do not think that any of them are scheduled to die anytime soon.

In the end, it is the same result as life without parole; they die in prison and it is more appropriate. It is simply wrong thinking. I know when you are a prosecutor you believe you are doing the right thing in your heart and soul and you believe in it. But in my view, it is a little bit of unenlightenment. A simple analogy is this: if a defendant commits the crime of battery with a deadly weapon, do we then take that defendant and beat him with a deadly weapon as punishment? Or if a defendant commits the crime of sexual assault, do we then

sodomize and rape that defendant? The idea that retribution is an appropriate punishment—eye for an eye, death for death—is barbaric. It makes no sense morally, ethically, and legally. It is flat-out wrong thinking.

Lastly, this notion that there is closure is an illusory promise to victims. There is no closure on a capital case. In fact, it is worse. The victims are revictimized every single time there is some appellate move on behalf of the defendant or some postconviction move, whether it be at the state or federal level. These cases do not come to closure. The reality is there would be much more closure for these victims if they could have peace of mind knowing that this individual is "life without," and life without means that they will die in prison and the victims can move on. The reality is, last time I checked and I could be wrong, but I believe it was 2006 since anyone has been executed in Nevada, and generally, the only time people are executed here is if they volunteer, if they want it. It is not effective, it is too costly, and it is an illusion on behalf of victims.

With that said, I thank you, and I would urge this Committee and the Legislature to support and pass A.B. 395. I will not be available for questions unless someone had them now. I do not know if that is proper, but I do have a trial starting this morning.

Vice Chairwoman Nguyen:

Thank you for your time, Mr. Vilorio; unfortunately, we do have to get to the next presenter.

Scott Coffee, Chief Deputy Public Defender, Clark County Public Defender's Office:

For the past twenty years, I have been on a specialty homicide unit that handles capital cases. It is one of three such designated offices in Clark County because of the specialized nature of the death penalty. Another is the Special Public Defender's Office, which was created specifically to handle capital cases—they have Supreme Court of Nevada Rule 250 [Rule 250] qualified attorneys, which is a specialized training that requires some experience. The other is the Office of Appointed Counsel.

I had the privilege of testifying before this Committee in 2017 [Assembly Bill 237 of the 79th Session, Assembly Committee on Judiciary, March 29, 2017]. At that point, I said that in my opinion the death penalty was broken and it was broken beyond repair. Nothing has happened in the intervening four years to change my mind about that. I want to walk you through the numbers. As a result of my position, I track numbers in Clark County and across the state. I have been tracking them for the past twenty years. I have got some idea of what I am talking about when I say that the system is broken. Currently we have 62 pending capital cases including reverse penalty phases in Clark County. That is the highest per capita in the country by my estimate and there are more than 3,000 counties in the United States. We are number 1 out of 3,000. In terms of absolute terms, we are probably in the top five.

Those 62 cases cost \$500,000 more than a typical murder case according to the Legislative Counsel Bureau (LCB). Those are their numbers and some people might disagree with the numbers, but I think those numbers are fairly accurate. Historically, over the last ten years in Clark County—talking about the bang for the buck—we have had 150 capital cases that have

resolved since January 1, 2010. Of those, 100 have pled, another dozen dismissed by motion or dismissal of some sort, and 36 have gone to trial. Of the 36 that went to trial, we have had 16 capital verdicts. Five of those have already been overturned and they are not very far in the appellate process, which means with the LCB numbers, we have spent \$75 million to put 11 people on death row. From there, the numbers get even worse. Once we get to death row in Nevada, since the mid-'70s, we have had 161 people sentenced to death row. We have had 12 executions, with 11 of them volunteering. The one nonvolunteer was a man named Richard Moran who represented himself, pled guilty, and had some severe questions that went all the way to the United States Supreme Court concerning his competency. The point is, we do not execute anybody even when a death sentence is imposed, but the money is spent. If you look at the LCB numbers, over the last ten years we have spent \$75 million to place those 11 men on the row and they are more likely to die of natural causes or suicide than they are to be executed, even if they volunteer. You can take a look at cases like Scott Dozier, in the media recently, to see how broken the system is. We cannot execute people even when they are asking for it and that is problematic. If we look a little further, we do not have the means to execute people. We do not have any drugs on hand; we have not done an execution since the mid-'70s.

Recently, Clark County had a case in the media with some fairly horrendous facts, and I suspect the district attorneys who are testifying today may say that that is an indication that we have to have the death penalty. But the fact is, I think these cases that are in media are an indication of the failure of the death penalty. The only reason these cases are in the news after 20 years is because the death penalty is on the table, but we still do not have much of an opportunity to execute any of these people.

More than forty years ago, Nevada reinstated the death penalty, and we have not done anything to fix it. As a former U.S. Supreme Court Justice once said, "I no longer shall tinker with the machinery of death." The reason that he said that is because the system cannot be fixed. We tried to fix it with the Antiterrorism and Effective Death Penalty Act of 1996 in the federal system to speed up appeals. That has not happened. It is foolish to think that we can fix it going forward. For these reasons, I urge you to pass A.B. 395. I will be available for questions at the end of the presentation.

[[Exhibit C](#), [Exhibit D](#), and [Exhibit E](#) were submitted and will become part of the record in support of A.B. 395.]

Vice Chairwoman Nguyen:

I will let the presenters know that you are at the halfway mark.

Nancy L. Lemcke, Attorney, Las Vegas, Nevada:

Twenty-five years ago, I represented a man by the name of Fred Steese. Mr. Steese was wrongfully convicted of first-degree murder and as a result, he was sentenced to life in prison. He languished there for about twenty years before he was able to secure his release and obtain a full pardon. But I think what many people do not know about Mr. Steese's case is that it was originally prosecuted as a capital murder case. During the case, while the

prosecutors were withholding evidence that exculpated him, they were also in the process of asking a jury to kill him. Mercifully, after he was convicted, we were able to negotiate his sentence to life without the possibility of parole. He was able to actually live long enough to obtain the relief to which he was so very much entitled, and he ultimately walked out of the Nevada Department of Corrections.

What I would tell the members of this Committee is what I have learned in 25 years of doing criminal defense work that while we have certainly the best justice system in the world, it is far from infallible. It is composed of humans, and humans make mistakes, poor decisions, and errors in judgment. That includes everybody involved beginning with law enforcement, moving on to prosecutors, defense attorneys, juries, and judges. Despite our best efforts, our system remains imperfect, and to the extent that that remains a truism, having a death penalty is certainly in some ways a dangerous proposition for people in Mr. Steese's place who go through the system and fail to obtain the outcome that they should have had and that should have been the appropriate result after a jury trial.

Cynthia Portaro, Private Citizen, Las Vegas, Nevada:

My son was brutally shot and killed ten years ago today. Needless to say, it is pretty emotional. And whether my son's killer, Brandon Jovan Hill, is in jail for life or on death row, as you said, there is no closure. It does not matter. We, victims of crime, are the ones who are sentenced to a life in prison. That is my opinion. My opinion is just my opinion.

People who are seeking the death penalty, victims of crime, sometimes I do understand the emotional trauma that is imposed on a victim. When you spend the millions and millions of dollars on this person who is in prison, my thoughts are, why are we not assisting victims more than giving them \$1,000. That is what we were compensated for counseling. Counseling takes a little bit more than \$1,000 to help somebody to walk through such a difficult journey of their loved one being traumatically killed, brutally murdered, in several different ways. As far as life in prison and you die in prison, to me that is just as much a death penalty as a death penalty. I know that it costs a lot less money.

This is not just about cost. This was, for my family, also a faith decision. We did not want another young life taken. Age is not a factor when it comes to somebody brutally killing somebody, but he is a young man that had maybe something else that he might do positive in prison for others or talk to others about what he did and how resentful we felt and that maybe he was sorry for what he did. He did reach out to me and thanked me for forgiving him.

Have I released that? Has there been closure? No, there is no closure. It is not about money, it is about honoring my son, which after the last ten years, it has not been the same. Half of my family is gone now. I always think it was because of this act of violence. My son was a former football star at Faith Lutheran Middle School & High School. He was a good kid. He did not deserve this, and I do not think anybody else deserves to die because of an act of stupidity.

I do not know what else I can say other than I would like to see future victims assisted financially a little differently; maybe we could compensate the families that may lose their breadwinner or families like mine with other children who need counseling. The other thing I just wanted to point out was, in honoring my son, I have helped numerous families get through the tragic loss of a loved one, mainly young kids, however they passed away. For me, that is a way to honor my child. Thank you for allowing me to speak. This process of the death penalty I think just draws on families that have to sit through postponements. I think it is just too much on a family to have to handle.

Vice Chairwoman Nguyen:

I am sure I speak for all of the Committee members when I say our hearts are with you.

Heather Snedeker, Private Citizen, Las Vegas, Nevada:

Twenty-two years ago, my dad was executed by the state of Texas. I was 8 years old when my dad was sentenced to death. Before then, I did not even know he existed. Imagine if you can, the scene from the eyes of an 8-year-old girl with no familiarity of the state. I was in a cage with dozens of armed guards surrounding me. They did not smile at me. One led me to a chair that was sitting across from a plexiglass divider with telephones on both ends of the glass. The guard told me I would have 30 minutes to talk to my dad, surrounded by very serious men with guns. I was expecting to see a vicious monster in front of me, someone who was almost animalistic. After all, it is easier to imagine incarcerated people as animals because that justification leads us to locking them in cages.

I did not see a monster across from me. I saw a man, a human being, my dad. I saw the same blue eyes staring back at me that I saw every time I looked in the mirror. I saw a concerned dad who wanted to make sure his daughter knew all the important life lessons he should teach her but only had 30 minutes to do it. I ask the parents on the Committee here today, if you were told you only had half an hour left in your life to talk to your children, what would you say? He said anything he could think of at the time: stay in school, get a graduate degree, respect your mom, respect yourself, do not act on impulse, and do not do drugs, especially the kind he used when he took another man's life. When the 30 minutes was over, I looked over at my dad who was crying. I wanted to hug him so bad to let him know that it was okay, that I forgave him for abandoning me now when we finally got to have our daddy-daughter moment. I asked the armed guard escorting me if I could give my dad a hug, just once in my life before we parted for good. He said no. Tearfully my dad was led away, not knowing what else to say other than, Be good, kiddo.

A few weeks later my dad was killed by the state of Texas by lethal injection. From the window where witnesses could watch, my grandma held up my stuffed Tweety bird toy from when I was a baby against the glass. It was the last thing my dad saw as he died. I wonder if at that moment he thought of more fatherly advice he wished he could have told me before he was killed. We will never know.

I am here today to show you all that when you execute someone, you are not punishing them. You are punishing the families, the children like me who are left to suffer and pick up the

pieces of our shattered lives. No one from the state reached out to me to see how the execution would affect me or to pay for the years and years of intense therapy that followed. The only communication I ever received from the state was a letter from then-Governor George W. Bush, denying my plea to stop my dad's execution, adding that my dad was going to "burn in hell." If any of you are shocked that the future president of the United States spoke that way to a little girl, do not be. That is the message sent from a system that exterminates the human beings that you deem unworthy of redemption.

Randolph M. Fiedler, Attorney, Las Vegas, Nevada; and representing Nevada Attorneys for Criminal Justice:

I am a criminal defense lawyer who represents Nevada death row inmates in their state and federal post-conviction proceedings. I will briefly discuss the reversal rate in death penalty cases and the appellate process.

Our current process was created in the 1977 statute [*Nevada Revised Statutes* Chapter 200, Senate Bill 220 of the 59th Session] that was passed in response to a problem identified by the United States Supreme Court, namely, that death sentences in this country were being imposed arbitrarily or because of race. The court declared the death penalty unconstitutional until states could craft better, more reliable statutes in recognition of the fact that death is different. Nevada answered this call in 1977 passing a statute specifically intended to end racism and arbitrariness in application of its death penalty. To that end, there are a number of procedural protections including a robust system of review. After conviction, appeals would happen automatically. After the appeal, attorneys would be appointed for postconviction proceedings. Then, after state review, these convictions would be reviewed in federal court, where too, the United States Congress has tried to improve the efficiency and reliability of review with the Antiterrorism and Effective Death Penalty Act of 1996—all of this in recognition of the fact that death is different.

But even with these efforts, we have a reversal rate of more than 50 percent. Our death sentences have been reversed nearly 100 times in a state that has only had one involuntary execution. If you receive a death sentence in Nevada and do not waive your appeals, you are 100 times more likely to have your sentence reversed than to have it executed. This undercuts any of the rationales for the death penalty. A sentence with such a low chance of execution cannot deter. These reversals suggest we are not giving the sentence for the most severe offenses, and this reversal rate, which injects incredible unpredictability into the appellate process, is unhelpful to victim survivors as a 2012 study [[Exhibit F](#)] found in comparing victim outcomes in a death penalty state and a non-death penalty state.

This reversal rate must be considered within its historical context. This is the fixed statute. This body in 1977 felt that they had crafted a statute that would ensure reliability, but it has been almost 45 years and that reliability remains elusive. Death is too different, and this practice should be discontinued.

[[Exhibit G](#) was submitted but not discussed and will become a part of the record in support of [A.B. 395](#).]

**Tyler D. Parry, Assistant Professor of African American and African Diaspora Studies,
University of Nevada, Las Vegas:**

Commentaries on the death penalty discuss the issue from many angles, be they economic, political, or practical. Each piece of this broader puzzle is important, but I will take a moment to provide a different reason for eliminating the death penalty option, one that is grounded in the country's history of anti-Black racism and Nevada's own culpability in perpetuating inequality against its most marginalized populations [[Exhibit H](#)].

Any honest assessment of the death penalty statistics should cause alarm for the disparities it exposes. Investigative journalism by The Marshall Project revealed that a large share of those who face the death penalty experienced mental illness, childhood abuse, and brain injuries at some point prior to their crime. The experience of trauma, and a lack of resources to support underrepresented and marginalized people seeking recovery and rehabilitation, is one of the invisible, if always omnipresent, reasons for committing violent crime. The statistics are relevant here. According to the Death Penalty Information Center, among those executed, "more than one-third had suffered a brain injury or had an intellectual disability, while nearly two in five were diagnosed with a severe mental illness. And almost two-thirds experienced extensive trauma as children." ["What Lisa Montgomery Has in Common With Many on Death Row: Extensive Trauma," by Maurice Chammah and Keri Blakinger, The Marshall Project]. By abolishing the death penalty, we have the opportunity to make a decisive shift as a state and community, from one that fatally punishes those that the system already failed, to one that emphasizes proactive community development and offers services to those seeking state assistance.

Most in this Legislature will know the state's well-deserved nickname, "Mississippi of the West," due to the combination of Jim Crow-style segregation that disenfranchised Black Las Vegans and heavy-handed policing from the late 1980s up to 2015. Systemic racism throughout Nevada has led to the disproportionate representation of African Americans in Nevada's carceral system, be they imprisoned, in jail, on probation, or parole. All of this relates to the imbedded anti-Blackness of capital punishment, and this state's death row statistics clearly expose the problem. In Nevada, 37 percent of death row inmates are Black, though African Americans represent 9 percent of the population.

On a national level, it is not coincidental that as lynchings waned in the United States in the mid-twentieth century, capital punishment rose in prominence and disproportionately impacted Black men. The connection was so obvious to many African Americans that these formalized executions were nicknamed "legal lynchings," in which they detected that America's vigilante forms of anti-Black violence were replaced with state-approved killings of Black people. Institutions like the Equal Justice Initiative connect the death penalty's history to anti-Black racism. Citing racial bias both inside and outside the courtroom, the arbitrary nature of sentencing, inadequate counsel representing the accused, and the prevalence of institutional racism and community divestment in the areas where many of the accused come of age expose how capital punishment actually amplifies systemic racism and does nothing to solve it. In fact, it leads many to distrust the system even more.

To conclude, I hope the Nevada Legislature makes the correct decision to abolish the death penalty and establish a precedent for reforming other systems that further disenfranchise and marginalize vulnerable populations. As one born and raised in Las Vegas and who will watch his oldest daughter enter the Clark County School District next academic year—the same district I graduated from nearly 20 years ago—I hope her future history courses note that in 2021, Nevada's elected representatives made the correct decision in abolishing the practice forever.

Michael Cherry, Private Citizen, Las Vegas, Nevada:

Thank you for this privilege to appear before the Assembly Committee on Judiciary. I have been a lawyer and a judge for 51 years. I was here in 1970 when they had the death penalty; then in 1976, it was reinstated. I can tell you that it is not an equal penalty. The death penalty is not equal in this state because the rurals cannot afford to have death penalty cases. Washoe County once in a while has a death penalty case, and unfortunately, we have plenty of death penalty cases in Clark County.

I represented a man in 1980 whose trial was moved to Douglas County because it was such a high profile case. He has been on death row for 41 years; that is longer than some of you are alive. I had another fella who I represented when I was the special public defender and he has been on death row for 23 years and is a stroke victim. I do not know what is going to happen to him. I do not know if the state would ever kill a stroke victim. To me, that is inhumane.

I want you to know that they asked me to talk about death is different. I think death is different in the rurals; death is different in Washoe; and death is different in Clark County. And that is because of the financial impact that it has on these counties. I want you to know that life without the possibility of parole in this state is life without the possibility of parole. As a defense attorney and a judge, I agree that there are some people who just cannot be in society and that is why we have life without the possibility of parole. But we certainly do not need a death penalty in this state.

Being here for 51 years, it is time to take action. This is not to be put off. I was so impressed with all of the speakers so far, especially the young lady whose father was executed and the lady whose son was killed. This showed you the whole value of death penalty has gone away. It does not make sense. Not all of the states have it. The federal government at the end of the Trump Administration did do some executions after many years. Let us be progressive. Thirty-seven percent of the death penalty people are African American. That does not make any sense when there is systematic racism in this country. So, I ask you, please, please, let us do it. I have been here for 51 years; I have a man on death row for 41 years and another one for 23 years. It is time to take action. God bless all of you. Please stay safe and take action. Do not put this off this year. The year 2021 should be the year that Nevada got rid of the death penalty. Thank you very much for letting me share these views with you. I am sharing not as a justice and not even an attorney, but just as a human being.

Chuck Durante, Rector, Saint Thomas Aquinas Cathedral, Reno, Nevada; and Vicar General, Diocese of Reno:

I also chair our Life Peace and Justice Commission. Thank you for taking the time and allowing me to testify, but also for taking the time to look at this critical bill to end the use of the death penalty in our great state of Nevada. I have prayed and labored in opposition of the death penalty for the past 25 years. I have ministered in our prisons and prayed for the end of the death penalty and rallied outside prisons on the nights of executions. I also have met with family members of murder victims. Over the years and through these experiences, I am more convinced than ever that allowing the death penalty is immoral, bad public policy, and dehumanizes our society.

Like many state and national governments that have changed their stance on capital punishment over the past 100 years, the teaching of the Catholic Church has evolved as well. The church has clarified that the death penalty is an attack on the inviolability and dignity of the human person. While in times past, it may have been seen as self-defense or justifiable for the protection of others, this is no longer the case. To use it as a pretense of protection is wrong and a misuse of power today. It also can permanently remove the possibility of remorse or redemption, as Ms. Snedeker noted about in her father's case as well. Her testimony on the blatant unfairness in the application of the death penalty upon the poor, people of color—those factual inequities themselves are sufficient, I think, to set aside just for lack of equal protection. But the violation of human rights becomes even more apparent when we also consider human error and the subjectivity and the fact that many sentenced to death were later found to be innocent. In Nevada, three have been so released. The death penalty presumes perfection on the part of the criminal justice system. And even if that possibility could be achieved, the sanctity and dignity of human life is still lost.

Ending the death penalty is not diminishing a tough stance against violence, against crime, or taking away the absolute condemnation of murderous acts. On the contrary, it is taking and teaching a higher road: that we do not turn to killing to show that killing is wrong, the same way we do not beat or torture or rape a person who has done those horrific acts as we heard earlier. It dehumanizes us, and it cannot be purified on a gurney. Please end this tool of death for the good of our state and pass A.B. 395.

[[Exhibit I](#) was submitted but not discussed and will become a part of the record in support of A.B. 395.]

Nancy Hart, President, Nevada Coalition Against the Death Penalty:

We are in strong support of A.B. 395. The Coalition Against the Death Penalty is a constantly growing group of individuals and organizations opposed to capital punishment for a multitude of reasons. We are in a budget crisis, and we believe that now is the time to end the death penalty in Nevada. The death penalty is enormously expensive while delivering no result, the definition of government waste. We have not had an execution in 15 years. In fact, we could not carry out an execution two years ago due to the drug companies prohibiting the use of their medications in lethal injection. Any effort to conduct

an execution now will no doubt result in considerable litigation regarding the lethal drugs, and I refer you to our exhibits for a paper about this issue [[Exhibit J](#)].

The rate of reversals in death cases illustrates how very broken the death penalty system is. Reversals are not only costly and inevitable, but they also cause victims' family members to relive the trauma of the loss of their loved ones to terrible violence. Death penalty cases involve decades of litigation, depriving victims' family members of the legal finality they deserve and could get with life without parole. The year 2020 was a year in which most people in this country gained a new awareness and fresh concern about issues of long-standing racial injustice, especially in the criminal legal system. The death penalty is at the pinnacle of these concerns, as Dr. Parry's testimony illuminated. Ending the death penalty now recognizes that it is past time to correct this unfair and discriminatory practice.

Public opinion has shifted in the past few years. A majority of Nevadans now prefer alternatives to the death penalty. Only 36 percent support retaining it, and this tracks parallel trends in national public opinion. You will see several exhibits illustrating this shift to support for abolition including recent statewide poll results and a sign-on letter with 58 organizations and community leaders in Nevada supporting this legislation [[Exhibit K](#), [Exhibit L](#), and [Exhibit M](#)].

I appreciate the opportunity to convey the Coalition's support for this important legislation. This is the right time to end Nevada's costly, ineffective, unfair, and inhumane death penalty.

[[Exhibit N](#) and [Exhibit O](#) were submitted and will become a part of the record in support of A.B. 395.]

Assemblyman Yeager:

I just want to thank the members of the Committee as we went a little longer than expected. We are ready for questions, and we will pick one person to answer the question so that we can get through as many as possible.

Vice Chairwoman Nguyen:

I appreciate that. For the record, we are at 45 minutes for the presentation of this bill. I would echo Assemblyman Yeager's sentiment to the speakers and allow one person to answer so that we do not have a round-robin. Are there any questions from the Committee?

Assemblywoman Cohen:

Mr. Viloria had testified about arbitrariness in determining who the death penalty would be sought on their case and that it could involve an attempt to improve a career or a lack of proper vetting. What do you, as a defense attorney, have as a tool to combat against those types of situations in defending your clients?

Scott Coffee:

What we have to combat against that is not much, to be quite honest. What we have, I suppose, long-term is the appellate process, which is part of the reason we see these cases

taking 20 or 30 years or even more. We have had people on death row since the 1970s and they are still there. I think most of the prosecutors try to do a good job. But I cannot imagine the conversation with a murder victim's family telling them that their loved one is not worth the death penalty if the death penalty is out there. I think the motivations get tangled as much as we try to be objective, and it is very difficult to combat that. The truth of the matter is these cases are in the media and people like the notoriety—the defendants and sometimes the attorneys—and it is problematic.

Assemblywoman Cohen:

Ms. Hart, you mentioned that the Coalition has been growing. Can you give us an idea of how many members, between the Coalition and all of the member groups of the Coalition, are we talking about, and how have the numbers shifted in Nevada? You said they have shifted and we are seeing more people who are against the death penalty. But can you quantify that?

Nancy Hart:

The shift in support is revealed through a number of different things. I hear you asking about numbers within the Coalition and also with membership of the groups that are part of the Coalition. Frankly, I cannot answer that question because we have organizational members from churches, the Life Peace & Justice Commission of the Diocese of Reno, and organizations that have whole memberships. I am not familiar with the organizations' membership numbers within those. I know that we have thousands of followers on Facebook and Twitter, and we also have several hundred individuals that have signed the petition [[Exhibit M](#)]. We have close to 1,000 people on our email list, and those are just some numbers that represent our membership. Those numbers are considerably greater than they were four years ago when we were having this hearing on a similar bill.

Assemblyman Wheeler:

I am a little confused here. A lot has been made here about the process itself and how long it takes before a death penalty is carried out. What I have seen or read, a lot of it shows that you go through the appeal process, which is probably a very good thing because you do not want an innocent person being put to death. Also there are a lot of court cases and usually those involve cruel and unusual punishment, and from what I have seen and what has happened here in Nevada, I think the drug companies hold their drugs off and ask us not to use them for death penalty cases because they are afraid of lawsuits as well. I know that we have a bill in another committee that would allow terminally ill people to use this drug cocktail to take their own lives. I am wondering why that is not cruel and unusual, yet using it on a convicted person is cruel and unusual. And that time period—even the people who plead guilty, say they did it, and ask for the death penalty, and say they want it—why can we not use it? It is the process here that I am wondering about.

Assemblyman Yeager:

I do not want to try to answer that because I may get it wrong, but I think either Mr. Coffee or Mr. Fiedler might be able to handle that from an Eighth Amendment, cruel and unusual perspective.

Scott Coffee:

There had been Eighth Amendment litigation in a case from the United States Supreme Court [*Glossip v. Gross*, 576 U.S. 863 (2015)] about five years ago which removed a lot of the cruel and unusual litigation regarding the drug cocktails. They essentially said that some pain is expected in the death penalty and that there was no guarantee even in the Eighth Amendment that it need not be painless. But there is ongoing litigation about other things, usually the effective assistance of counsel, that not enough has been going on with the defense, that the defense did not do an adequate job investigating—even though the Judicial Conference of the United States says we spend 1,800 hours as defense attorneys on average on a capital case as opposed to about 400 hours on a non-capital case. That is usually where the attack is now, and Mr. Fiedler is very familiar with that, but a lot of that happens in federal court.

Assemblyman Wheeler:

I do not really think that answered my question, but I will have a discussion with one of my colleagues offline and we can move this along.

Vice Chairwoman Nguyen:

Mr. Fiedler, do you think you might be able to address some of those issues?

Randy Fiedler:

I think we need to distinguish what the courts are doing with these challenges and what the pharmaceutical companies are doing. I think the pharmaceutical companies might be worried about lawsuits, but I think they are also worried about the public portrayal of their drugs being used as instruments of death and execution. In a lot of cases, these are related to publicity concerns. I am not familiar with the other bill in the other committee so I cannot speak on that. But I think what Mr. Coffee said about legal challenges to the protocols is accurate, and these challenges in death penalty cases are not just Eighth Amendment challenges to the lethal injection protocols, they are also challenges to the effective assistance of counsel—prosecutorial misconduct—that happens during these cases. So it is just not one legal issue, it is a system of legal issues that are causing this high reversal rate.

Vice Chairwoman Nguyen:

Assemblyman Wheeler, you might want to reach out to various pharmaceutical companies because I think as a private business, they are choosing to not have their drugs administered in that way.

Assemblyman O'Neill:

It has been mentioned that "life without" means just that—life without the possibility of getting out of prison. It is my understanding that may not be the case. Actually, there can be appeals made, arguments made, asking for life without to be commuted to life with, and then processing, going before the Nevada Board of Parole Commissioners, and getting released on parole for life. Is that truthful that there is no reprieve from life without?

Scott Coffee:

In 1995, there was a constitutional amendment that changed the commutation process and took life without parole off the commutation eligibility [*Nevada Revised Statutes* 213.085, Senate Bill 245 of the 68th Session]. People would still have appeals available. God forbid we put an innocent person in prison on a life without sentence and we find that somebody else on the video was doing the crime. You have to have some kind of checks and balances, but a sentence of life without is much less likely to be overturned than a death sentence. My understanding anything post-1995 is life without and cannot be commuted in Nevada.

Assemblywoman Bilbray-Axelrod:

My question is about the appellate process and the procedures. The year mentioned was 1977 that we put those appellate processes in place, I believe. If you could just walk me through that. What does that look like?

Randy Fiedler:

I will start by saying that there are a number of intersecting interests that are at play in these cases with regard to state and federal rights. Initially, you have a trial, and assuming you receive a death sentence, at that point you have an automatic appeal under Nevada law. Assuming you lose that appeal, you then have the right to file a state postconviction petition for which you are entitled to have counsel appointed. You have a counseled state postconviction proceeding in front of the trial court. If you lose that, then you appeal to the Nevada Supreme Court. Assuming you lose at that point, you then have the right to file a postconviction petition in federal court. In federal court, you are also entitled to have an attorney appointed. The attorneys will then investigate your case. Often, new claims will be raised in that federal petition, which will require, to respect state's rights, that the petition be filed in state court so that the state courts have an opportunity to address these claims before the federal courts will address them.

Then you would file another state postconviction petition. If you do not succeed in the trial court, then you have the right to appeal to the Supreme Court. If you are not successful at the Nevada Supreme Court, you then go back to federal court where the United States District Court will consider your claims. If you are not successful at that point, you are entitled to take an appeal to the United States Court of Appeals for the Ninth Circuit. If you are not successful there, you can ask the United States Supreme Court to appeal. At any point in these proceedings, your sentence can be reversed and you can be given a new trial, and that is where we are seeing a lot of these reversals. We are seeing these reversals happening at any point in the direct appeal, state postconviction, or federal postconviction proceedings.

Vice Chairwoman Nguyen:

Do you have any follow-up, Assemblywoman Bilbray-Axelrod?

Assemblywoman Bilbray-Axelrod:

I do not have a question. I am just shocked at the length of the process. I know that it is exactly where it needs to be. That is it. Thank you.

Vice Chairwoman Nguyen:

Mr. Coffee, you mentioned that on average 1,800 hours is spent on a capital case as opposed to a non-capital murder case where 400 hours is spent on that. Can you also describe the difference in representation, such as how many attorneys are required to be on a death penalty case as opposed to a non-capital case, as well as some of those added costs; if it is not handled by one of the public defender offices, how there is a different monetary rate for compensation for those type of cases as well?

Scott Coffee:

Capital cases are treated differently under Rule 250, which sets out certain requirements. A typical case has a single attorney appointed; there have to be two attorneys in a capital case. One of those attorneys has to be capital-qualified. That means they have five felony jury trials through verdict, have sat through at least the penalty phase with someone else, and they have five years of experience. The reason the cases take so much longer and cost so much more revolves primarily around what is called mitigation. If I am defending a murder case, I might investigate twenty minutes or a day in someone's life, perhaps a week. If I am defending a capital case, I have to investigate their entire history because if I do not, the case will be returned by the Nevada Supreme Court or by the federal court, as Mr. Fiedler described. That means interviewing grandparents and parents, looking into drug history, doing IQ testing and fetal alcohol syndrome testing, which is quite expensive and can cost up to \$50,000 without testimony at trial. Those are things that are specific to capital cases.

We do not do those in other cases typically. The reason they are specific to capital cases is because cases have been reversed when things were not done. One example of that is the United States Court of Appeals for the Ninth Circuit reversed a case because the attorneys did not look into groundwater poisoning in the village where a defendant grew up. You have to be meticulous in a capital case, and that takes a lot of time and takes specialized training. Typically that would have been done by the public defender's office, but we had so many of these cases and so many conflicts, there was a Special Public Defender's Office created about 25 or 30 years ago that handled the overrun, and we split those cases about evenly until the Office of Appointed Counsel was created in Clark County about 12 or 13 years ago. At one point there was an even split of those cases, about 30 percent for each. The Office of Appointed Counsel now handles about 60 percent of the capital cases and they have about 40 of the 62 cases that are pending, which is a huge amount because those attorneys are paid hourly and is outside the normal budgeting process. It is not part of the public defenders', special public defenders', or district attorneys' budgets. It is paid out of a special budget, hourly, at a higher rate than you would normally pay. If you pay \$100 an hour normally, I think for that office it is \$125 or \$150 an hour. We pay at a higher rate and the bills are generally open billing and I should not say there is a blank check, but for capital cases to some extent, that is the case; if it is not done right the first time, it gets reversed and then we start all over. That is a short overview of why they cost so much more money and take so much more time.

Assemblyman O'Neill:

What I hear in your testimony is that defense will treat a life without case a little less seriously, with less time, less preparation, less workup, than a capital case. I find that hard to believe, but that is what I hear you saying, that the capital cases are so expensive but life without would be cheaper and so we should judge it that way. Is that true?

Scott Coffee:

That is absolutely true, and it is not a little less seriously it is a lot less seriously. The courts treat the cases a lot less seriously. If I file a brief with the Nevada Supreme Court that it is a capital case, it has to be designated as such, and I am given twice the time to argue the case than I would be given in a non-capital case. If the case is in federal court, those filings are designated as a capital case, and even all the way to the United States Supreme Court, if I file a petition for writ of certiorari, that has to be designated as a capital case on the front page of the brief because, as Justice Kennedy said years ago, "Death is different." Mitigation is not generally a consideration in non-capital cases. Mitigation is what takes time; it is investigating the background. There are certain things that just do not apply in non-capital cases: *Atkins* [*Atkins v. Virginia*, 536 U.S. 304 (2002)] for example, which is IQ testing. If a person is intellectually disabled, they cannot be executed under United States Supreme Court law, so we spend a lot of money testing for that. That is not the situation on a life without case, as we cannot make an *Atkins* claim in a life without case because it is just not an issue.

Yes, the background investigation is vastly different in a non-capital case than a capital case. The defense hours are vastly different. It was the Judicial Conference of the United States that came up with the numbers nationwide of 1,800 hours versus 400 or so. I think there is a general recognition that the cases are just treated differently, as Justice Kennedy said.

Assemblyman O'Neill:

If we took capital cases off the table and did away with capital punishment, you are saying that the life without would then become the most serious penalty, and that we would not treat them with the same respect. We are dealing with a human that is looking at life without the possibility of parole and, as you said, the court and judicial system would say basically that that is not as important.

Scott Coffee:

Yes, at least under the current standards. And it is not just me that says that. When you look at the cost studies across the board, the states that have life without parole are handling these sentences all the time. For states like Connecticut and Massachusetts, the costs just are not the same, so unless those attorneys are all incompetent, I do not see where this sea change would come if we simply convert to life without parole. It has not happened anywhere else. I do not think there is any evidence it would.

Vice Chairwoman Nguyen:

You are not saying that these attorneys are ineffective and not advocating for their clients on simple murder as opposed to death penalty cases, is that correct?

Scott Coffee:

Absolutely, I am not saying they are ineffective. I am saying they are just different. Death is different. It has been since it was reinstated in 1977, and it continues to be.

Vice Chairwoman Nguyen:

I show five minutes left for questions from Committee members. There will be time for questions after opposition testimony.

Assemblywoman Summers-Armstrong:

Senior Justice Cherry made a statement during his presentation that the rural counties do not have the money to prosecute these cases but that Clark County does. I am curious what this means when we talk about racial disparity and about equity?

Tyler Parry:

I was actually interested by Justice Cherry's statement in that regard, and for me it seems that all of this is embedded within a system that views blackness automatically as criminality. It seems no coincidence to me that in a largely urban area in southern Nevada, populated more heavily by an African American population, it probably does happen to prosecute in this type of format. Much of this goes back to the methods under which resources are allocated. If you check the statistics of Nevada and its incarceration rates, it is actually above the average of the United States, which is unique within the developed world, and is the country that incarcerates the most people in the world—a disproportionate share of them being of African descent. It is suggestive that Nevada's priorities have largely been retributive against individuals convicted of violent crime rather than utilizing prohibitive measures, things that might be more proactive in trying to help people who are dealing with trauma. One thing that I said in my comments that I think is directly related to these types of questions regarding resources is that it does not have to be this way.

The United States is actually somewhat abnormal within this regard in that this country is so used to violence, that it almost is numbing to some degree within the broader society. I think people are now starting to wake up to this reality and understand that other countries might even have similar populations, but they are not nearly as violent. This includes both crime within various neighborhoods, but also police departments and the heavy-handed forms of policing that are all too familiar to Clark County in general.

My appeal here, or what I typically argue in this regard, is that if we have the resources to invest so heavily in a system of carcerality that does very little to actually rehabilitate people, we can redirect a lot of resources for preventative measures, investing in communities that have been historically divested from, helping people recover from trauma that they experienced as children, and as one of the testifiers alluded to earlier, even the victims of violent crime receive very little in regards to monetary assistance for therapy. The argument here is that our priorities are completely mixed at this present moment but we have the opportunity to change that, and I think that the abolition of the death penalty can be a step forward to leading to other reforms that I think will benefit a more progressive society.

Assemblywoman Summers-Armstrong:

If what Justice Cherry is saying is correct, does this mean that a person in the rurals—who we can assume in most instances, because of our population, would be white—can do the same crime as someone in southern Nevada—who we will say for the sake of argument, is Black—that they would see a different sentence or a different charge against them?

Scott Coffee:

I think that is exactly what it means. If you look at the demographics by county, once we get out into the rurals, the population of color dwindles tremendously, and most of those people are not going to be subject to the death penalty in the rurals because they simply cannot afford it. You would bankrupt a county trying to defend a capital case. It is more than their defense budget. If you look at death penalty across the state right now, there are 1 to 3 cases pending in the rest of the state and 62 pending in Clark County. Where you commit a crime is as important as the crime that you commit, and by demographic breakdown, that insulates certain members of our population—the white members of our population—from the death penalty being pursued in many instances because the rurals just are not pursuing it.

Vice Chairwoman Nguyen:

I did see the financial audit [[Exhibit N](#)]. Has Clark County provided any financial or fiscal note on what cost savings they would be able to save if we were to pass A.B. 395?

Assemblyman Yeager:

I want to recognize then-Assemblyman Ohrenschall's bill, Assembly Bill 444 of the 77th Session, that led to the cost audit of the death penalty. I would hand this over to Mr. Coffee, who was involved in providing information for that audit. He might have some numbers he could give us.

Scott Coffee:

The cost audit [[Exhibit N](#)] was provided by the LCB. It actually went through two legislative sessions, and I was involved in both. I was involved in the drafting of that legislation with Senator Ohrenschall. The first time it did not go through because there were complaints that it did not consider things like housing costs and potential savings by executing somebody early. We corrected those things to try to make it as neutral as we could. The district attorneys' offices across the state chose not to participate even after those corrections. The LCB came to the conclusion that it is about \$500,000 every time a death penalty case is filed, not when death is executed, not when someone is sentenced to death row, not even when a trial happens, just simply filing a death notice adds close to \$500,000 in additional costs. If you look at it that way, you are looking at about a \$30 million savings, give or take, systemically on 62 pending cases.

Vice Chairwoman Nguyen:

I will stop questions from Committee members although there will be another opportunity for questions after support and opposition testimony. I will note for the record that I allowed for 30 minutes of questioning by Committee members on the original presentation of the bill. At this time, I will begin testimony in support of A.B. 395. I have allocated 40 minutes of

testimony in support as well as 40 minutes of opposition testimony. There are people on the Zoom to provide support testimony and will limit it to those who did not speak during the presentation. I will remind everyone that their testimony is limited to two minutes. It pains me to cut people off, but I will.

Holly Welborn, Policy Director, American Civil Liberties Union of Nevada:

We are in unwavering support of A.B. 395. The United States is the only advanced Western democracy today that does not view capital punishment as a profound human rights violation and a frightening abuse of governmental power. Since our founding over 100 years ago, the American Civil Liberties Union (ACLU) has made death penalty abolition a cornerstone of our work. The death penalty is so inconsistent with the underlying values of our democratic system, the pursuit of life, liberty, and happiness, that the imposition of the death penalty for any crime is a denial of civil liberties. This is a deeply broken system that cannot be fixed and opposition to the death penalty is rising. Nearly half of the states in this country have abolished the death penalty, including Virginia, which at one time had the highest execution rate in the United States.

Hearts and minds are shifting here in Nevada. Fifty-three percent of Nevadans support a penalty other than capital punishment for first-degree murder. When you explain the exorbitant costs, the fact that innocent people were sent to death row—including Ha'im Al Matin Sharif, who was released from prison in 2017, right after the legislative session when this body chose not to repeal the death penalty—it offers families a false promise of justice, and that it disproportionately impacts Black, Brown, poor, and mentally ill people, the number rises to 58 percent.

I leave you with a quote from an amicus brief filed by the ACLU regarding *Furman v. Georgia*, [408 U.S. 238 (1972)] at pages 23, 28, 33, 40, "The death penalty . . . is unnecessary in a society with adequate alternative means of fulfilling the legitimate objective of the penal law. . . . the necessary associated experience of death row shocks and devastates the consciences of civilized men." It is well past time that we repeal the death penalty in Nevada, and we encourage your support.

Drew Johnson, Senior Fellow, National Center for Public Policy Research:

I am also a senior fellow at the Taxpayers Protection Alliance, and a columnist at Newsmax and The Daily Caller. In other words, I am not a Democrat. I am one of the large and growing number of people who identify as Republicans, Libertarians, and fiscal and social conservatives who have come to realize the death penalty contradicts the limited governmental values we hold dear. We also understand that it is really bad public policy. In fact, I research the effectiveness of public policy for a living. I look at whether the laws on the books are effective, do they work, are they successful.

In 20 years of setting public policy, Nevada's death penalty is the single most flawed, least effective law I have ever seen. It is strange that some Republicans will on one hand argue that the state is incapable of handing out a driver's license or counting ballots, but on the other argue that that same government should have the authority to put people to death. Not

surprisingly, giving bloated, inefficient, and often incompetent state governments the authority to decide who lives and dies does not always work out very well.

More than 160 Americans have been released from death row due to wrongful convictions. Others have not been so lucky. Putting just one innocent person to death makes the death penalty completely unacceptable. According to estimates by the National Academy of Sciences, states have killed at least 60 innocent people—60—since America began reinstituting the death penalty in 1976.

The death penalty, as Mr. Coffee mentioned, is also a tremendous waste of money. In addition to being ridiculously expensive, the death penalty fails in its most basic function, deterring crimes. In 2012, a study by the National Research Council of the United States National Academies of Sciences, Engineering, and Medicine proved once and for all that capital punishment does not reduce or deter crimes. It is also worth noting that states without the death penalty actually have lower murder rates and fewer violent crimes than states with the death penalty.

Ultimately though, it does not really matter if you think that people should be put to death in Nevada for committing heinous crimes. It does not really matter what state lawmakers, prosecutors, or victim families want. That is because, between the necessary pills, the difficulty in obtaining lethal injection drugs, and Eighth Amendment challenges, the death penalty really does not exist in Nevada. Only one person has ever been put to death against his will. All the rest have been volunteers who would rather commit suicide using the death penalty than live out their days in jail, which is a strong indication that life in prison without the possibility of parole . . .

Vice Chairwoman Nguyen:

Mr. Johnson, could I get you to wrap up your testimony?

Drew Johnson:

Sure. The death penalty does not deter crimes, is racist, and wastes millions of dollars, so why is it still on the books? Many of you Republicans running for office said you wanted to eliminate bad laws and remove policies that are not effective. Here is your chance. As a Republican, I encourage you to support A.B. 395. You will take a completely ineffective law off the books, eliminate a failing and unnecessary policy, and dramatically reduce the costs to taxpayers.

Donald G.T. Gallimore, Sr., Legislative Committee Chair, Reno-Sparks Branch No. 1112, National Association for the Advancement of Colored People:

We support A.B. 395. This is a bill that the association has been fighting for 80 years or more. It is the tip of the rocket ship if we can get the elimination of the death penalty—then the lives of up to three to four times the number of others and as African Americans, that will change, will be down to zero. We want to make sure that everyone knows that we are against any kind of capital punishment because it is a reflection of slavery and the legal lynching that Professor Parry mentioned, something that is difficult for parents to teach their children, and

for us as adults to understand—why the hate towards a culture, simply because of the color of our skin, is the reason for a higher rate of people being put to death, incarcerated in general, jobless, and homeless, et cetera. We want to support A.B. 395. In terms of African Americans, we are the original culture in the world. We are the soul of the Earth.

Monique Normand, Private Citizen, Reno, Nevada:

I am in support of A.B. 395. In June of 2017, my uncle was stabbed to death in his home in Las Vegas. The woman who murdered him stole his car, which was actually my father's car, and left him alone to die in his home. I remember the hurt and devastation I felt after getting the news of my uncle's murder. I was only two weeks away from graduating with my master's degree in college and, honestly, I did not know what to do. As my family and I sorted through our grief, one of the things I remembered my father saying was that he did not want to see this person get the death penalty. And I had to agree with him. Honestly, it was not going to bring my uncle back to us, it was not going to heal our pain, and it brought about more anxiety thinking about it, having to go through that and being connected with someone else's death.

Later, during the trial, we learned that the woman had suffered much abuse for many years of her life, and she had been trafficked at a very young age. I know that this does not change anything that she did and it does not justify the murder, but as a social worker and as someone who is currently working in the mental health field, I have to believe that if she had received the mental health care she needed, her life probably would have changed and turned out very differently. Also to note, one quarter of the people on our death row currently are diagnosed with mental health issues.

I ask you today to support A.B. 395. As a victim, I do not want to see someone else die. We should also be putting our money into mental health care and prevention and not into executing people.

Vice Chairwoman Nguyen:

There are no others in the Zoom for support testimony, so we will move to the phone for support testimony.

John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:

Of course, we want people who have harmed another person to be held accountable. However, the question we need to ask is not whether a person deserves to die, but rather do we as a society deserve to kill them. To get reconciliation, we must be willing to tell the truth. The truth is that the authority to execute someone who is no longer an immediate threat is an awesome power, and that power must be exercised fairly, reliably, and humanely. We are not able to accomplish this no matter how hard we have tried. The truth is, our use of the death penalty has not been a deterrent. Nevada is ninth in the nation for people on death row and we have over 60 cases still pending to be heard in Clark County alone. The truth is the death penalty has not been a deterrent in Nevada. The truth is that for every nine people executed, one person has been exonerated, and that is a shocking rate of error. If one out of

every ten planes crashed, would any of us still fly? I would not, because of that rate of error. And with that rate of error that we currently have, some of us in southern Nevada would not live through this whole session.

The truth is Nevada is no different. DeMarlo Berry, who you all met last session; Fred Steese, who we have all heard about; Kirstin Lobato; and Cathy Woods—all of them have been exonerated in Nevada after prosecutors sought their conviction and, in some cases, sought their deaths. The truth is that wrongful convictions happen in 54 percent of all exonerations and over half of the people wrongfully convicted were convicted by wrongful conduct: Fred Steese, prosecutors hid evidence; Cathy Woods, law enforcement coerced a false confession from a mentally ill woman. The truth is that darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that. Hate multiplies hate, violence multiplies violence, and toughness multiplies toughness in the descending spiral of destruction. We are all in need of unmerited grace, so let us please stop this spiral of destruction that is the death penalty in Nevada now.

Tonja Brown, Private Citizen, Carson City, Nevada:

The Advocates for the Inmates and the Innocent strongly supports A.B. 395. I would like to say over the years there have been presentations submitted to the Advisory Commission on the Administration of Justice and legislative hearings on the death penalty. I recall that the figure was around \$1 million going from prosecution to executing a person.

I want to touch on something on behalf of the innocent. In 2017, the Legislature passed Assembly Bill 268 of the 79th Session, which was the DNA bill to allow DNA testing. Originally, the bill was to allow DNA testing at the inmate's own expense if the court had denied them the DNA testing. I am bringing this up because of what Mr. Vilorio had mentioned about the David Middleton case, from the capacity of the public records request bill. Some cases have come up recently and one of those is the Middleton case. I am not saying that Middleton is innocent by no means, but what I am saying is that there is another individual—I will just name him Mr. G. Mr. G and Mr. Middleton were tried four months apart. Mr. G has always maintained his innocence and it would be several years later that Mr. G would receive a document to allow DNA testing and it happened to be in the Middleton case. Middleton was suspected of murdering Mr. G's victim. In 2017, Mr. G filed a petition to have that DNA testing conducted. He was denied DNA testing, and if it did come back, it would show that Mr. Middleton not only committed the two murders, but an additional murder.

Vice Chairwoman Nguyen:

Ms. Brown, could you please wrap up your testimony? If you have any additional comments, you can submit them in writing.

Tonja Brown:

Thank you. I just want to say that in 1979, a 19-year-old was convicted of murder. He received the death penalty. He actually did not participate in the actual murder, but he was present. He received the death penalty and then in 1989, the . . .

Vice Chairwoman Nguyen:

Ms. Brown, I am sorry, but I am cutting you off. We will go to the next caller.

Jodi Hocking, Founder, Return Strong: Families United for Justice for the Incarcerated:

I am here today in full support of A.B. 395. It is time for Nevada to abolish the death penalty for all of the reasons that people before me have stated. Quoting Sister Helen Prejean, "If we believe that murder is wrong and not admissible in our society, then it has to be wrong for everyone, not just individuals but governments as well." By choosing to continue to use the death penalty, we become accomplices to the death of another human being. It needs to stop.

It needs to stop in the name of Reginald Hayes Mason, who the State of Nevada paid \$975,000 to in 2019 for the 13 years that were stolen from him when he was wrongfully convicted at 14 years of age; in the name of DeMarlo Berry, who the State of Nevada paid \$2.25 million for the 22 years he spent incarcerated when later found to be wrongfully convicted; in the name of Cathy Woods, who spent 35 years in prison, and, yes, was also wrongfully convicted and who just received \$2.85 million to compensate her for the years that she lost. I understand that these people did not have the death penalty. Thank God, really, or we may not have the opportunity to correct what went wrong. Not that the money can ever give them back time, but at least we did not kill them.

Every Sunday now since Return Strong started—I call it Sundays with death row—I have inmates who are incarcerated there who call me to talk about issues that they are having. Maybe it is restitution, inhumane conditions, or any number of things, but the impact of talking to people who have had to sit and know that they are just waiting to die has really impacted my life and I believe more deeply than I ever did before that we need to end the death penalty. We know the system is broken and as such we cannot continue to [unintelligible]. It is time and it is the right decision on every level. I agree with the other speakers and am in full support of A.B. 395.

John Arrascada, Public Defender, Washoe County Public Defender's Office:

[Mr. Arrascada read from his written testimony, [Exhibit P](#).] I am qualified under Rule 250 to be lead counsel on death penalty cases. I speak in support of A.B. 395 to abolish the death penalty in Nevada. I could speak to you today in support by relying upon the data and material that have been presented to this Committee in support of A.B. 395, but I think the issue of abolition of the death penalty is greater than the data.

I speak in support because I view this as a true inflection point as to who and what we are as a state. We must recognize like so many of our sister states that have indefinitely stayed imposition of the death penalty or have abolished the death penalty—most recently Virginia—that the death penalty and the system formed around it is broken. It is inequitable and racially determined, it preys upon the poor, it does not provide closure, it does not prevent recidivism, and it does not have a deterrent effect beyond that which can be provided by life without parole. The death penalty serves one purpose: vengeance.

The opposition may tell you that they screen death penalty cases to remove revenge from their decision process. Ask them what metrics do they utilize, what is their exact evidence-based objective process, and what exact considerations do they take into account on every case to ensure a uniform process to determine when to notice death and that vengeance is not a factor. I predict that if you peel the onion of the decision process back when prosecutors seek death, that it is based on an arbitrary process controlled by the makeup and mores of the decision-maker. The only common denominator and uniform factor you will find in their decision-making process is that when they decide to seek death, it is revenge.

In Nevada's death penalty system almost every homicide will have an aggravator that can lead to a death notice. History has shown there is not and cannot be a uniform system that will make the decision to notice death fair-based, not revenge-based. Even the most thoughtful prosecutor cannot provide you with an evidence-based uniform and concrete system . . .

Vice Chairwoman Nguyen:

Could you finish up your testimony? If you have something in writing, please submit it.

John Arrascada:

The opposition may further tell you that revenge is countered by their logic, compassion, and taking into account the realities of the person they are considering for death. Revenge cannot be countered by logic and compassion. If so, no one would be sentenced to death. Our courts have been tinkering with the death penalty process for 45 years . . .

Vice Chairwoman Nguyen:

At this time, I am going to cut you off. Could we please go to the next caller in support?

Jim Sullivan, representing Culinary Workers Union Local 226:

We support A.B. 395 and the repeal of the death penalty in Nevada. The death penalty is perhaps the most barbaric aspect of mass incarceration in the United States, which we know disproportionately affects Black, Indigenous, and people of color. We also know that the death penalty in Nevada is racially biased. Almost 40 percent of the people on death row are Black despite only accounting for about 10 percent of Nevada's total population. Additionally, death penalty cases are extremely costly and too many innocent people end up on death row, which is a miscarriage of justice that our state should never accept. Nevada is better than the death penalty.

Over the last three sessions, the Culinary Workers Union has advocated for several criminal justice bills that have started to right the wrongs of Nevada's past and ensure that all Nevadans are treated equally under the law. Ending the death penalty is just another positive step toward creating a more just system. The Culinary Union urges the Nevada Legislature to support and pass A.B. 395.

Martha Sharp, Private Citizen, Bristol, Tennessee:

I am a member of Return Strong: Families United for Justice for the Incarcerated. My simple statement comes down to rather a moral issue than a political policy or money or how much more it costs to have someone ran through the death penalty process and trials and such. I truly believe that we are not capable of knowing whether a man or woman is innocent 100 percent, 100 percent of the time, and therefore feel that the chance that we might even kill one person unjustly should be considered by all of you: one person, yourself, your son, your daughter, your brother, your uncle, whoever, and please support the bill.

Nissa Tzun, Private Citizen, Las Vegas, Nevada:

[Ms. Tzun read from written testimony, [Exhibit Q](#).] I am the cofounder of the Forced Trajectory Project and a part of the Mass Liberation Project. I am in support of A.B. 395 to abolish the death penalty, which I view as cruel and unusual. Furthermore, I find its history steeped in racism and the significant margin of error absolutely disturbing.

I have also been personally impacted by the death penalty. My friend, William Morva, was on death row for nine years in Virginia. William was a friend of mine since high school, a kind soul who spearheaded the anti-racist campaign urging our high school to change their sports team mascot—the Indians. He was loved by his family and friends and was known by everyone to be a genuine, kind, and loving person.

After we all graduated, Will started to exhibit some strange behaviors which seemed to coincide with the passing of his father. Along with severe mental illness, he also suffered from digestive issues that were very debilitating. In 2006, much to the surprise of his family and friends, Will committed a double homicide. He was soon convicted and put on death row. But his team, made up of legal experts, mental health experts, and his community, knew that Will was severely mentally ill. At the very least they all felt that his life should be spared because of his obvious impairment and mental suffering.

Even the murder victims' families advocated for Will's life because they themselves did not believe that killing Will would solve anything nor bring them any peace. Despite the team's efforts and the murder victims' families' plea to the state that executing Will would not bring justice, Will was executed in July of 2017. I personally find it disturbing that even in the case where the murder victim's family disagrees with the death penalty that the state will still push on to kill.

He is the last person to be executed in the state of Virginia. As you all may know, the state of Virginia just abolished the death penalty this year.

Vice Chairwoman Nguyen:

Could you please finish up your testimony?

Nissa Tzun:

It is bittersweet and frustrating that they could not do it soon enough to save Will's life. His death has completely devastated his friends and family. The impact of his death is

immeasurable. The trauma his friends and family are experiencing is lifelong. There is no way to reverse what has happened. I ask everyone to please support A.B. 395 to abolish the death penalty in Nevada.

Karen Foster, Senior Minister, Unitarian Universalist Fellowship of Northern Nevada:

It is time to abolish the death penalty. This is a religious issue and a spiritual issue. For me personally and for many of us, the Unitarian Universalist's first principle calls us to respect the inherent worth and dignity of every person. I am very concerned that 100 percent of people on Nevada's death row are victims of poverty and therefore cannot afford legal representation of their own choice. I am very concerned that at least three individuals in Nevada have been released from death row based on evidence of their innocence, and other individuals charged with capital offenses have been similarly exonerated after decades in prison. We know that persons of color are disproportionately arrested, charged, and convicted of crimes, and we are very concerned about this disparity in regard to persons who are on death row. It is time for us to create a more humane and compassionate society and abolish the death penalty.

Stacy M. Newman, Assistant Federal Public Defender, Capital Habeas Unit, Federal Public Defender, District of Nevada; and Member, Las Vegas Chapter, National Lawyers Guild:

The Las Vegas National Lawyers Guild is emphatically in support of A.B. 395 [[Exhibit R](#)]. The death penalty in Nevada is demonstrably flawed for all of the reasons you have heard so far. We would like to emphasize some of those reasons why the death penalty must go.

First, Nevada's death penalty ensnares the innocent. At least three death row prisoners have been saved from execution based on evidence that they were innocent. Other people who have faced the death penalty were also exonerated after languishing in Nevada's prisons for decades. This error rate is inexcusable. It demonstrates that Nevada cannot and should not be trusted to wield this irreversible power over someone's life.

Second, Nevada's death penalty is racially biased. As put by some of our speakers and by the Equal Justice Initiative, "The death penalty is a direct descendant of racial terror lynching." In addition to the overrepresentation of Black people on Nevada's death row, the death penalty is up to three times more likely to be given for the murder of a white person than the murder of a Black person. These specifics demonstrate that the legacy of racism is indeed present in Nevada's death penalty.

Third, Nevada's death penalty does not serve legitimate purposes of punishment. There is no evidence that the death penalty deters others from committing capital crimes. The rates of violence amongst death row prisoners remain lower than general population prisoners. The constitutional requirements that death penalties meet heightened standards of scrutiny means that death penalty litigation can last for decades. All of these factors underline the penological justifications for keeping the death penalty.

Fourth, the people on Nevada's death row are overwhelmingly poor and come from disadvantaged backgrounds. The United States Supreme Court requires that capital punishment be limited to the worst of the worst offenders. But Nevada's death penalty seems to punish the most marginalized of the marginalized instead.

In closing, the Las Vegas Chapter of the National Lawyers Guild urges lawmakers to pass A.B. 395 to rid Nevada of the death penalty once and for all. Now is the time.

Alex Spelman, Private Citizen, Henderson, Nevada:

[Mr. Spelman read from written testimony, [Exhibit S](#).] I am in support of A.B. 395. I am a graduate of the William S. Boyd School of Law at the University of Nevada, Las Vegas, and serve the community as a local public defender representing individuals on death row. The question for this Committee is not about who deserves to die, but rather what power and resources we should entrust to our government. The death penalty is a multimillion-dollar program that does not deter crime, has racially biased outcomes, does not provide material aid to victims, and innocent individuals are continually discovered on death row. We have been trying to reform the death penalty for decades to somehow make it fair, but there still remains an overwhelming racial bias in the use of the death penalty, particularly against Black folks.

While Black Nevadans comprise only 10 percent of the state's total population, they make up about 35 to 40 percent of those on death row. Research shows official misconduct in capital trials is more frequent when the defendant is Black. False murder convictions are seven times more likely when the defendant is Black. The death sentence is more likely to be imposed when the defendant is Black, and the death penalty is utilized less frequently when the victim is Black rather than white. This fatal punishment is disproportionately applied against Black folks and on behalf of white folks. It is time to abandon the existence of this irreparably racist institution.

Further, innocent folks on death row should shock everyone. You have already heard the statistics. For most sentences, though, we have at least something of an available fail-safe—reversal and compensation for the wrongfully convicted. Yet, the execution of an innocent person is irreversible, and the dead cannot be compensated for their erroneous execution. We know how to fix it; less drastic, less expensive, and reversible alternatives exist that would still allow Nevada to achieve its public safety goals with the same degree of effectiveness without assuming these horrible risks. I think Nevada is better than this, and I urge you to support this bill to abolish the death penalty, bringing Nevada in line with nearly half of the other states and the vast majority of countries on Earth. Thank you for supporting this bill. It is the right thing to do and will help make Nevada a better place for all of us.

Micajah Daniels, Private Citizen, Las Vegas, Nevada:

I am a member of Black Lives Matter at the University of Nevada, Las Vegas. I want to take the time to really expand on the implications of the racial bias within the death penalty and adjust how we can come together as a state to set priorities. The Southern Nevada Health District declared racism as a public health crisis on June 5, 2020, and the State of Nevada

declared racism as a public health crisis on August 5, 2020. Racism, as a system, disproportionately affects and unfairly disadvantages individuals based off of race, which is a paraphrase from past President Camara Phyllis Jones of the American Public Health Association. To achieve health equity, we must address injustices caused by racism. Working together, I believe that we can create the change necessary to prohibit a system that has clearly demonstrated a racial bias as well as caused moral implications of killing people.

Nathaniel Erb, Policy Advocate, Innocence Project:

We are in support of A.B. 395. In signing the latest abolishment of the death penalty, Governor Ralph S. Northam of Virginia noted, "We can't give out the ultimate punishment without being 100 percent sure that we're right, and we can't sentence people to that ultimate punishment knowing that the system does not work the same for everyone." The primary lesson that must be learned from those exonerated in Nevada is that our criminal justice system can and does convict innocent people. The convictions of Nevada's exonerees span more than three decades. These include people sentenced to death and more as you heard this morning against whom the death penalty was sought but did not succeed. According to the Death Penalty Information Center, 185 people have been exonerated from death row over the last 48 years across the country. Included among that group are many Innocence Project clients and survivors.

The National Academy of Sciences, as heard this morning, determined that the likely number of innocent people on death row who were already executed is at least double those exonerated. The case of exonerees in Nevada alone show that conviction of the innocent is not tied to one prosecuting office, one precinct, one judge, or even one quarter century's approach to criminal justice. While we can and must make reforms, we cannot escape the fallibility of a system that determines who should die.

Our written testimony [[Exhibit T](#)] goes into further details on the data surrounding official misconduct, false confessions, and other miscarriages of justice that pervade throughout the case of exonerees as well as the barriers to proving innocence once convicted. We cannot state with certainty that Nevada's criminal justice system will always uncover actual innocence in capital cases. Given the range of potential error, even an excellent judicial case review process simply cannot fairly be expected to identify every miscarriage of justice without fail, in a timely manner, to ensure that no person is unjustly executed.

It is for these reasons and those stated in our written testimony that the Innocence Project supports A.B. 395.

Marlene Lockard, representing Nevada Women's Lobby:

We are in support of A.B. 395 for all of the reasons and the in-depth testimony that you have heard this morning and the experiences of individuals that you have heard from. There are so many wrongful convictions and uncertainty in the process, the length of the process, not to mention the cost to the state in investigating and conducting death penalty cases. We feel this bill is worthy of your support and passage and urge your positive consideration.

Vice Chairwoman Nguyen:

We will take our last caller in support of A.B. 395.

Thomas Hassen, Private Citizen, Reno, Nevada:

I am in support of A.B. 395. My first experience with Nevada law enforcement resulted in four firearms in my face. I was 13 and tried to explain that I was just waiting for a friend, but I guess I was not convincing enough and as disturbing as that might sound, it is by no means extraordinary. Racial undertones and overtones overshadow much of the history of the legal apparatus established to enforce the laws of American society. And though some may debate the reasons for existing disparities, we can largely agree that something is deeply wrong here. If only 24 percent of United States adults have confidence in our criminal justice system, a crucial question must be asked: Why should such a distrusted system have the power to make a decision as permanent as death? As a Black Nevadan, I have seen firsthand that the flaws we are so quick to criticize in other states' legal systems are just as present and dangerous right here in our home state. It does not take an experience like mine to understand that we are not an exception to the rule of racialized policing, though it does serve as a blunt reminder. The same deadly features of our criminal legal system that more than 2,000 American cities and 60 different countries protested last summer are the same ones governing the death penalty and we need to stop treating it that way. The system of punishment is not working the way we think it should and the only way we can stop it from making mistakes we will not be able to fix is by passing A.B. 395 and abolishing the death penalty in Nevada.

[[Exhibit U](#), [Exhibit V](#), [Exhibit W](#), [Exhibit X](#), [Exhibit Y](#), [Exhibit Z](#), [Exhibit AA](#), [Exhibit BB](#), [Exhibit CC](#), [Exhibit DD](#), [Exhibit EE](#), [Exhibit FF](#), [Exhibit GG](#), [Exhibit HH](#), [Exhibit II](#), and [Exhibit JJ](#) were not discussed but were submitted in support of A.B. 395 and will become a part of the record.]

Vice Chairwoman Nguyen:

I will close testimony in support of A.B. 395. I recognize that there are quite a few people who are still on the line to testify in support of A.B. 395. I encourage those to reach out to Committee members as well as submit your comments in writing.

We have four individuals on the Zoom to testify in opposition. I will allocate the same amount of time for opposition testimony that I did for testimony in support. I will provide them a little leeway outside the two minutes to allow them to expand on their position as I think this conversation is deserving of a more balanced approach in addressing this. There will be an opportunity for questions after opposition testimony is concluded. We will designate one person to address the questions at that time.

Tyler Ingram, District Attorney, Elko County District Attorney's Office; and President, Nevada District Attorneys Association:

We are here in opposition to A.B. 395 [[Exhibit KK](#)]. I have been a prosecutor for over ten years, so I do not speak before you today pretending that I have more lawyer experience than some of you in the room. I do not have more experience than Mr. Hicks from Washoe

County or Mr. Wolfson from Clark County. However, I do imagine that I have more rural prosecution experience than most people attending this hearing today.

I hope that I am wrong, but it can seem that rural counties are looked at through a somewhat different lens especially as it relates to criminal justice issues like the death penalty. I simply want to reiterate that the prosecutors in my office pass the same bar exam and apply the same law that the prosecutors in the larger counties do. We apply the same ethical rules and apply the same measure of compassion and justice for both defendants and victims. We do not indiscriminately apply the death penalty. Despite some people's belief, we are not rogue. We may be different in some ways, but we are not self-righteous vigilantes who abuse the legal process. We are kind, we are understanding, and we are every bit as confident as every other lawyer in this state. We are not hard-nosed. We are not bulldog. We are advocates, just the same way that defense attorneys are advocates.

During my time with Elko County, our office has reviewed at least ten cases for death penalty decisions and have pursued the death penalty in two of those cases with the possibility of adding a third in the near future. Those three examples represent cases that are unthinkable, barbaric, and devastating for our entire community. An argument presented last session on a similar bill was that a prosecutor can fit almost any first-degree murder case into at least one of the aggravating factors. Even if we accept that as true, those who make that argument seem to overlook the fact that that is not the end of the line. We, as prosecutors, also weigh the aggravating factors against those mitigating factors in making our decision to seek the death penalty.

My office chose in at least six of the death penalty eligible cases that we could not ethically ask a jury to impose the death penalty because we did not believe that the aggravating factors outweighed the mitigating factors. Likewise, if we seek the death penalty, there is yet another check on its imposition. A jury must carefully weigh aggravating and mitigating factors. If a jury decides that it is an appropriate punishment, then I respectfully believe that lawmakers should not second-guess the careful consideration from jurors who made the decision on behalf of their community after hearing all of the evidence.

I wish people understood and gave prosecutors credit for the fact that we have just as much of an obligation to protect a defendant's constitutional and statutory rights as their defense attorneys do, and we take that responsibility seriously. In making a decision on whether to pursue the death penalty, I nearly always ask for the victim's family's input. That is an uncomfortable talk to have. I have witnessed firsthand nearly all perspectives about the death penalty from those family members. Some think that nothing but the death penalty would be justice and others believe that life in prison is justice to them. Again, in reviewing the minutes from last session on a similar bill, an argument that imposing the death penalty does nothing to provide justice or closure to a family is just simply too much of a generalization. How can any one person individually proclaim that it is not justice for the rest of the victims' families. Respectfully, we do not have that right. Individualism should be embraced, and we should not second-guess their feelings. Removing the death penalty will undoubtedly remove that option for those who feel that the death penalty is justice. In

making this point, I never intend to diminish or disrespect those people who believe that the death penalty is not justice for them. I simply respect uniqueness.

Please do not make the cost of the death penalty the most important factor. In a time when it seems that we are focused on decriminalization and lessening punishment for criminal behavior, let us not forget that there is value in justice and there is value in punishment without regard to monetary costs.

Steven B. Wolfson, District Attorney, Clark County District Attorney's Office:

We oppose this bill, and I want to talk about the reasons why. Rather than rehashing the same debate in polarizing absolute terms, I suggest that the perceived defects in the administration of the death penalty be addressed in practical terms. My preference for this is based on two beliefs. I believe the death penalty should be an available punishment option here in Nevada. The events of 1 October and more recent tragedies in Colorado and Georgia reinforce this belief. Yes, October 1, 2017, was a day that will forever live in infamy. An evil person murdered 60 people—yes, 60 people—not 8 like Georgia or 10 like Colorado; 60 people were shot in cold blood.

If the killer in the 1 October massacre had not cowardly taken his own life, I would not have hesitated to have sought the death penalty in that case, and I would have personally prosecuted that killer. We seek the death penalty in killings involving children where extreme torture or mutilation is involved or where there are multiple decedents. We do not make these decisions lightly.

The criminal justice system relies upon graduated punishment, and if the appropriate punishment for a single murder is life without parole, how do you punish a person who commits multiple murders? Should we punish someone who kills one person the same as someone who kills 2, 3, 10, or 60? I say no. Let me briefly give you some examples of graduated punishments. If a person drives while impaired with no accident or injury, it is a misdemeanor DUI. However, if a person drives and engages in the same behavior and causes substantial bodily injury or death, the charge is elevated to a felony. Another example is the crime of battery. If a person uses force against another person, it is a misdemeanor battery. However, if that same person uses force against a person they have a special relationship with, it constitutes domestic battery with increased punishments. Another example is the category of theft crimes. Based upon the amount stolen, a person can be charged with a misdemeanor, gross misdemeanor, or felony. Another example is burglary. We differentiate between commercial and residential burglaries. And finally, the crime of sexual assault: if a person commits a sexual assault upon another adult, there are certain penalties. However, if that same person commits a sexual assault upon a child under the age of 16, there are increased penalties and again, against a child under 14, there are even increased penalties beyond that.

The crime of murder should be no different. If we abolish the death penalty and a person who was convicted of first-degree murder can only be sentenced in two ways, life with or without the possibility of parole, that is not right. That is why we have the graduated

punishment of the death penalty for those who fall into the category of the common phrase which is used by so many, including myself, "the worst of the worst," because there are differences between perpetrators and crimes.

While I support the death penalty, I am not insensitive to the concerns raised. Most voters in Nevada still support the death penalty. I have heard about different polls, I have seen different polls, but my information is the majority of Nevadans still support the death penalty. So instead of having the same conversations that end up in wholesale endorsement or abolition of the death penalty, I would like to move away from the symbolism and toward a considered assessment of what can be changed to address some of the concerns of those who oppose the death penalty.

In my travels, most people who complain about the death penalty complain about the fact that it is taking so long, not that we should not be imposing it. It is not because we do not return a verdict of death, we are just not getting it done. How about looking at the process. One concern that we frequently raised is the fear of a wrongful conviction resulting in the imposition of the death penalty. I understand that; I get it. As an elected district attorney, I believe there would be no greater tragedy than this—convicting a person who is not guilty. Nevertheless, in most capital cases the evidence of guilt is overwhelming. If the perpetrator of 1 October had not committed suicide, there would be no question as to his guilt, much like the cases in Colorado and Georgia.

To address the concern of a wrongful conviction, the Legislature could require that the jury make an additional finding of no residual doubt at the penalty phase of a trial in order to proceed with consideration of the death penalty. Another concern I have heard is that too many cases are capital. Personally, I have filed far fewer death notices than other Clark County district attorneys. I strongly believe that the death penalty should be reserved for the very rare and extreme circumstances. That is what I have done in my almost ten years being the district attorney of Clark County. In fact, last year we only filed two notices of intent to seek the death penalty. I want to remind this Committee that we do not impose the death penalty. Prosecutors file the notice giving the jury the option. It is the juries who determine whether death or a lesser punishment of life with or without is appropriate in an individual case.

If one holds the opinion that the death penalty is morally untenable under any circumstance, these suggestions will not be persuasive. But if there is a genuine concern about the application of the death penalty versus the idea of it, the solution is to engage and refine the law, not abandon an option the voters' support.

Christopher Hicks, District Attorney, Washoe County District Attorney's Office:

The United State Supreme Court and the Nevada Supreme Court have both held that capital punishment is in fact constitutional. It is legal in most of our states and it has been the law in Nevada since statehood, 157 years minus the 4 years it was abolished federally. In 2017, a Mellman Group poll conducted in Nevada found that 66 percent of voters support keeping the death penalty. A recent 2021 poll conducted in Nevada that was referenced in the

support section of this bill conducted in Nevada found that 36 percent of Nevadans believe the death penalty is the most appropriate penalty in every first-degree murder case. That is despite its sparing and judicious use by prosecutors in those cases.

Assembly Bill 395 eliminates a community's ability through empaneled jurors to consider imposing the death penalty in our state's most heinous murder crimes, and it commutes the death sentences of all the horrendous murderers currently on death row—lawful sentences, administered by juries, and relied on by devastated victims. Victims—that is a demographic you all need to carefully think about when debating this bill. In every death penalty case in Nevada, entire families become victims—the victims who suffered unthinkable fates and their loved ones who carry the pain and suffering of their loss and the gut-wrenching agony that comes with knowing what happened. These families carry that every day for the rest of their lives.

In my time in the Washoe County District Attorney's Office, which is just over 16 years, two death sentences have been sought and imposed by a jury and one is currently being prosecuted. Those cases represent the worst of the worst, in just 1 percent of the murder cases prosecuted in that same time frame. As you contemplate this bill, I think it is important that you consider what these murderers did.

On September 14, 2006, Tamir Hamilton raped, tortured, and murdered a 16-year-old girl named Holly Quick in her own bedroom. He took his time, he stabbed her over 40 times, and nearly decapitated her. Holly's mom found her the next morning. A few weeks before that, Hamilton repeatedly and violently raped a 20-year-old girl. A jury sentenced him to death.

In 2017 and early 2018, James Biela committed a series of rapes on young college girls in Reno, Nevada. His first victim was raped at gunpoint on the concrete floor of a parking garage on the University of Nevada, Reno, campus as she was leaving class. The second victim was choked to unconsciousness as she returned home from studying, was kidnapped and then raped repeatedly. Biela's last victim, Brianna Denison, was abducted, raped, and then strangled to death. Her lifeless, naked body was discarded by Biela like a piece of trash in a vacant lot. The jury sentenced him to death.

It is currently alleged that in January of 2019, Wilber Martinez-Guzman violently murdered four people in their homes in northern Nevada over a seven-day span. Connie Koontz was shot in the home she shared with her 87-year-old mother, who found her body. Sophia Renken, age 74, was shot multiple times in her home where she lived alone. Lastly, Sherry and Jerry David, age 80 and 81, respectively, were shot multiple times in their ranch home in Reno. My office and the Douglas County District Attorney are currently prosecuting this case. We plan to ask a jury to sentence Martinez-Guzman to death.

Simply put, some crimes are so heinous and inherently wrong that they demand strict penalties, up to death. Most Nevadans recognize this principle as just and want to keep this option when sentencing these worst of the worst offenders.

Contrary to what has been suggested by proponents of the bill today, elimination of the death penalty will not create a windfall of savings. The death penalty is sought so infrequently that the cost difference will be minimal. Moreover, the 2014 LCB audit [\[Exhibit N\]](#) that you have heard about today was misleading. Prosecutors did participate in that audit. That audit was based on unverifiable estimates and attempted to quantify costs that exist in county budgets whether there is a death penalty or not. In fact, A.B. 395 will waste money as it will render useless the \$860,000 this Legislature appropriated just three sessions ago to build a new facility where lethal injection can be administered.

There is a drug to carry out an execution. Correspondence with the former Director [James Dzurenda] of the Department of Corrections in 2017 reveals that the state is, in fact, able to carry out a lethal injection should it be ordered, and 17 executions occurred in the United States just last year. Our neighboring state of Arizona has a new supplier of the lethal drug and will start executions again soon.

Another point that was made was that life without the possibility of parole is just that; the person will live in prison for the rest of their lives. That is not true. We have a State Board of Pardons Commissioners within the Department of Public Safety that is composed of the Nevada Supreme Court justices, our Governor, and our Attorney General. They regularly consider the commutation of life without murder sentences. Just last week, my office argued a case in front of the Pardons Board where they were considering commuting a life without the possibility of parole for a first-degree murder sentence to life with the possibility of parole. My point is that life in prison is not necessarily life in prison.

I would encourage this Committee, like Mr. Wolfson did, to consider a different policy: fixing our damaged death penalty system like a majority of voters in California voted to do in 2016 [California's Proposition 66]. The policy of our state should be to uphold the rule of law and respect our court-ordered sentences. The victims of these heinous crimes deserve it. Moreover, we should not overlook the reality that these victims will not be the last. It is a terrible fact that there will be more victims and they all deserve justice.

Vice Chairwoman Nguyen:

You mentioned something about the LCB audit [\[Exhibit N\]](#) so I would encourage all of our members to go back and look at that. I do not necessarily agree that our LCB staff did not do their jobs appropriately, so I would encourage everyone to look at that documentation on their own. For our members, I know that we had some comments about the polling that was referenced as well as some of the other statistics that you used, and I wanted everyone to know that I have been in contact with Mr. John Jones who represents the Nevada District Attorneys Association and he will be getting that information to the Committee members as well.

Pamela Weckerly, Chief Deputy District Attorney, Major Violators Unit, Clark County District Attorney's Office:

I supervise the prosecution of murder, gang, and gun crimes cases. My personal caseload consists entirely of murder cases. As was raised this morning by numerous speakers in

support of the bill, the cost of the death penalty or capital punishment is often raised as a reason to abolish it. I have been prosecuting murder cases for 18 years as a deputy district attorney in Clark County, and I have been a deputy district attorney longer than that. I must confess that I have never really understood this argument.

First, at a basic level as discussed by the elected district attorneys, if they are judicious in deciding which cases to seek death in, there is an automatic and immediate cost savings to the judicial system and also to respective offices on the prosecution and defense sides. Second, in preparing for this hearing I read the minutes from the 2017 hearing [Assembly Bill 237 of the 79th Session, Assembly Committee on Judiciary, March 29, 2017] on the death penalty and many references were made to the 2014 audit [Exhibit N] of the costs of the death penalty. In fact, I was actually interviewed in 2014 by auditors, and I sincerely believe the auditors were honestly trying to produce an accurate result for the Legislature to make a decision.

The problem is that criminal law and criminal prosecution is a fact-specific business. As an overview, I recall auditors asking me how much time in hours I spent on capital versus non-capital murder. I told them I could not make that sort of distinction. As a trial lawyer, my concern is proving my case beyond a reasonable doubt whether it is capital or not. The hours I spend in preparation are devoted to meeting that burden. I have spent countless hours on cases that I ultimately had to negotiate to an involuntary manslaughter charge, which carries a penalty substantially less than the death penalty. In fact, in general, I would say that capital cases almost always have a tremendous level of proof.

I do not say this to be flippant or to suggest to this Committee that capital cases require no preparation. They do, and I can tell this Committee that no one I work with minimizes or dismisses the gravity or solemnity of the prosecution of a capital trial. Those cases weigh on us as prosecutors, but if the question is about working hours, there is no easy calculation based on whether the case is capital or not. The inconvenient truth is that all cases are different due to the facts and the level of proof presented.

The good news for taxpayers in Clark County is that I am a salaried worker. I get paid the same amount whether I work 40 hours or 100 hours in a particular week. So, I do not cost the taxpayers any more money if I am prosecuting a capital case or not. The same is true for my colleagues on the defense side at the Clark County Public Defender's Office and the Special Public Defender's Office.

The third point with regard to cost made by the defense and by Mr. Coffee this morning is that capital work requires the defense to work up a mitigation case for sentencing. They have explained that this means that they must trace their client's personal history from birth to the point of the murder in an effort to spare a client the maximum punishment. I have been involved in several of these hearings and I can attest to the dedication and work put forth by defense attorneys in these mitigation cases. From my experience, they do a remarkable amount of work and truly leave no stone unturned, and rightly so. Every fairness and consideration is owed to a defendant being sentenced for murder. Where I question the

cost-savings alleged by my colleagues on the other side is this: if we are talking about depriving someone of ever getting out of state custody, how could those same mitigating circumstances suddenly become irrelevant? Every mitigating circumstance would be just as important in sentencing as death penalty were not an option. If that is the case, there would be no, or very little, cost savings. The mitigation case would be to avoid life without the possibility of parole rather than death and no savings would result.

I am not here, however, to tell this Committee that in my experience the costs between capital versus non-capital is identical. In truth, I think on average capital cases do cost more, but it is slightly more and it is case-dependent. In my estimation it is nowhere near the numbers the audit suggested. All litigation ends up in postconviction appeal filings in both state and federal court, and that is whether the case is capital or not.

In the end, the question is whether this cost is warranted in a particular case, and that lies in the discretion of elected district attorneys who are elected by the voters in their communities. I can tell this Committee, however, that when I meet with families of murder victims, more families than not ask about whether the death penalty is an option, and I would respectfully say to this Committee that those families are part of the community as well.

Vice Chairwoman Nguyen:

We will now begin opposition testimony from those on the phone. I will remind everyone to limit their testimony to two minutes.

Lynn Chapman, State Vice President, Nevada Families for Freedom:

I do not have any revenge in my heart. It is only sorrow and loss. I keep hearing about cost. What about the cost to the families of the victims? When you get the phone call that your loved one has died, the first thing you think is a car accident or heart attack or what. When my father called me about my brother's death, he could not even speak he was so overwhelmed. It took a while for me to find out what in the world happened to my brother.

He was working in the logging industry as a scaler. He worked at a place in a very small town. There was a man there that was reckless in his work and it was putting people's lives in danger, so my brother was asked by all the other guys to write the Bureau of Land Management, U. S. Department of the Interior, and the owner of the lumber company. This reckless man knew my brother did that. Two weeks later, my brother was going into the employee parking lot. This man was in a log loader, which is a huge vehicle, and he was illegally in the employee parking lot with that vehicle. When my brother was about 25 feet away from his parking spot, this man backed up that log loader and ran over my brother and crushed him to death.

That was a violent death and it is barbaric. The torture of victims is barbaric. It affects the families' lives forever with the horrendous, barbaric way that our family members are killed and murdered by people. I wanted to ask how many innocent people have died at the hands of others—in a lot of cases, brutally murdered at the hands of others. What do we tell them? What do we tell the families? The cost to the families is no way to even put a dollar amount

on it. We seem to be able to get medications to end life for assisted suicide for people, but not for murderers. What is wrong here? This is terrible. I please ask you to oppose A.B. 395. This is not about revenge; it is sorrow and it is loss for the victims' families.

Steve David, Private Citizen, Susanville, California:

[Mr. David referred to written testimony, [Exhibit LL](#).] I am representing my siblings, Debbie, Diane and Larry. My father Jerry and stepmother Sherry David, along with Connie Koontz and Sophia Renken, were brutally murdered, senselessly, for the simple reason of stealing and having time to steal around them while their bodies lay in their homes. The arguments in the ineffectiveness of the death penalty—the system, I believe is flawed and broken and it needs to be fixed in order for it to work in the appeals and the *Constitution* and time constraints. As far as cost, what is the value of my dad, mom, Connie, and Sophia? Place a value on their lives if you can. As far costs, I want to refer to Charles Manson. He spent 40 years in the California prison system, and the cost? It would have been easier and less money to execute him.

I will mention that I was also a correctional officer in the penal system for 25 years, working in the investigative services unit, and was a disciplinary officer for most of those years. I will tell you that these people have no remorse. As far as peace of mind for the family, the person serving life knowing that they can communicate and have a social fellowship with their families that we are not afforded is appalling.

Forensics—nobody has talked about forensics. Forensics are so advanced from the 1970s that the probability of a case, of somebody being found guilty when they are innocent due to the forensics these days narrows it to almost nil. I kept an open mind during this thinking . . .

Vice Chairwoman Nguyen:

Could you please wrap up your testimony and submit any additional comments in writing?

Steve David:

I will. Thank you very much for your time, and I oppose this bill and appreciate your consideration.

Candy Rankin, Private Citizen, Sparks, Nevada:

My sister, Connie Koontz, was the first murder victim in a senseless spree that ended with four innocent people dead. I have always been in favor of the death penalty, and if any case truly justifies that sentence, this would be it. When a grown person makes the choice to kill four people, that is the ultimate selfish act and should be penalized as much as the law allows.

My sister, Connie, was the baby of the family, loved by everyone, and knew no stranger. When our 80-year-old mother found her lifeless body, I cannot imagine the pain she must have felt. Connie was her friend and caretaker. Your children are not supposed to die before you. Having to call my brother and tell him that his baby sister was shot and killed for the purpose of drug money was the worst thing I have ever had to do. Connie has a daughter,

Madison, who was only 21 when her mother was murdered. They were the best of friends, did everything together, spoke every day, and had a love for Disney that I have never seen before. Why the death penalty, people ask? Because a murderer who feels that they are justified in taking someone else's life, someone else's loved one, should not get the option of certain freedoms afforded to those in prison. We miss Connie every day, think of her every day, and try to think of only the good and fun times.

For these reasons and so many more I do not have time to explain, I feel very strongly the death penalty should not be abolished.

Carolyn Sullivan, Private Citizen, Sparks, Nevada:

My husband, University of Nevada, Reno police Sergeant George Sullivan, was brutally killed in the line of duty in 1998. Please understand some of the details of this murder. Siaoosi Vanisi stalked George, waiting for a moment when he was alone. As George exited his vehicle, Vanisi used a hatchet and hit George about the head and neck 25 times. Think about that—25 times. That is rage and hatred. Can you imagine what George must have looked like? Did he have a face left?

The argument here is that A.B. 395 will save money. If you are concerned about cost, then fast-track the death penalty cases. That legislation was passed many years ago, but the Legislature never funded it. Fast-tracking would be the deterrent that is a cornerstone of the law.

George's murder was particularly egregious, not just because of the violence, but this crime was planned well in advance. Siaoosi bragged to his family about killing a cop for several days prior. The night before he killed George, he was out stalking police officers who appeared to be in a vulnerable position. Investigators also recorded notches in the doorway of his home where he had been practicing with a hatchet. He is a very smart man. When apprehended, he had a physics book in his backpack. He is calculating. He wore a wig the night of the murder, trying to conceal his identity. In 23 years, he has not taken responsibility for his actions. He knew right from wrong. After killing George, he stole his weapon and duty belt including his police radio, then stole a car, held up a convenience store for cash, and fled to Salt Lake City where he was apprehended three days later threatening police with George's weapon. The clothes he had been wearing that night were found in his cousin's apartment in a bag covered in George's blood.

Could Vanisi kill again while in the general population of prison, a prisoner or a correctional officer? He was violent time and time again in the Washoe County Detention Center, both after his arrest and again while awaiting trial. A special team from the jail was forced to subdue him just to move him around within the facility. He attacked the officers time and again.

If you have the stomach for it, pull the Vanisi file. Look at the pictures taken at the scene and at the autopsy. Then imagine someone you love suffering 25 blows with a hatchet to his head, face, and neck. Some murders are so heinous the only punishment should be a final

elimination from society for the protection of her citizens. Please protect us from these horrific criminals. Do not pass this bill. Fix the system instead.

Vice Chairwoman Nguyen:

Is there anyone else who would like to testify in opposition?

Jennifer Otremba, Private Citizen, Las Vegas, Nevada:

[Ms. Otremba read from written testimony, [Exhibit MM](#).] I am here in opposition of this bill. I would like to tell you about my precious daughter, Alyssa. She was my oldest of three girls, and my world was shattered when she was brutally murdered. September 2, 2011, Alyssa was walking home from borrowing a textbook from a friend. It was 6:38 p.m. when she texted me that she was walking home and her phone was going to die but she would be home within a half hour. Exactly 30 minutes later I texted her and there was no response. I called and no answer. I immediately started searching for my 15-year-old daughter in nearby parks and talked to anyone I could see to see if they had seen Alyssa. I called the police and had an officer at my home while others were patrolling and keeping a lookout for a girl fitting her description. It was 24 hours later when her body was found approximately 300 feet behind our home in a vacant desert lot.

As the details unfolded, I learned that Alyssa was within feet of the pedestrian gate at the end of our street when she was attacked by 19-year-old Javier Righetti. He had left his home with a knife from his kitchen. He spotted her walking and he proceeded to follow her for a couple of blocks before he attacked. He kidnapped her, dragging her out into the desert lot. The uneven terrain and bushes made it so that no one could see them as he sexually assaulted her and then raped her. He tortured her, stabbing her more than 80 times in her head, neck, body, and then carved an "LV" for Las Vegas into her thigh because it made him feel "gangster."

Just when you think it cannot get any worse, he returned hours later and poured gasoline on her and lit her body on fire. The coroner had to use dental records to identify her mutilated body. During the autopsy, the tip of the knife was discovered and had broken off in her skull. Her remains were in such bad condition that we were advised not to see her because we should not remember her like that.

There are no adequate words to describe what this horrific loss has done to our family and our community. Every area of our lives was affected by the decision of this stranger. It has divided a family, created physical and mental health problems, caused unending nightmares, anxiety problems, and much more. But in the midst of the ongoing struggles, we continued to cling to the belief that justice would prevail. We waited patiently for 5 1/2 years for Alyssa's murderer to go to trial. There was justice to be served . . .

Vice Chairwoman Nguyen:

I am so sorry; you are at your two minutes. Could you please wrap up your testimony and submit any other comments in writing?

Jennifer Otremba:

He was found guilty on March 16, 2017, and on March 21, 2017, a jury sentenced Javier Righetti to death for the gruesome murder of my daughter Alyssa. It was eight days after that death that I appeared before this Committee to testify on behalf of justice for my daughter. I believe that it had finally prevailed and although he had not killed before, at his own admission, he had assaulted and raped before, and Alyssa was not his first victim. I thought she would be his last. However, the media reported last year that he stabbed another inmate, sending him to the hospital and he was then put on life support. Alyssa did not deserve to be taken from us in this horrific way. Javier earned his punishment. He did not consider Alyssa's life, so why should his life be considered? Our family waited a long time for justice to be served. Death is a fair sentence for what he chose to do that day. I waited 5 1/2 years for justice for my daughter, and if I have to continue to fight politicians for the rest of my life to ensure that justice is served, then I will do that.

[[Exhibit NN](#), [Exhibit OO](#), and [Exhibit PP](#) were not discussed but submitted in opposition to [A.B. 395](#) and will become part of the record.]

Vice Chairwoman Nguyen:

Is there anyone else who would like to testify in opposition? [There was no one.] For the record, I did allot 40 minutes for testimony in support of [A.B. 395](#) and we are at 44 minutes for testimony in opposition. Is there anyone who would like to testify in the neutral position? I will remind the callers on the line, especially those who were potentially on the phone in support, that this is the time for neutral testimony.

Dayvid Figler, Private Citizen, Las Vegas, Nevada:

While it may come as a surprise to some that anyone could be neutral on such a hot subject matter for our state, I indeed come that way for a number of reasons. First of all, I am a criminal defense attorney who is Rule 250-qualified to do capital defense work and have been doing such since the 1990s. I was one of the litigators involved in a case in the Nevada Supreme Court which overturned the three-judge panels' ability to impose the death sentence, which unfortunately was not applied retroactively but did start, from December 2002 forward, leaving it to juries.

The reason I come before this Committee today in neutrality is simply because it leaves so many challenges of our prison and punishment and district attorney abuses that all add up to a broken system unanswered. We heard testimony in opposition today that says that this is reserved for the worst of the worst, but we understand that the "worst of the worst" is an undefined term and gives unfettered power to the government. They say it is used judiciously, but there are so many examples of crimes themselves that are worse than those that were given as examples where the death penalty was not imposed. Indeed, all first-degree murder cases are eligible for the death penalty. There is no required narrowing and the Nevada Supreme Court has not squarely addressed this lack of narrowing but is instead deferred to the legislation. While I applaud the efforts to reign in and create a fix by ending the inappropriate killing of the incarcerated, the measure itself does not address the

bigger issues regarding the misuse and misconduct of not only the death penalty, but many of the schemes of punishment.

Indeed, what I have not heard discussed today is the fact that the issues of *Batson* [*Batson v. Kentucky*, 476 U.S. 79 (1986)] violations or jury selection, which is inappropriate based on racial concerns, is not out of the picture for the death penalty but in fact is indeed very much so at the forefront of it, and many convictions . . .

Vice Chairwoman Nguyen:

Mr. Figler, I am going to stop you right now as your testimony at this moment is not added information on the bill. Right now, we are taking neutral testimony on A.B. 395. I would ask you to call in during public comment on the general justice system and some of the failures that you see and would like to highlight. At this time, I will recategorize your comment as public comment for our record. If I can ask you to finish up in the next few seconds of your testimony.

Dayvid Figler:

I appreciate that. It is a nuance distinction and I appreciate your comments. Ultimately, I think that the death penalty and many of the systems of punishment are untenable as they exist. We talk in this bill about the default of life without the possibility of parole, which also has issues not addressed by this particular bill, and also the misuse of the death penalty, which has not been discussed and which is also at the heart of this bill. For instance, when the district attorney seeks it against individuals who are mentally challenged . . .

Vice Chairwoman Nguyen:

You are at your two minutes, Mr. Figler.

Dayvid Figler:

By default, we do need to address . . .

Vice Chairwoman Nguyen:

Is there anyone else who would like to testify in the neutral position?

Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada:

I just want to give general comments about the death penalty. Is it okay to do that now or during public comment?

Vice Chairwoman Nguyen:

Mr. Hojjaty, could I have you call back in public comment? If you have general comments about our justice system, I would ask that you wait until public comment. Is there anyone else who would like to testify in the neutral position? [There was no one.] With that, I will open it for questions from Committee members.

Assemblywoman Hardy:

First I wanted to say to all those families that have called in and shared their stories for our benefit, I am sure that each time you have to talk about what happened to your loved one at times is very difficult. My heart goes out to you and thank you for sharing your stories.

For the district attorneys, trying to understand how murder cases in general are handled, I know that all of you used words such as "heinous," "brutal," "egregious," "worst of the worst" when you are considering whether to have the option of the death penalty. You also said that the evidence of guilt is overwhelming and that the death penalty is used sparingly. Is that correct? Do I understand that correctly, that the aggravating circumstances and such—as all these cases that we have just heard—that is what goes into consideration when you decide if you are going to ask for the death penalty?

Steve Wolfson:

Yes, we conscientiously look at every case on an individual basis and we look at the circumstances surrounding the offense, the nature of the offense, and the degree of brutality or senselessness, if you will. We look at a person's criminal history. We look at whether there is one victim or multiple victims. We look at a myriad of issues when determining whether or not to seek the death penalty. Here in Las Vegas, Clark County, it is the minority of cases for which we seek the death penalty—a fraction, if you will. I think I said in my opening remarks that last year we only filed the notice of intent on two cases. The previous years were numbers around eight or ten of the many murder cases which we do consider. It is a minority of cases that we consider for the death penalty and we are very conscientious in the criteria we use in making that decision.

Assemblywoman Hardy:

Thank you. I thought I heard you say in 2020, only two of those notices were filed, so you did cover that. Also, I believe you mentioned that when you are considering that penalty, you do discuss with the victim's family how they feel about that. Is that correct?

Steve Wolfson:

It is very common for us to meet with the family members of the victims and we do that in many, many cases—not just murder cases, but in particular, murder cases and cases involving the death of a loved one, because we want their input. I would say that in the majority of cases, the family members of murder victims want us to seek the death penalty. Again, we do not impose the death penalty, but if we decide in that small fraction of cases that it is a worthwhile option, we ask the jury to consider it. But, yes, we meet with victims' families on a regular basis, especially in capital cases.

Assemblywoman Hardy:

I appreciate that, and these are big decisions and I appreciate the care and all that goes into this. The prosecutor is not imposing these; it is just a notice of an option that is sent to the jury. Do I understand that?

Steve Wolfson:

That is exactly right. When we decide to seek the death penalty, it is one of the options given to a jury. The ultimate decision, whether to impose the death penalty or life with or without the possibility of parole is absolutely up to the jury.

Assemblywoman Summers-Armstrong:

If you are in communication with families about the death penalty as an option for punishment, have you ever filed death penalty charges in opposition to the wishes of the family?

Steve Wolfson:

I think it would be rare; it would be the exception. If the family was feeling so strongly that we not file the death penalty, I think generally we would honor that. Because we have to think about if we file the notice of intent to seek the death penalty and the accused person is found guilty and we go to a penalty hearing, that the family members would express the same feeling to a jury: that they do not wish the jury to return a verdict of death. That would make it more likely that the jury would return a verdict of something less than death. So, I think that it would be the exception rather than the rule that we would file the notice when the family members explicitly ask us not to.

Assemblywoman Summers-Armstrong:

Specifically, have you, since you have been in office or any of your deputy district attorneys whom you employ, filed death penalty charges in a case when the family said they did not want it?

Steve Wolfson:

I have been the district attorney now a little over nine years, and we have filed notices perhaps 50 to 80 times in those nine years. I believe we probably have filed notices when the families wished us not to. But the family input is just that, it is input. It does not control our decision, because our ethical obligation, our moral obligation, is to seek justice in a particular case.

Assemblywoman Summers-Armstrong:

Mr. Wolfson, if I might just ask another question, Madam Vice Chairwoman?

Vice Chairwoman Nguyen:

If we could let Mr. Wolfson finish his answer on that, then you will be able to follow up.

Steve Wolfson:

The point I am trying to make is that the victim's input is important and we consider it strongly. But there are some cases, I have to think in going back nine years, where there were multiple victims and the perpetrator's criminal history was such that it was so violent that we believed that justice required us to give that option to the jury rather than fall on the request of the victims' families. These are tough decisions, and when a family does not want a particular penalty, it is hard to go against what they want. But justice is what controls our

decision, and if it is particularly violent, heinous—multiple victims, bad criminal history of the perpetrator—yes, I am not going to say we have not done what you have suggested.

Assemblywoman Summers-Armstrong:

What we are hearing from you, Mr. Wolfson, is that even if a family who had experienced this has asked you not to, it is your choice and your office's choice at the end of the day to determine what sentence you want to seek even if the sentence is contrary to what the family wants, disregards their pain, disregards their interest. I am concerned with that because it seems contradictory to what we heard earlier today. It is just very concerning to me.

Steve Wolfson:

My ethical obligation is to seek justice, and a victim's family's opinion is certainly important. But I also have the community and the other members of my community to consider. Justice is a broad term, but in seeking justice, there are many, many factors that go into a decision in what kind of prosecution to bring and what kind of penalty to seek.

Vice Chairwoman Nguyen:

Mr. Hicks, do you have any further comment on whether or not to answer Assemblywoman Summers-Armstrong? I just want to make sure we are encapsulating the entire state as part of our conversation.

Christopher Hicks:

I appreciate your asking. I do not have anything to add. Our process is generally similar to Mr. Wolfson's. We always consider what the victims' families have to say. In every death penalty case I have been involved in my career, they have been in support of it. I would also add one thing to consider as well. When we are contemplating whether or not we are going to seek the death penalty, we also accept mitigation evidence from the defense. That might help us better understand who their client is and whether or not acts occurred in their life that might mitigate against us seeking the death penalty.

Vice Chairwoman Nguyen:

Thank you, Mr. Hicks. Mr. Ingram, do you have any further comments on this as well?

Tyler Ingram:

Thank you, Vice Chairwoman. I agree with everything that Mr. Wolfson and Mr. Hicks said. I just wanted to address the question in that the ten cases that I spoke about earlier in my testimony, I have never gone against the wishes of the victim's family members.

Assemblywoman González:

Can someone who opposes the death penalty sit on a death penalty case?

Pamela Weckerly:

There are exclusions that can be made in jury selection by law. If someone cannot consider the death penalty under any circumstances, they are not qualified to sit on a capital jury. And the opposite side of that is, if someone believes that the death penalty is the appropriate

punishment in every case of first-degree murder and will not consider the other sentences or evidence in mitigation that is presented by the defense side in making that determination, they are not qualified to sit on the jury as well. As I am sure you probably suspect, we want jurors who are open-minded and will listen to everything that is presented before making a decision like that because, I am sure it is not lost on you, it is a weighty decision that they are going to carry the rest of their lives.

Assemblywoman González:

I just have a lot of concerns when we talk about juries and how we select them, but I recognize that that is definitely not a conversation for today's hearing. I am also curious to know in how many cases the state has sought the death penalty and how many times did the jury come back with death and how many times, of those, were the cases overturned?

Vice Chairwoman Nguyen:

Assemblywoman González, is that directed at one of the particular district attorneys?

Assemblywoman González:

No, anyone can answer.

Assemblywoman Nguyen:

I am trying to avoid the roundtable answers, but I will start with Mr. Hicks. If you do not have that information on hand, I understand that. If you could try to obtain that information and get it to our Committee members, I am sure that would be appreciated as well.

Christopher Hicks:

I do not have that information at my fingertips so I could only speak to Washoe County. I do believe we can get that to the Committee.

Tyler Ingram:

I can only speak to Elko County, and I believe that was one case. It was not a ruling of innocence, if I remember correctly, but that was far before my time here.

Vice Chairwoman Nguyen:

Ms. Weckerly or Mr. Wolfson, do either of you have that information?

Steve Wolfson:

I do not have the particular numbers right now, but I could certainly provide them. I can tell you that, as I stated before, in my nine years as the district attorney, I have sought the death penalty 50 percent less than my predecessor did for the many years he was the district attorney. Last year, we only sought it in two cases. I do not have the number that the jury actually returned. It is a fraction of those where we filed the notice, but I can certainly provide this Committee with the actual numbers in the near future.

Vice Chairwoman Nguyen:

Assemblyman Yeager, do you know if any of your presenters may have collected that information as well?

Assemblyman Yeager:

I believe Mr. Coffee might have those numbers. He has been tracking this for quite some time.

Scott Coffee:

I provided exhibits [[Exhibit C](#), [Exhibit D](#), and [Exhibit E](#)] for the Committee. Ms. Weckerly and Mr. Wolfson, please feel free to check my numbers. I can provide case numbers for everything I am about to say. Over the past decade since January 1, 2010, there have been 150 death cases that resolved, 37 verdicts resulting in 16 impositions of the death penalty. I think that answers the question for Clark County, anyway. When it goes to trial, juries are about 60 percent likely to return a verdict of less than death, and only about a quarter go to trial.

Vice Chairwoman Nguyen:

Did any of those, at least in your records, result in not guilty?

Scott Coffee:

Yes, Michael Simmons [Mr. Coffee corrected this to "Maurice Sims" via email]. I think Ms. Weckerly was the prosecutor on that. It was capital the first time around and it was a not guilty in the second trial. It was no longer capital because the death penalty was off the table by the time of the second trial, which was a hung jury, but that resulted in a not guilty where the state sought the death penalty.

Vice Chairwoman Nguyen:

Mr. Coffee, if you could also provide that written documentation that you might have for the Committee members and we can distribute it among them.

Scott Coffee:

It was provided.

Vice Chairwoman Nguyen:

I will direct members to the exhibits [[Exhibit C](#), [Exhibit D](#), and [Exhibit E](#)] that were presented. At this time, I have allotted a little over 20 minutes for additional questions. Are there any other questions from the Committee? [There were none.] I would invite the presenters back for any brief concluding remarks.

Assemblyman Yeager:

With your permission, I assure you we will be brief, but I would like to give Mr. Coffee and Ms. Hart a chance to make some very brief concluding remarks before my closing remarks.

Scott Coffee:

I think by now the problems are apparent with Nevada's death penalty system. Mr. Vilorio talked about prosecutors and how motivations can enter the judgment as to whether or not to seek the death sentence. And I think that is definitely true. I need to give credit to Mr. Wolfson. I consider him a friend and he does listen to us present mitigation, which is a nice change from his predecessor. With that said, I do not believe that filings are down. I do not think 62 pending cases is in any way, shape, or form sparing judicious use of the death penalty—that is, as the number one ranked in pending capital cases per capita in the country out of 3,000 counties.

I understand last year we only filed two capital cases, but in retrospect, I believe that has as much to do with COVID-19 as anything else. This year, we have already filed three. The average under Mr. Wolfson's administration has been about 10 a year, give or take, with highs in 2017 when they filed 16. I am fairly aware of how many they are filing. Despite what we have talked about the need for the death penalty with multiple homicides, the vast majority of these cases are not multiple homicides.

I have heard that some cases simply require the death penalty, and I understand that, so long as the death penalty is on the books. I have heard that it is necessary for graduated punishment, but the truth is graduated punishment in this instance is an absolute myth because we have sent 161 men to death row and we have executed 1 involuntarily. So whatever label we put on these cases, they are, in effect, life without parole. There is nothing we can do about that.

I agree with the callers, and my heart goes out to all of the callers who have been victims, and I do not want to minimize anything that might happen. But the truth is, if we promise these people that the justice of the death penalty is coming, we have made a false promise because we are not carrying out the death penalty. I have heard discussions that we need to fix the death penalty, but the truth is we have tinkered with it for 40 years and we have not been able to fix anything. I thought it was interesting that there was a comment concerning the death chamber and that we have not used it. I had a friend who once told me, No matter how far you have gone down the wrong road, it is always time to turn back. I think that is the case with the death penalty in 30 years of tinkering.

We talked about juries—and the juries do return death penalty verdicts—and the need to respect their verdict. But the fact is these juries are somewhat tilted. If you do not believe in the death penalty, you cannot sit on a jury, which disqualifies nearly 50 percent of our jury pool. In addition, even the people who are predisposed to the death penalty are returning death in less than half of the cases. So on top of everything else, as far as juries go, the juries are uninformed. Juries are instructed in a capital case that they are to anticipate that capital punishment will be carried out, that the person will be executed, and that is simply not true. They do not have the information that this Committee has. I do not want to take anything away from the victims, and I understand the desire for the death penalty for these people. But the fact of the matter is, we are not executing people in Nevada and we have not for a long time.

I heard a caller mention that we should speed up the appeals process. I am, again, familiar with that process. But it has not happened. When the federal government tried to speed it up with the Antiterrorism and Effective Death Penalty Act of 1996, it did not speed anything up. We have not sped anything up; even California's Proposition 66 did not speed much up either.

In closing, I think the death penalty is broken. It has been broken for a long time. It creates false promises for victims. I urge this Committee to pass A.B. 395. I think it is good for Nevada, and I think it reflects the reality of what we have got.

Nancy Hart:

Now is the right time to abolish capital punishment in our state. It is immoral, ineffective, unfair, wasteful, and inhumane. I am sure that some of you on the Committee have long held a belief that the death penalty was an appropriate punishment for certain severe murders. I invite you to consider that you do not necessarily need to change your belief in the concept of the death penalty in order to support this bill and to support the conclusion that the death penalty as administered, as applied in our state, is, as you have heard, broken—too broken to be fixed. There is no better time to end the dysfunctional, ineffective, wasteful, and inhumane punishment, and I urge you to pass A.B. 395.

Assemblyman Yeager:

I want to express that I appreciate those who have weighed in on this and have shared their lived experiences with us as a Committee. That is what this process is all about. I have an email and I just wanted to share part of it. It is from Jackie Crawford, who spent four years in our Department of Corrections including as the former director. She could not be here today, but I just wanted to read one quote that she wanted me to convey. She did testify in 2017 on a similar measure. She supports the bill. She said, "In my professional opinion, the death penalty only deters the person who is put to death. I believe that sentence of life without carries a stronger message. The death chamber is both expensive and can have a negative impact on the overall culture of the specific institution, its staff, and its inmate population."

It is indeed time for Nevada to shed the old mentality of an eye for an eye in favor of a new fact-based way of looking at this issue—to hold offenders accountable with a sentence of life without the possibility of parole. The government ought not to be in the business of killing, bringing yet more unnecessary pain to a world that already has plenty of pain. It is my sincere hope that Nevada chooses to no longer tinker with the machinery of death. I will end with a quote from Dr. Martin Luther King, Jr., "Returning violence for violence multiplies violence, adding deeper darkness to a night already devoid of stars." I want to repeat that, "Returning violence for violence multiplies violence, adding deeper darkness to a night already devoid of stars." I thank you so much for your time, members of the Committee, and urge your support and passage of A.B. 395.

Vice Chairwoman Nguyen:

Thank you to all of the Committee members. This was not the easiest hearing to hear, so I appreciate everyone's compassion and patience as we moved through this bill. I will close the hearing on A.B. 395.

[Assemblyman Yeager reassumed the Chair.]

Chairman Yeager:

I will note that we do have some of our members who need to leave. I will open it up for public comment.

Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada:

I just want to talk about the death penalty in general. I think my biggest issue is that I think that it could possibly mean that somebody could be falsely accused. I think it is probably one of the reasons why it is a good idea to just get rid of it. I think sometimes people, regardless of what crime they committed, deserve second chances. I think this mass incarceration is not really helping the people who deserve punishment. I think that while punishment is reasonable, I think people should have rehabilitation and some sort of counseling to improve themselves. As far as I know, however, one of the consequences of abolishing the death penalty, is this could backfire, if you recall what happened in Charleston, South Carolina, with Dylann Roof about five or six years ago. If we were to abolish the death penalty and with severe budget cuts and these people go free, God forbid another incident could happen like that again. But then again, is mass incarceration going to help these perpetrators, and the answer is, not really. I think we need to really look at mass incarceration in realizing that perhaps that is also another part of the question.

Just in general, I was hoping that, when are you guys going to have town halls? I really would like you guys to have town halls where we can meet face-to-face or just perhaps have visual conferences where people can call in and we can see each other via video. I would like to see us have a more in touch form of government. People are really represented in a poor fashion, and I just do not really see how this process is really working out.

Chairman Yeager:

Is there anyone else wishing to provide public comment?

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

My brother, Thomas Purdy, was murdered by Reno police and Washoe County Sheriff's Office. Like George Floyd, he was asphyxiated to death. I have been watching the trial of the officer who murdered Mr. Floyd, and I have to say it just brings back the trauma of watching my brother be asphyxiated to death. The officers thought enough to get a handheld video camera; they did not think enough to call an ambulance for a man that was literally laying on the ground. The ground was literally soaking wet with his sweat when they lifted him up off the ground as he was begging for his life, "Please don't do this guys, please don't do this."

My heart goes out to all of the families who testified today. It was really powerful testimony. I know my brother's murderers will not face any consequences because they wear a badge. My family are still victims, just as those families are. Even though our loved one's killer wears a badge, they need to have consequences. If anything, we need to hold those wearing a badge at a higher standard. Until we have laws that actually punish law enforcement who kill people unjustifiably, though I do not think the State of Nevada has ever ruled a police murder of a community member unjustified, we need some law changes. Perhaps if these officers know they are going to go to jail if they kill somebody, they will think twice about it.

Today marks three years since 21-year-old Nicolas Sedano was shot and killed by Reno police. He was unarmed. Please keep his family in your thoughts today. Please support bills that promote transparency and accountability.

Chairman Yeager:

Is there anyone else wishing to provide public comment?

Emily Driscoll, Private Citizen, Las Vegas, Nevada:

I just wanted to call about the restriction of testimony in support of A.B. 395. I was waiting in the queue to be called and our testimony was cut off early. It was especially disappointing to have support testimony cut off early when the opposition, all of the district attorneys, got ample time to present, and then after they had time to present, they got to answer almost every single question that was asked by the Committee members. From my position, it seems like a restriction of our civic rights. We should have enough time to testify. We should have a fair opportunity to participate. Just because maybe our position is not as favorable as the position of our elected officials, does not mean that our testimony does not matter.

Chairman Yeager:

I will note that Vice Chairwoman Nguyen noted at the beginning that she would give equal time to support and opposition, and I think she did that. It was 40 minutes for support and 42 or 43 minutes for opposition. At least from my standpoint, I think it was a fair hearing and certainly appreciate that not everybody was able to testify. If you were not able to testify, we would ask you to submit those comments in writing. Unfortunately, we only have 120 days to get our business done here, and we have to move the process along.

Is there anyone else wishing to provide public comment? [There was no one.] Are there any questions or comments from the Committee? [There were none.] We have a hearing tomorrow morning at 8 a.m. with three bills on the agenda as well as a work session. Be on

the lookout for the work session document that should be sent to you this afternoon. My intent is to do the work session first tomorrow morning and then take the bills. We have an agenda out for Friday. We will be meeting at 8 a.m.

The meeting is adjourned [at 11:40 a.m.].

RESPECTFULLY SUBMITTED:

Traci Dory
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a document titled, "Nevada Death Penalty Infographic Summary," submitted by Scott Coffee, Chief Deputy Public Defender, Clark County Public Defender's Office, in support of [Assembly Bill 395](#).

[Exhibit D](#) is a document titled, "The Death Penalty in Nevada Since 1997," submitted by Scott Coffee, Chief Deputy Public Defender, Clark County Public Defender's Office, in support of [Assembly Bill 395](#).

[Exhibit E](#) is a document titled, "Inmates Sentenced to Death with Outcomes," submitted by Scott Coffee, Chief Deputy Public Defender, Clark County Public Defender's Office, in support of [Assembly Bill 395](#).

[Exhibit F](#) is a document titled, "Exhibit A: National Research Council, *Deterrence and the Death Penalty* (2012)," submitted and presented by Randolph M. Fiedler, Attorney, Las Vegas, Nevada; and representing Nevada Attorneys for Criminal Justice, in support of [Assembly Bill 395](#).

[Exhibit G](#) is a letter dated March 30, 2021, signed by Sarah Hawkins, President, Nevada Attorneys for Criminal Justice, and Randolph M. Fiedler, Attorney, Las Vegas, Nevada, in support of [Assembly Bill 395](#).

[Exhibit H](#) is written testimony submitted and presented by Tyler D. Parry, Assistant Professor of African American and African Diaspora Studies, University of Nevada, Las Vegas, in support of [Assembly Bill 395](#).

[Exhibit I](#) is a letter submitted by the Nevada Catholic Conference in support of [Assembly Bill 395](#).

[Exhibit J](#) is a document titled, "Nevada: Time to Abandon Lethal Injection," dated March 2021, submitted and presented by Nancy Hart, President, Nevada Coalition Against the Death Penalty.

[Exhibit K](#) is a document titled, "Support for Alternatives to the Death Penalty in Nevada, Public Opinion Research Summary," submitted and presented by Nancy Hart, President, Nevada Coalition Against the Death Penalty.

[Exhibit L](#) is letter submitted and presented by the Nevada Coalition Against the Death Penalty and signed by various organizations, in support of [Assembly Bill 395](#).

[Exhibit M](#) is a petition submitted by the Nevada Coalition Against the Death Penalty signed by various people in Nevada, in support of [Assembly Bill 395](#).

[Exhibit N](#) is a document titled, "Performance Audit, Fiscal Costs of the Death Penalty, 2014," prepared by the State of Nevada, Legislative Auditor, submitted and presented by Nancy Hart, President, Nevada Coalition Against the Death Penalty.

[Exhibit O](#) is a copy of an article in the Nevada Current titled, "Dead like us: Why we should abolish the death penalty," dated March 18, 2021, authored by Vivian Leal, submitted and presented by the Nevada Coalition Against the Death Penalty.

[Exhibit P](#) is written testimony dated March 31, 2021, in support of [Assembly Bill 395](#), submitted and presented by John Arrascada, Public Defender, Washoe County Public Defender's Office.

[Exhibit Q](#) is written testimony in support of [Assembly Bill 395](#), submitted and presented by Nissa Tzun, Private Citizen, Las Vegas, Nevada.

[Exhibit R](#) is a letter dated March 31, 2021, submitted and presented by Stacy M. Newman, Assistant Federal Public Defender, Capital Habeas Unit, Federal Public Defender, District of Nevada; and Member, Las Vegas Chapter, National Lawyers Guild, in support of [Assembly Bill 395](#).

[Exhibit S](#) is written testimony submitted and presented by Alex Spelman, Private Citizen, Henderson, Nevada, in support of [Assembly Bill 395](#).

[Exhibit T](#) is written testimony dated March 31, 2021, submitted and presented by Nathaniel Erb, Policy Advocate, Innocence Project, in support of [Assembly Bill 395](#).

[Exhibit U](#) is a letter dated March 29, 2021, submitted by Laura Drucker, Psy.D., and Christina Patterson, Ph.D., Legislative Cochairs, Nevada Psychological Association, in support of [Assembly Bill 395](#).

[Exhibit V](#) is a memorandum dated March 31, 2021, submitted by Yvette Williams, Chair, Clark County Black Caucus, in support of [Assembly Bill 395](#).

[Exhibit W](#) is a memorandum dated March 31, 2021, submitted by Janet Serial, Chair, Black Caucus of the Democratic Party of Washoe County, in support of [Assembly Bill 395](#).

[Exhibit X](#) is a letter dated March 31, 2021, submitted by Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada, in support of [Assembly Bill 395](#).

[Exhibit Y](#) is written testimony dated March 31, 2021, submitted by Alex Morelli, Private Citizen, Durham, North Carolina, in support of [Assembly Bill 395](#).

[Exhibit Z](#) is written testimony in support of [Assembly Bill 395](#), submitted by Annette Magnus, Executive Director, Battle Born Progress.

[Exhibit AA](#) is written testimony in support of [Assembly Bill 395](#), submitted by Aimee Holdredge, Chair, Racial Justice Committee, Las Vegas Democratic Socialists of America.

[Exhibit BB](#) is a letter in support of [Assembly Bill 395](#), submitted by Courtney Jones, Private Citizen, North Las Vegas, Nevada.

[Exhibit CC](#) is a letter in support of [Assembly Bill 395](#), submitted by Theresa J. Yancy, Private Citizen, Las Vegas, Nevada.

[Exhibit DD](#) is written testimony in support of [Assembly Bill 395](#), submitted by Zachary Kenney-Santiwan, Private Citizen, Las Vegas, Nevada.

[Exhibit EE](#) is written testimony of James Allen, Private Citizen, North Las Vegas, Nevada, submitted by James Harden, in support of [Assembly Bill 395](#).

[Exhibit FF](#) is written testimony in support of [Assembly Bill 395](#), submitted by Vivian Leal, Private Citizen, Reno, Nevada.

[Exhibit GG](#) is written testimony in support of [Assembly Bill 395](#), submitted by Karen Gedney, Private Citizen, Reno, Nevada.

[Exhibit HH](#) is written testimony in support of [Assembly Bill 395](#), submitted by Benjamin Zober, Private Citizen, Reno, Nevada.

[Exhibit II](#) is letter dated March 31, 2021, submitted by Jane Grossman, Private Citizen, Reno, Nevada, in support of [Assembly Bill 395](#).

[Exhibit JJ](#) is a copy of an Op-Ed in support of [Assembly Bill 395](#), written and submitted by Susan Chandler, Elizabeth Hoops, Niki Schraub, and Terry Woodin, Private Citizens, Reno, Nevada.

[Exhibit KK](#) is a letter in opposition to [Assembly Bill 395](#), submitted and presented by Tyler Ingram, District Attorney, Elko County District Attorney's Office; and President, Nevada District Attorneys Association.

[Exhibit LL](#) is a letter in opposition to [Assembly Bill 395](#), submitted and presented by Steve David, Private Citizen, Susanville, California.

[Exhibit MM](#) is written testimony in opposition to [Assembly Bill 395](#), submitted and presented by Jennifer Otremba, Private Citizen, Las Vegas, Nevada.

[Exhibit NN](#) is a letter dated March 31, 2021, submitted by Melia David, Private Citizen, Las Vegas, Nevada, in opposition to Assembly Bill 395.

[Exhibit OO](#) is a letter dated March 31, 2021, submitted by Brett Hooyerink, Private Citizen, Trophy Club, Texas, in opposition to Assembly Bill 395.

[Exhibit PP](#) is written testimony in opposition to Assembly Bill 395, submitted by Janine Hansen, State President, Nevada Families for Freedom.