

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

**Eighty-First Session
April 23, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:07 a.m. on Friday, April 23, 2021, Online and in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/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 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

COMMITTEE MEMBERS ABSENT:

Assemblywoman Alexis Hansen (excused)
Assemblyman Jim Wheeler (excused)

GUEST LEGISLATORS PRESENT:

Senator Melanie Scheible, Senate District No. 9
Senator Dallas Harris, Senate District No. 11

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Ashlee Kalina, Assistant Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel

Minutes ID: 929



Bonnie Borda Hoffecker, Committee Manager
Traci Dory, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Melekte Hailemeskel, Chair, Nevada Youth Legislature, Senate District No. 9
Julianna Melendez, Nevada Youth Legislator, Senate District No. 10
Nicholas Shepack, Program and Policy Associate, American Civil Liberties Union of Nevada
DaShun Jackson, Director of Children's Safety and Welfare Policy, Children's Advocacy Alliance
Brigid J. Duffy, Chief Deputy District Attorney, Juvenile Division, Clark County District Attorney's Office; and representing Nevada District Attorneys Association
André C. Wade, State Director, Silver State Equality
Jim Hoffman, Member, Legislative Committee, Nevada Attorneys for Criminal Justice
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
Maria-Teresa Liebermann-Parraga, Deputy Director, Battle Born Progress
Doralee Uchel-Martinez, Private Citizen, Reno, Nevada
John R. McCormick, Assistant Court Administrator, Administrative Office of the Courts
Kathryn Roose, Deputy Administrator, Quality and Oversight, Division of Child and Family Services, Department of Health and Human Services
Tonja Brown, Private Citizen, Carson City, Nevada
Emily Walsh, Private Citizen, Reno, Nevada
Holly Welborn, Policy Director, American Civil Liberties Union of Nevada
Annemarie Grant, Private Citizen, Quincy, Massachusetts
Eric Farah, Private Citizen, Chandler, Arizona
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association
Calli Wilsey, Senior Management Analyst, Intergovernmental Relations, City of Reno
Teena Acree, Private Citizen, San Diego, California
Steve Grammas, President, Las Vegas Police Protective Association
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Troyce Krumme, Police Sergeant, Vice Chairman, Las Vegas Metro Police Managers and Supervisors Association
Corey A. Solferino, Lieutenant, Special Operations Bureau, Legislative Liaison, Washoe County Sheriff's Office

Alexis Tucey, Deputy Administrator, Division of Child and Family Services,
Department of Health and Human Services
Carol Luke, Private Citizen, Las Vegas, Nevada

Chairman Yeager:

[Roll was called. Committee protocol and rules were explained.] We have three bills on the agenda this morning, and I intend to take the bills in the order as listed on the agenda. I will open the hearing on Senate Bill 108 (1st Reprint).

**Senate Bill 108 (1st Reprint): Establishes provisions relating to juvenile justice.
(BDR 5-549)**

Senator Melanie Scheible, Senate District No. 9:

It is my absolute pleasure to be here with the members of the Nevada Youth Legislature (NYL) to present Senate Bill 108 (1st Reprint). I hope you are familiar with the Youth Legislature. They are a fantastic group of young people who get together every year to talk about policy, learn about our process and, as far as we know, they are the only youth legislature in the country that gets an actual bill draft request to create real policy for Nevadans. This year they are presenting S.B. 108 (R1).

As the Chair of the Senate Committee on Judiciary, I am proud to have shepherded the bill through our committee. It is technically a committee bill for the Senate Judiciary Committee, but it is the work of these two young women who have really put their heart and soul into crafting some good policy that addresses issues of cultural competence for people who work with young people in the juvenile justice system.

I am going to let them explain the bill and walk you through it. I want to note that it has been amended, so I hope you are looking at the first reprint. The original version of the bill addressed more than just the people involved in the juvenile justice system, but the reprint narrows the focus to people within the juvenile justice system. With your permission, Chairman Yeager, I will turn it over to our youth legislators.

Melekte Hailemeskel, Chair, Nevada Youth Legislature, Senate District No. 9:

I am representing Senate District No. 9. I currently serve as Chair of the Nevada Youth Legislature. With me today is Youth Legislator Julianna Melendez, representing Senate District No. 10. She proposed the juvenile justice measure, which we selected as our bill to be introduced during the 81st Session of the Nevada Legislature. I am appearing before you today primarily to share some background information about how the NYL selected this measure as its one statutorily provided bill. Youth Legislator Melendez will walk you through the details of the bill.

Before I explain the history of the NYL bill draft request (BDR), I would like to share my own personal history with discrimination and the fear it has created in my life. I was born in Ethiopia and I came to America when I was two years old. I am the proud child of two

hardworking parents who immigrated halfway across the world to ensure a better life. Unfortunately, they were unaware that the dream of a better life America sold came with a package deal of systemic oppression.

The first memory I have of being exposed to society's true colors was after the death of Trayvon Martin. It was just two days after my ninth birthday when I noticed my mom's eyes were bloodshot red and Niagara Falls rolling down her cheeks. She pointed at our television and explained to me that an innocent 17-year-old African American was murdered. From that day on, I began to see the world for what it truly was. My heart filled with fear every time my father stepped outside the house. I transitioned to fearing the police rather than feeling protected by them. Being in a position to prevent younger generations from fearing police has steered me towards law. For that reason, I seized the opportunity to be a Nevada youth legislator. This bill gives youth the opportunity to live life without fear of being victimized by implicit bias.

Senate Bill 108 (1st Reprint) is significant because it requires any criminal justice employee to complete implicit bias and cultural competency training, which is highly crucial in a world where systemic racism is normalized and bias is inevitable. Any action that can be taken to reduce implicit bias and work towards a more educated group of employees will, overall, reduce the fear and stigma that is associated with the justice system. The bill that the NYL chose is one that we are confident will improve the quality of life for youth in Nevada.

Before Youth Legislator Melendez explains the NYL bill, our intention with the measure, and the benefits it will deliver, I would like to describe how we, as the Nevada Youth Legislature, chose S.B. 108 (R1) for introduction.

On September 2, 2020, all 18 youth legislators participated in a comprehensive midterm training on BDR development. We learned about drafting language, fiscal impacts, advocacy, and much more. Prior to the next meeting and training, all 18 youth legislators submitted their individual ideas for NYL's one statutorily provided bill. During the October 13, 2020, meeting, each youth legislator presented his or her own proposal and answered questions posed by their NYL colleagues. During that meeting, we started with 18 measures, narrowed it down to 7, and then the top 2 BDRs for further consideration at our November meeting. Of those two BDRs, one focused on annual mental health screenings for school-aged children. The other addressed discriminatory inequities in the juvenile justice system. By the time we came together for the November 19, 2020, meeting, youth legislators were eager to learn more about these two remaining bill draft requests during full legislative hearings with five expert witnesses for each measure. After comprehensive testimonies and careful questions and answers with these witnesses, the NYL selected the juvenile justice BDR proposed by Youth Legislator Melendez. In January of 2021, the NYL met to refine the bill. During our meeting, we worked with the Legal Division of the Legislative Counsel Bureau to clarify any questions or concerns and fine-tune the language.

Senate Bill 108 (1st Reprint) was introduced in the Senate and referred to the Senate Committee on Judiciary on February 9, 2021. On March 16, 2021, the Senate Committee on Judiciary heard testimony regarding S.B. 108 (R1). After the hearing, the NYL facilitated a conference call so the concerned parties could discuss suggestions for refining the bill with an amendment. The amendment was submitted to the Senate Committee on Judiciary and was passed as amended on April 2, 2021. The Senate passed the amended bill on April 15, 2021. Senate Bill 108 (1st Reprint) was introduced to the Assembly on April 16, 2021. Unfortunately, the NYL has not had the opportunity to discuss or vote anything beyond what was originally included in S.B. 108 (R1). Therefore, neither Youth Legislator Melendez nor I will be able to take a position on behalf of the NYL on the amendments or any proposed changes going forward. However, we can provide Committee members with the perspective of how the NYL discussed and processed S.B. 108 (R1). This includes the ideas and concerns that youth legislators shared during the decision-making and language development of this bill.

In addition to this, Youth Legislator Melendez and I can answer any questions and share input as individual youth legislators. It is now my privilege to introduce Youth Legislator Julianna Melendez to help you better understand the need for S.B. 108 (R1) and why this NYL-proposed legislative measure powerfully addresses our concerns about discriminatory inequities in the juvenile justice system. Following Youth Legislator Melendez's presentation, each of us look forward to answering any questions that the members of the Committee might have.

Julianna Melendez, Nevada Youth Legislator, Senate District No. 10:

I appear before you today as the original sponsor of the BDR selected by the Nevada Youth Legislature as its 2021 legislative measure, S.B. 108 (R1). I thank you for the opportunity to speak today before the Assembly Committee on Judiciary. We are all here because we care about the future of Nevada—whether we have children, grandchildren, younger relatives, or are youth ourselves, we have a personal responsibility to protect those who will continue our legacies.

In order to fully carry out this duty of protection, we cannot ignore the fact that minority youth are among the most vulnerable within our communities and this vulnerability leaves them open to discrimination based solely upon their race. This is extremely prevalent within our juvenile justice system. Nevada has the sixth-highest rate of student arrests in the nation, and within the last three years, Black youth accounted for 43 percent of police referrals while only making up 17 percent of the student body. In Clark County specifically, Black and Brown youth make up 76 percent of all juvenile cases referred to the district attorney's office. I will be providing a printed copy of these statistics [[Exhibit C](#)] for your review prior to the Committee's work session.

The two major components of S.B. 108 (R1) that seek to address these alarming statistics are the mandatory racial and cultural competency trainings for all workers in the juvenile justice system who come into contact with juveniles. I completely understand that the state budget

is tight at the moment, which is why I would like to offer some insight into how this bill can be implemented with as little cost as possible.

An example of a concept comparable to S.B. 108 (R1) that was successfully implemented in Nevada is restorative justice. Restorative justice community organizations advocated and provided the framework for this within schools during the last legislative session and assisted in the implementation of it. By having outside organizations provide the framework and work with school social workers, the restorative justice training became characteristically pro bono. Some specific community organizations that actually would help with funding and/or provide free trainings needed for the successful implementation of S.B. 108 (R1) are the National Association for the Advancement of Colored People and American Civil Liberties Union.

A suggestion that was made at one of the most recent NYL meetings was actually collaborating with the State Bar of Nevada, which already requires attorneys to take certain trainings on a yearly basis. By collaborating with them, we would be able to have the trainings mandated in S.B. 108 (R1) possibly required by the State Bar of Nevada, which would help with any possible costs. Grants from the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, are also a possibility given the necessity for the existence of external organizations.

Lastly, the State of Nevada spends 2.7 times as much per prisoner as per public school student and with less students in the juvenile justice system, we can allocate these funds towards community needs. In today's current political climate, it is urgent more so now than ever to address the inequality faced by minority youth within the Nevada juvenile justice system. I personally have friends who have been targeted by school police and treated differently compared to our white counterparts, specifically because of the color of their skin. This firsthand experience of racial discrimination against my peers as well as the recent uproar worldwide concerning racism and ethnic disparities are what inspired me to create this bill.

Personally, I have been unfairly judged by police officers due to how I look. It ranges from stares to indifferent tones. I can feel the apathy from the police as if I am less valuable and insignificant. I can say with certainty that people who are Black and Brown are looked upon differently compared to my white peers. The anxiety I see in my Black and Brown peers' eyes whenever the police are present as we walk down the school hallway will always remain engrained in my mind. At one of our last NYL meetings, a student actually shared her encounter with the Las Vegas Metropolitan Police Department officer who accused her of being involved with a crime simply because she was Black. We cannot allow instances like these to keep occurring in Nevada. By supporting S.B. 108 (R1), we are able to prevent thousands of our youth from ending up in a system that leaves them psychologically, physically, and mentally traumatized.

Juvenile incarceration can also contribute to higher rates of fatal drug overdose, suicide, and posttraumatic stress later on in life. While I understand that school districts and police

departments have the best interests of students in mind, the recent deaths of George Floyd, Breonna Taylor, and Rayshard Brooks clearly illustrate the potential dangers of police interactions, and that is why we need to be the first to address the undercover pandemic of racial disparities in our juvenile justice system. Let us not wait for ten years to pass so that we can try to help those whose incarceration we should have prevented. Let us take action for our youth today, not tomorrow.

Once again, thank you to the Committee for this opportunity. Please direct any questions you may have to either myself or Chair Hailemeskel.

Chairman Yeager:

Thank you to both of you for your presentation. Are there any questions from Committee members?

Assemblywoman Bilbray-Axelrod:

I am always so amazed to see our youth legislators and their poise and the work they have done on this bill. Many of your examples use the Las Vegas Metropolitan Police Department. The bill states "regular and routine contact." How do you define that?

Senator Scheible:

The language you see in the amended bill represents a consensus with the Nevada Supreme Court, Division of Child and Family Services (DCFS), the district attorneys' juvenile divisions, and juvenile parole and probation. I left that conversation understanding that all of the DCFS and Child Protective Service employees who regularly interact with youth would be included in this as well as the juvenile probation officers and school police officers. We could check with legal, but it was my understanding that it would not encompass all of the Las Vegas Metropolitan Police Department.

Assemblywoman Cohen:

I, also, am very impressed with our youth legislators. Youth Legislator Melendez touched on the continuing legal education (CLE) part in section 1, subsection 1, but I am not exactly sure if we are saying that prosecuting attorneys and public defenders are going to be able to use this as part of their CLE requirement for the State Bar of Nevada? I know that they already do in-house CLEs. Is there any work on possibly expanding it to all attorneys in Nevada?

Julianna Melendez:

When I originally mentioned that in my speech, I was referring to an instance we had at a meeting about a month ago where I believe it was former Senator Wiener who mentioned that it could be a possible way to reduce costs. I am not sure that was included in the amended language of the bill. That was simply an idea we had to reduce the costs. That is where the origin of that idea came from in my speech. I was not necessarily referring to language in the bill.

Senator Scheible:

For all the people who are included in this bill who will have to go through this training, there is nothing in the bill that prevents it from being combined with another type of training that they have to go through. In fact, I think we did hear from some of the agencies that they already do this kind of training, and so the purpose is not to require ten additional hours or an additional class, but to make sure that either their curriculum includes it or they develop a curriculum or partner with another organization. Personally, I think it would be fantastic to see the State Bar of Nevada do implicit bias trainings for all attorneys and then, whether a public defender's office or an indigent defense office that works with kids wants to send all of their attorneys to that training or whether those attorneys want to go individually, I think would be fantastic. There is nothing prohibiting the training from being used for other purposes as well, whether that is a CLE requirement, a continuing Nevada Peace Officers' Standards and Training requirement, or a continuing DCFS requirement. There is no reason it could not be utilized in both.

Chairman Yeager:

Are there any other questions from Committee members?

Assemblywoman Hardy:

I, too, want to commend the youth legislators. I was able to participate with them at the Grant Sawyer Building one day. They are all very impressive for being so young. From what I hear you say, Senator Scheible, it is not a certain number of hours for the training? You are not saying you have to have three hours or ten hours; it could be part of another training or course. Is that right?

Senator Scheible:

Yes, that is correct. Section 1, subsection 2 outlines what the training must include. It is not an hours requirement. It is trauma-informed training, historical inequities in the juvenile justice system, implicit bias, cultural competency for the LGBTQ (lesbian, gay, bisexual, transgender, and queer/questioning) community, as well as racial and ethnic minorities. It has to hit all of those subjects, but that is the only limitation.

Assemblywoman Hardy:

Are some departments already doing this?

Senator Scheible:

Yes, that is my understanding. For example, the Clark County District Attorney's Juvenile Division already does training that I think they determined would either meet these requirements or would only require a small adjustment to meet the requirements.

Assemblywoman Krasner:

I would be remiss if I did not say what a great job our two youth legislators did on this bill—obviously very well-prepared and thank you, former Senator Wiener. I know that you have promoted this program tirelessly over the years and I wanted to thank you.

Chairman Yeager:

In section 1, subsection 1, lines 14 to 18, it indicates that this training is to be completed at least once every two years, but at line 14, it says "unless the regulations." Is the intent here that by regulation the training could be required more frequently than once every two years? Just for the legislative intent, I wanted to ask what the thought process was in putting that sentence in the bill.

Senator Scheible:

Yes.

Chairman Yeager:

In section 1, subsection 2, paragraph (c), it talks about the information to be provided in the training. In subparagraph (2), it says, "Historical inequities in the juvenile justice and criminal justice systems." I think the bill in its original form was a little bit broader, but this reprint relates to juvenile justice. What is the intent of putting the criminal justice system as a whole as a topic rather than limiting it to the juvenile justice system?

Senator Scheible:

I think the two are pretty inextricably linked. It is hard to provide a lot of information about the juvenile justice system without also explaining what goes on in the larger criminal justice system. Unfortunately, we also see that a lot of people who start in the juvenile justice system are later involved in the larger criminal justice system. I think it is important that anybody who is working with youth and is involved in a justice system also understand that not only are there historical inequities that continue into adulthood, but also a lot of the systemic issues that youth face are the same as people face in the larger criminal justice system because judges, prosecutors, law enforcement officers, and legislators serve both populations at the same time; it is very hard to divorce the two, although there are definitely some special issues related to juvenile justice which would be important for the training to define very specifically.

Chairman Yeager:

I certainly understand that. I, for one, believe more training is always better than less training. As we move along in this world, I think with our life experiences and hearing from others, including our youth legislators, about what their lived experiences have been, I think we can all learn from that. I certainly appreciate the inclusion of that in the bill. Are there any questions from Committee members? [There were none.] Is there anyone who would like to testify in support?

Nicholas Shepack, Program and Policy Associate, American Civil Liberties Union of Nevada:

I want to thank the youth legislators for bringing this extremely important bill and for allowing me to work with them. It has been a pleasure and an honor. They are correct that in Clark County, while Black students make up about 14 percent of the student body, they make up over 43 percent of arrests and citations. If you are Black and a youth in Nevada, you are 3.5 times as likely to be arrested as your white counterpart. This type of training is not going

to cure everything, but I know firsthand—I have taken much of this training. While I got my master's degree in social work, we did cultural competency and implicit bias training. I was putting myself through school by substitute teaching. I, myself, was able to identify that I noticed and addressed behavior that was disruptive by students who did not look like me quicker than I did for students who did. I, myself, had implicit bias. It was aggravating. It was upsetting. But when you understand the history of implicit bias, that it is part of our culture, that it is part of how we grew up, it is part of how we watched teachers and other people act, you are able to address it. I was able to better serve my students. I was a substitute teacher; the stakes were low. I saw different kids randomly, periodically. In the juvenile justice system, the stakes are extremely high. Implicit bias can mean the difference between removing a kid from his house or letting him stay with his parents. It can mean detention or not detention. It can mean life or death in some situations. The least we can do is pass this bill and help people have the same training I had so that they can identify their bias, they can address it, and they can better serve the youth of Nevada. I urge you to pass this piece of legislation.

Senator Dallas Harris, Senate District No. 11:

Forgive me, you will be hearing from me quite a bit today, but as I serve on the board of the Nevada Youth Legislature, I felt I should come forward and let you all know that it is one of my better forms of public service. I am very proud of the Youth Legislature and the work they have been able to do. I implore your support for this bill.

Chairman Yeager:

We were going to call this Senator Harris Friday in the Assembly Committee on Judiciary. We still may do that by the end of the meeting. Is there anyone else who would like to testify in support?

DaShun Jackson, Director of Children's Safety and Welfare Policy, Children's Advocacy Alliance:

We are in support of S.B. 108 (R1). We believe that it is important to address implicit bias and cultural competency. In saying that, having those trainings is necessary. We thank the Nevada Youth Legislature for bringing this bill forward.

Brigid J. Duffy, Chief Deputy District Attorney, Juvenile Division, Clark County District Attorney's Office; and representing Nevada District Attorneys Association:

We are in support of S.B. 108 (R1). I want to thank the Nevada Youth Legislature for including me in conversations on the language of the bill. Before I put my specific support on the record, I would like to help out with a couple questions that were asked since I was proudly involved in the language that came out in the amendment.

To Assemblywoman Bilbray-Axelrod's question around "regular and routine contact," the intent of that, when we put employees in the juvenile justice system who work with children, we wanted to make sure we excluded support staff so that my legal secretaries at the district attorney's office or a legal secretary working for the director of Juvenile Justice Services who

would not have regular or routine contact with a child would not be mandated to take this training. Hopefully, that makes sense to you. We did not want it to be a general "employed" in the juvenile justice system because that then goes really broad, so it has to be somebody who would actually be having routine or regular contact with children.

As to Chairman Yeager's question around inequities in the criminal justice system being included with the juvenile justice system, I will remind everyone here that we still certify children into the criminal justice system on both certification hearings and direct files, which this Committee heard about earlier this session. As Senator Scheible said, it goes hand in hand that we need to understand that there are historical inequities in both systems because our children do end up in the criminal justice system.

I would like to specifically point out how proud I am of the recommendation to add section 1, subsection 2, paragraph (c), subparagraph (3), "The impact of trauma and adverse child experiences on the decision making and behaviors of children." I sit as a member of the Juvenile Justice Oversight Commission's Racial and Ethnic Disparities subcommittee, which is chaired by Rebekah Graham of Sierra Sage Treatment Center in northern Nevada. In the summer of 2020, we embarked on a survey of all law enforcement agencies across the state of Nevada to determine what training law enforcement receives specific to children. What we learned was there was already training around implicit bias and cultural competency and a general training on juvenile law, but as you can imagine, that general training was basically how old a child is before you can charge them and what an adjudication is versus a guilty plea—it is really just explaining how the juvenile justice system works, but nothing specific to child development or, more importantly, how adverse childhood experiences impact children's decision-making and behaviors.

In my career, I grew up handling children in foster care. I spend probably every day at least talking to one child within the system, being foster care or juvenile justice. In 20 years, I have come to understand, while getting frustrated, that the adverse experiences a child has growing up definitely paints how they respond to me. In my opinion, the Nevada Youth Legislature including this specific training requirement in S.B. 108 (R1) is going to have a significant impact, a positive impact, on our state. I thank them for bringing forth this bill. I really thank them for listening when I asked them to put that in. I support S.B. 108 (R1).

Chairman Yeager:

Thank you for your testimony, Ms. Duffy, and thank you for being engaged in the process. I am sure that was useful for our youth legislators to receive feedback and be able to work on the language.

André C. Wade, State Director, Silver State Equality:

We are in support of Senate Bill 108 (R1). I do believe, in part, it will complement Assembly Bill 99 of the 79th Session, from the LGBTQ perspective. I want to applaud the Nevada Youth Legislature for the bill brought forward. If you all remember in the last

session, we helped them pass the gay/trans panic defense bill [Senate Bill 97 of the 80th Session]. Once again, they are taking on some heavy and much-needed work that needs to be done within law enforcement, juvenile justice in particular. Again, we are in full support of S.B. 108 (R1).

Jim Hoffman, Member, Legislative Committee, Nevada Attorneys for Criminal Justice:
Nevada Attorneys for Criminal Justice supports S.B. 108 (R1) because implicit bias is a real problem in the criminal justice system. Of course, it is also a problem in the adult system, as the bill originally addressed. While we still believe this bill should apply to the adult system, the amended version is a step in the right direction and so we support it. We would like to thank the proponents of the bill for bringing this measure.

Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada:
First, I want to thank the Nevada Youth Legislature for proposing this important legislation and for their inspiring testimony this morning. It is well documented that systemic racism is prevalent throughout the criminal justice system with the over-policing and mass incarceration of communities of color. According to the Vera Institute of Justice, Black people are incarcerated in state prisons 5.1 times greater than that of white people. They say that these racial disparities in the criminal justice system are no accident, but rather rooted in the history of oppression and discriminatory decision-making that has deliberately targeted Black people and helped create an inaccurate picture of crimes that deceptively links them with criminality. The requirement of implicit bias and cultural competency training in S.B. 108 (R1) is an important step in rooting out systemic racism from our criminal justice system. We urge your support of this legislation.

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

We are in support of S.B. 108 (R1). We would like to thank the Nevada Youth Legislature for bringing this bill forward. I think implicit bias and racism are two things that need to be rooted out of our systems, especially our criminal justice system. In order to stop the school-to-prison pipeline, the Nevada Youth Legislature is correct that this is something that needs to be addressed. We thank the youth for leading the way on this and urge your passage of this bill.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office:

I want to echo the statements before me as to the importance regarding this bill, the importance of ensuring that our juveniles who are involved in these systems trust and believe that the others who are the stakeholders can be held accountable to ensure that they are treated fairly. I will just note that this starts as simply as once somebody enters into a building, one of the juveniles [unintelligible] how to interact and to ensure that they are treated fairly and are not looked at differently. I was able to already conduct these trainings through other agencies within Nevada. We have a lot of resources for the attorneys. This will be considered for CLE, which is required. We already have a mandate for ethics, and this satisfies the ethics credit. We do believe that this is absolutely possible, cost-effective,

and more importantly, needed for our juveniles to ensure that they feel like they have a voice that is heard regardless of who they are speaking to. We do believe that it helps to build that trust and we urge your support.

Chairman Yeager:

Is there anyone who would like to testify in support?

Maria-Teresa Liebermann-Parraga, Deputy Director, Battle Born Progress:

We support this bill and ditto to everything that was said throughout the testimony and presentation.

Chairman Yeager:

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

Doralee Uchel-Martinez, Private Citizen, Reno, Nevada:

I apologize for the background noise; I am at the gym. I ditto the prior support statements.

[[Exhibit D](#) was submitted in support of S.B. 108 (R1) but not discussed. It will become a part of the record.]

Chairman Yeager:

Thank you for your testimony, Ms. Martinez. I just want to note that I do not know that the Legislature has ever been as accessible as it is this session. We just had a caller at the gym call in to provide supportive testimony. I wanted to note that for the record. Although the building is not completely open yet, we are allowing all kinds of folks to testify this session at the Legislature from different locations. I, for one, think that makes for a better legislative process and better legislation. Thank you, Ms. Martinez, for being able to call in from the gym.

Are there any other callers who would like to testify in support? [There were none.] Is there anyone who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in neutral?

John R. McCormick, Assistant Court Administrator, Administrative Office of the Courts:

I am calling in neutral as I think this is now a policy question for the Legislature and we do not take a position on that. I do want to express how grateful we were for all the work done by the youth legislators, their advisors, and all of the interested parties in crafting an amendment that alleviated the concerns that we raised on the other side.

Kathryn Roose, Deputy Administrator, Quality and Oversight, Division of Child and Family Services, Department of Health and Human Services:

I want to thank the Nevada Youth Legislature for bringing this bill to the legislative session and want to congratulate the representatives of the Youth Legislature on their impressive testimony today. The DCFS currently has regulations relating to training for juvenile justice

agencies in *Nevada Administrative Code* 62B. I am sure if this bill passed, this update would be feasible without additional resources. Additionally, DCFS already has a process in place to review content of mandatory trainings for state and county juvenile justice agencies, and this could easily be added to the process. We are neutral today, and we look forward to continuing to work with the stakeholders on this bill.

Chairman Yeager:

Is there anyone else who would like to testify in neutral? [There was no one.] I would invite the presenters back for any concluding remarks.

Senator Scheible:

I just want to thank everybody for their time and attention today and for engaging in the conversation on S.B. 108 (R1). I do think it is a good piece of legislation and hope that you will support it.

Melekete Hailemeskel:

There are six other youth legislators who have submitted powerful written testimonies [[Exhibit D](#)] to support the passage of Senate Bill 108 (R1). Senate Bill 108 (1st Reprint) has the ability to significantly change the lives of youth, and these trainings are crucial to addressing implicit bias. I urge you all to support this bill and take steps forward towards ending systemic racism.

Julianna Melendez:

I just want to thank the Committee today for giving us the time to give our testimony. This has been an incredibly enriching experience for me. I urge you to pass this bill. I echo Chair Hailemeskel's sentiments that this bill has the potential and will change the lives of Nevada youth for the better.

Chairman Yeager:

I want to take a moment to thank Senator Scheible and Senator Harris for your work with the Youth Legislature. Former Senator Wiener, you have been a tireless champion of this program for longer than I can remember. You should obviously be very proud of what the program has become. I did not want to miss thanking Ms. Tina Ashdown. She is background support for the Youth Legislature and has been instrumental in making this all happen. She has also been pulling double duty for a lot of us with constituent services over the last year. On behalf of this Committee and the Legislature as a whole, I just wanted to say thank you all so much for a wonderful presentation this morning.

I will close the hearing on Senate Bill 108 (R1). We will now go to "Senator Harris part two" of our agenda. I will open the hearing on Senate Bill 148 (1st Reprint). Welcome back, Senator Harris. When you are ready, please proceed and I am sure we will have a few questions.

Senate Bill 148 (1st Reprint): Establishes provisions regarding the reporting of hate crimes. (BDR 15-715)

Senator Dallas Harris, Senate District No. 11:

I appreciate you giving me a little bit of your time today. Thank you for providing me the opportunity to present Senate Bill 148 (1st Reprint) today, a bill which seeks to codify in statute the reporting of hate crimes in Nevada and to ensure that the data gathered in relation to those crimes is reported to the Federal Bureau of Investigation (FBI) for inclusion in its annual report and made publicly available.

Before going over the specifics of S.B. 148 (R1), I would like to explain briefly why I believe it is important for us to pass this bill. The most recent data available from the FBI shows that in 2019 hate crimes across the United States rose to their highest level in over a decade. And, while Black people continue to experience vastly more hate-motivated crimes than any other sector of the population, bias-motivated crimes went up across the board. Hispanic and Jewish populations saw the highest year-over-year increases, but Asian Americans and transgender people also saw increases in the number of attacks they experienced. In Nevada, we saw an overall increase between 2018 and 2019 of nearly 79 percent with an increase related to race, ethnicity, or ancestry of nearly 130 percent.

Perhaps equally alarming is the fact that, according to the FBI, out of more than 15,000 law enforcement agencies that voluntarily take part in reporting, in 2019 only 2,172 agencies reported a hate crime. That means 86 percent of agencies did not report a single hate crime, and this includes law enforcement in 71 cities with populations over 100,000. Clearly, there is a national problem with data collection and reporting.

While I am happy to note that we in Nevada are already compiling and tracking this kind of information, our law enforcement agencies are not statutorily required to do so, nor is the Central Repository for Nevada Records of Criminal History (Central Repository) statutorily required to provide this information to the FBI or the public. This is something the Legislature should address.

Tracking and reporting this kind of data is vital if we are to have any success in stopping these crimes. Likewise, how this information is gathered and disseminated must not be subject to political interference of any kind or to the changing dispositions of agency leadership.

For these reasons, S.B. 148 (R1) addresses data gathering and reporting in two ways. First, it ensures that Nevada law enforcement agencies report hate crimes to the Central Repository each month. The Central Repository will, in turn, report this information to the FBI. Second, it requires the Central Repository to make this information publicly available.

Thank you for hearing S.B. 148 (R1) today. I hope you will agree with me that codifying in statute the requirements for data collection and reporting of hate crimes is vitally important if we are to understand and shed further light on this issue in a consistent and meaningful way. I am happy to answer any questions the Committee may have.

Chairman Yeager:

Are there any questions from Committee members?

Assemblywoman Kasama:

Right now, is it more voluntary, the reporting of data to the FBI? You are saying many agencies are doing it. Is this just to get it in statute? We already have a good policy of accumulating this data.

Senator Harris:

Yes, that is correct. We here in Nevada are keeping track of these statistics. What we do not have is a centralized collection across the state. We have no mandate that that information be shared with the FBI and also no mandate that it be made publicly available so that Nevadans can have some idea of what these hate crime statistics are on an aggregate level.

Assemblywoman Kasama:

In section 2, subsection 5, it talks about the data being submitted. The data is strictly the events that have happened; there are no names for the people, right?

Senator Harris:

That is correct. There is no ability for anyone to single out a particular incident and track it back to an individual person who may have committed one of these crimes. The data is to be anonymized and aggregated.

Assemblywoman González:

When it is made publicly available, is it a website or do you have to request it like a data request? If it is a data request, is there a fee associated with that?

Senator Harris:

It is my understanding the Central Repository will put it on their website. There is no need to make a separate data request. It will just be published.

Chairman Yeager:

Are there any other questions from Committee members?

Assemblywoman Cohen:

I do not know if you will be able to answer it and I do not know if we have the Central Repository on the line or not. The established language about the data in section 2, subsection 4, is not changed language but it says there is not going to be "any information that may reveal the identity of an individual victim of a crime." I was thinking more about when organizations are targeted, like synagogues or mosques. There are some areas where

I think there might just be one mosque and if you put that record out there, it is obviously going to be that mosque. Do you know what they do when schools, religious organizations, or an LGBTQ (lesbian, gay, bisexual, transgender, and queer/questioning) center is targeted?

Senator Harris:

I will give it my best shot. If the data is available, what you might see is, in Clark County there were X number of hate crimes and here are the categories they fell into. I do not believe that you have any more difficulty in reporting just because the hate crime that was committed was against an entity as opposed to an individual person. I believe we should be able to collect that data without obviously putting out who the target might have been.

Chairman Yeager:

In section 1, subsection 1, line 5, the reporting requirement is reporting all crimes that manifest evidence of prejudice and the reporting has to happen by local law enforcement. Is law enforcement the one that is going to make the determination of whether there is manifest evidence of prejudice or is that going to be in consultation with the district attorney, who may charge a hate crime or a hate crime enhancement? If you could shed some light on how that might work on the ground level, I would appreciate it.

Senator Harris:

It is my understanding it would be the latter. We are not changing the definition of what a hate crime is through this legislation and so the current practice would continue.

Chairman Yeager:

Are there any other questions from Committee members? [There were none.] Is there anyone in Carson City who would like to testify in support?

Tonja Brown, Private Citizen, Carson City, Nevada:

Advocates for the Inmates and the Innocent are in strong support of S.B. 148 (R1).

Chairman Yeager:

Is there anyone in Carson City, on Zoom, or the phone who would like to testify in support? [There was no one.] Is there anyone in Carson City, on Zoom, or the phone who would like to testify in opposition? [There was no one.] I believe Mr. Wade wanted to provide support testimony on the bill but did not get into the queue soon enough. I will reopen support testimony.

André C. Wade, State Director, Silver State Equality:

We are in support of S.B. 148 (R1). There was a time a couple of years ago when we were working on the gay/trans panic defense bill and there were conversations about hate crime data being available, but it was not readily available. If you go to the FBI websites to try and find data that is specific to Nevada and that is consistent, it is hard to find. Having consistent data is much needed and very important for accountability and knowledge. We are strongly in support of S.B. 148 (R1).

Chairman Yeager:

I will reclose support testimony. Is there anyone in Carson City, on Zoom, or the phone who would like to testify in neutral? [There was no one.] I would invite Senator Harris back for any concluding remarks on S.B. 148 (R1).

Senator Harris:

I want to thank you again for taking the time to hear this bill. The testimony was a little bit more robust on the Senate side so if you all are interested, please feel free to look back at that hearing. Thank you for your questions and your time.

Chairman Yeager:

We will formally close the hearing on Senate Bill 148 (1st Reprint). We will move to part three of the "Senator Harris trilogy" in Assembly Committee on Judiciary. I will open the hearing on Senate Bill 212 (1st Reprint). Welcome back, Senator Harris, and please proceed when you are ready.

Senate Bill 212 (1st Reprint): Revises provisions relating to the use of force by peace officers. (BDR 14-215)

Senator Dallas Harris, Senate District No. 11:

Good morning again. I did not count, but I believe I have roughly about 50 more bills coming to this Committee. Hopefully, I will get my own week. That would be fantastic. I am here to present Senate Bill 212 (1st Reprint). This bill is a labor of love that I have worked on for months with various stakeholders and I believe we have come to a fantastic place over the time.

I just want to give a couple of disclosures and I will apologize to the Committee ahead of time. There are a couple of amendments that did not make it into the first reprint that we had all agreed on as stakeholders. I like to give that caveat at the beginning. You may hear some testimony in opposition based upon the rules of the Committee because those amendments have not yet made it into the language. I am committed to making sure that we get this right and following up on the understanding that I have had with all stakeholders. I do not believe those changes change the bill substantively, which is why I agreed to them.

This bill does a couple of things. It requires that police officers use de-escalation techniques before resorting to some higher level of force. If they have to resort to that higher level of force, we are going to ask them to identify themselves if it is safe to do so. They can do that just by having their uniform on, by verbal commands, or other reasonable means. We are going to ask them to use a level of force that is objectively reasonable. We can balance that against the level of force or resistance that is being used by the person they are trying to either arrest or subdue. To the extent possible, that force should be carefully controlled.

We are going to ask law enforcement agencies to adopt a written policy and provide training on what threat specifically, when it comes to serious bodily harm or death—people who are unarmed, under 13 or over 70, physically frail, having a mental breakdown, or experiencing

a medical emergency—what kind of physical threat do they actually pose. We are going to ask them to put a policy together on that.

We are also putting together one of my favorite pieces of this bill, which is a use-of-force database. A lot of our police departments are already collecting this data. I will turn your attention to Las Vegas Metropolitan Police Department's report that they did over the last five years, but it breaks down when an officer shoots, what the victim looks like, anytime an officer is hospitalized or someone who they are interacting with is hospitalized, and a lot of other extensive data similar to Senate Bill 148 (1st Reprint). We are going to centralize that data across the state and make it publicly available so that we can all make better public policy decisions based on that.

I was not aware that we even used restraint chairs anymore. For those who are not familiar, they are chairs similar to what we are sitting in with straps on the arms to strap people down in case someone is being overly combative or you need to bring them under control under certain situations. Originally, I wanted to ban their use completely. This is based upon a request from a young man whose brother died in a restraint chair in Las Vegas. After having many discussions, it does not look like we are quite able to do that just yet. So what I have done is spoken with the stakeholders to try and put some reasonable restrictions around their use to ensure that for people who are put in them, it can be done safely, there is a little bit of medical supervision, make sure that the need for the restraint chair is reassessed regularly, and it is very clear that officers should not be using the restraint chair as a threat to people. It should only be used when it is actually needed. We are going to get those video-recorded as well. What you see here is almost word-for-word standard operating procedure from the Las Vegas Metropolitan Police Department.

Lastly, we are going to talk a little bit about what officers are allowed to do in response to a protest. I think that we can all agree we should not be indiscriminately shooting kinetic projectiles, which are rubber bullets or beanbags, into a crowd. I have language in here that says let us not intentionally target someone's head, neck, spine, or other vital areas of the body. If you are going to use chemical agents to disperse, call it an unlawful assembly first. Give people a route of egress, allow them time to comply, and give dispersal orders. Again, this comes from operating procedures from the Las Vegas Metropolitan Police Department, which was revised after they assessed their actions during the protests of last summer. This bill is trying to put the best practices into law so that we can standardize it across the state.

One thing in this section that is not clear—although it was my intention and is one of the amendments I will have to make—is that officers do not have to go through the rigamarole of doing the three dispersal orders and all of that when there is an imminent threat to person or property. I will be submitting an amendment to make that clear, as well as an amendment that was proposed by the City of Reno to work on that use-of-force language, but again, I do not believe it substantively changes the bill.

With that, I will submit myself to any questions that you have as long as Chairman Yeager, you allow me to invite my colleague, Ms. Walsh, to give a little bit of discussion about the use of force and the importance of collecting that data.

Chairman Yeager:

Thank you, Senator Harris. Would you like Ms. Walsh to go now and then take questions?

Senator Harris:

I would.

Emily Walsh, Private Citizen, Reno, Nevada:

I want to thank you for having me here today to present on S.B. 212 (R1) and express my thanks to Senator Harris for bringing it forward this session. I am here to speak to the importance of data collection and compilation in regard to section 3 of the bill. I first want to give you some background about myself and why I am able to talk about this; then I will continue with an overview of the current state of the data on this topic as well as the leading sources of this data, offer some statistics specifically from Nevada on this topic, and lastly, offer some closing remarks.

I think it is important to tell you why I am qualified and familiar to talk about this, especially section 3 of S.B. 212 (R1). I am a recent graduate of two master's degree programs—Master of Arts in Politics and Public Administration and a Master of Science in Political Science. The programs that I participated in are heavily focused on research design and quality. Within these programs, I specialized in two areas—comparative politics and policy analysis and quantitative methods. My master's thesis was the culmination of three years of work and was centered on the use of force by police officers in the United States. In order to answer my research question, I had to become very familiar with the data that does and does not exist concerning the use of force in America.

To start on some general background, it is important to note that there is no federal or state-sponsored database on the use of force by peace officers in the United States, let alone one that is publicly available. We have national databases on many other topics, but this is the black hole in the world of data and as such, the leading data sources concerning use of force and excessive use of force, specifically, are crowdsourced and compile instances from news sources that are basically secondhand. I personally have used data from two of these sources—*Mapping Police Violence* and *Fatal Encounters*. They are databases that are online and available to the public. I also had to argue for their use within my research.

I am going to talk more about *Mapping Police Violence*, which is considered to be the leading database on this topic. Their leadership team actually took part in the presentation of this bill on the Senate side [Senate Committee on Judiciary, March 25, 2021], and they, like I said, are regarded as the most complete compilation of people killed by police in the recent past. They are special because they combine entries from three other large, impartial, crowdsourced databases—*Fatal Encounters*, *U.S. Police Shooting Database*, and *KilledByPolice.net*. They also conduct their own investigations in-depth to accurately

document the circumstances around officer-involved deaths, including but not limited to the race of the victims, manner of death, and if the person was armed or not. This database is also more complete than others on this topic as it includes deaths where people are not shot by police, but they would include, in the instance of George Floyd's killing, where he was killed in an officer-involved death but he was not killed through a gunshot.

Despite these efforts, *Mapping Police Violence* estimates that their database only covers about 92 percent of all officer-involved deaths within their time frame. This time frame also only extends back to 2013. The missing 8 percent and the shortened time frame are due to law enforcement agencies and officers not being required to disclose deaths that happen while an individual was within custody or was being taken into custody, until the passage of the Death in Custody Reporting Act of 2013 [H.R. 1447], which was only signed into law in 2014. Even after this law was passed though, the statistics were not made publicly available. They only had to be reported to the U.S. Attorney General. Additionally, it is really not clear what level of compliance that agencies have had with this legislation nor the amount of success the legislation has had with being able to fully capture every instance that should be reported. Previous iterations of this legislation, such as the bill passed in 2000 of the same name, resulted in nothing. States took at least a few years before sending in the data required and the law expired in 2006 before a single report was released to the public. Because of the lack of official reports and data dissemination, these incomplete databases, despite their best efforts to be comprehensive, are the only source of this information available and accessible to the wider public.

Moving to Nevada specifically, I wanted to take some time to present some statistics from *Mapping Police Violence*. These statistics were downloaded on February 22, 2021. They do have an updated database as of April 18, 2021, but I have not downloaded it. I do have the database here specifically filtered and ready to answer any Nevada-specific questions I can offer, but I have a few important statistics that I would like to go over. Since January 1, 2013, the database has 149 documented officer-involved deaths happening within Nevada. Of these, 26 included victims that were Black and 16 additional victims were not able to have their race determined by the database due to the nature of the secondhand sources. That means that despite making up only about 8.5 percent of Nevada's population, according to 2018 U.S. Census estimates, Black people made up over 17 percent of all victims in police-involved deaths. A Black person was 2.11 times more likely to be killed in an officer-involved incident than a white person.

Specifically, when we are looking at police departments, the Las Vegas Metropolitan Police Department was involved in 70 of these deaths; 14 of those included Black victims. The Henderson Police Department, North Las Vegas Police Department, and Clark County Sheriff's Office are not included within this count. That does not mean that only 70 people were killed within Las Vegas. Similarly, the Reno Police Department was involved in 16 deaths, 3 of which included Black victims, but the Sparks Police Department and Washoe County Sheriff's Office numbers are not included. Because the *Mapping Police Violence* database believes they have only been able to compile about 92 percent of incidents, that

means that feasibly over 160 officer-involved deaths could have occurred in Nevada since 2013. Again, since this is only since 2013, that does not even extend back to the year 2000, which is also recent history.

It is important to note that these statistics do not include nonfatal instances of use of force or use of excessive force; meaning that if someone was hospitalized but survived, they are not included. These instances specifically are even more difficult for public or crowdsourced efforts to compile because they are not often mentioned in the news at all. *Mapping Police Violence* also does not include instances where people have died while being held in custody in facilities or while in restraint chairs, which is also discussed within this bill. It is really only concerned with the initial interactions between police and civilians. These areas that I previously mentioned are even larger black holes when it comes to data. There is almost nothing that we have on these topics.

Like Senator Harris said earlier, Las Vegas Metropolitan Police Department (Metro) already compiles a lot of these statistics. They are just not made publicly available, and we want to standardize that practice across the entire state. This bill does not create necessarily a new burden on law enforcement agencies or offices. The standardization of such practices like Las Vegas Metro already has, and making those final reports and statistics public, can only increase the transparency, accountability, and trust between peace officers and civilians. If these actions were taken, we would also be preparing our agencies if and when the federal government requires the data or begins cracking down on states that have not been complying with the Death in Custody Reporting Act.

In conclusion, I am just here to bring attention to the need for accurate reporting, compilation, and dissemination of use-of-force data so that we as a state can make educated decisions in the future concerning the use of force. Much of the conversation around the use of force by peace officers lacks data and thus creates an absence of common understanding, let alone common ground. Statistics like these are beneficial to officers, law enforcement heads, public policymakers like yourselves, and civilians. We should all want to minimize the deaths of Nevadans, and having accurate data is something that can help everyone be aware of the reality of the use of force within our state and move us towards less deaths in the future. As the policymakers in our state, you carry the responsibility to make the best-informed decisions possible, not only for the victims of excessive use of force, but also for the wider public and our officers. It is impossible to do so without solid, comprehensive, and current data.

Thank you again for your time today and consideration on this topic. Like I said, I will do my best to answer any specific data questions that you may have concerning Nevada or any questions about the state of data within the wider context.

Chairman Yeager:

Thank you, Ms. Walsh. I do have a request for you. You went through a lot of data very quickly and I think it is useful data, but I, myself, am sometimes more of a visual person, so I wanted to ask after the meeting, if you would be able to submit your testimony in writing to the Committee and we could post that as an exhibit. That would be helpful to be able to go back and look at as well.

Emily Walsh:

Of course, I can provide that.

[Ms. Walsh did not submit the requested data.]

Chairman Yeager:

There are a number of questions in the queue already. The order at this time is Assemblywoman Nguyen, Assemblywoman González, Assemblyman Orentlicher, Assemblyman O'Neill, and Assemblywoman Cohen.

Assemblywoman Nguyen:

I know that not only has this been a passion project for you, but also something that you live and see in your real life and we all see in our communities. I also know that you have a magical way of having everyone at the table going back and forth, and I think everyone appreciates the hard work that you put in to make sure that this language gets to where it needs to be and has the best policy that we can put in for our state. Sorry about that little speech there, but I do have a couple of questions.

In section 2, I am going to be honest with you; I have been reading this section over and over again, and I do not understand what is required of it. I like the intent and where you are trying to go with it; I am just confused on what it is. Section 2, subsection 1 says, "If it is necessary for the peace officer to use force, the peace officer must," and then there are subparagraphs (a) and (b) with an "and" so both of those have to be accomplished. Then under paragraph (b), there is also a definition that is another two parts. I am just confused by section 2, subsection 1, paragraph (b), that says, "Use only the level of force," and that the level of force is balanced against the level of force or resistance "to the extent feasible," but is also "objectively reasonable." If there is any way to bring some clarity to that? With "balanced" and "objectively reasonable" and "the extent feasible," I feel like there are too many standards in there. I just have concerns that if I am having a hard time reading it, I do not know what it would be like—and I know you have been working with the sheriffs and police officers—so I am wondering where that language is and what the intent is behind that.

Senator Harris:

What you see here is a collection of input. The way that I read this is we start at the top. It has to be objectively reasonable under the circumstances, and that is a standard that police officers are well-acquainted with when it comes to use of force. Beneath that, under section 2, subsection 1, paragraph (b), subparagraphs (1) and (2), is a little bit, in my estimation, more understanding of what that might mean. It has to also be balanced against the level of

force or resistance exhibited by the person and be carefully controlled. You asked a question about the extent feasible piece. That was a request from some of my law enforcement partners on this bill so that I do not require them to be carefully controlled when the situation does not necessarily allow for that. I wanted to ensure that officers can still feel free to act in a manner that they need to, to save their lives and not be prosecuted at the end because they were not carefully controlled as they were in a life-or-death situation.

Assemblywoman Nguyen:

I definitely understand the intent that you are looking to accomplish here with the language. I am concerned that there is "objectively reasonable." I understand that you are trying to incorporate the "extent feasible," but it is also "balanced." There are also other reasonable means and multiple levels of things so I am hoping to sit down and see if we can work out some clarifying language that accomplishes that intent. I think I have this answered because I did reach out to Mr. Callaway with Las Vegas Metropolitan Police Department, but under the restraint chair portion in section 4, subsection 3, paragraph (d), "A member of the medical staff conducts a medical evaluation of the person immediately before and immediately after," I was wondering if you were familiar with how that takes place? Obviously if someone is going into a restraint chair, I think there are very unique, specialized, specific circumstances. Do you know what type of medical evaluation takes place before? I obviously understand the intent of why you would want to do it before, but I was wondering what that would look like.

Senator Harris:

I actually have not seen a medical staff do an evaluation pre-restraint chair myself, but it is my understanding this is current practice. The corrections officers and law enforcement agencies, especially Las Vegas Metropolitan Police Department, are already working in this manner where they want to get someone assessed to make sure that the restraint chair is not going to be too strenuous for that particular person.

If I can, let me just quickly go back to section 2. I do not anticipate that this will address all of your concerns, but I read that to be a three-step requirement. It needs to be objectively reasonable. It also needs to be balanced against the force and carefully controlled.

Assemblywoman Nguyen:

Now that is very clear. You addressed it in your presentation about potential amendments that were coming down, but also in section 4, subsection 7 regarding a protest demonstration, under paragraph (b) it says, "If there is an immediate threat of physical harm or death to a person or of immediate harm to property, then only one order to disperse must be provided." Is that the section you were hoping to clarify?

Senator Harris:

It is. If there is an immediate threat of physical harm or an immediate harm to property, we worked out some language where no dispersal order would be required to allow officers to act immediately to protect people and property.

Assemblywoman Nguyen:

Is that the policy that already exists about protecting property or in those circumstances where you do not have to have the dispersal order and the time to disperse?

Senator Harris:

If I understand it correctly, are you asking whether this is already in law?

Assemblywoman Nguyen:

No, I am just asking if there was the intent to also include physical harm and death of a person as well as harm to property and treat those similarly?

Senator Harris:

I do not intend to treat them similarly. I believe I worked on some language with my colleague, Holly Welborn with the American Civil Liberties Union of Nevada, that would make the threat to property be a little bit more of a higher standard. I do not want there to be this idea that there are folks who are crossing a bridge or who might be blocking traffic and that would be sufficient to not require an order to disperse before some of these actions happen. The standard for person is intended to be a little bit stronger than the standard for property.

Assemblywoman González:

Did you say that you wanted to use Las Vegas Metro policy for the restraint chairs?

Senator Harris:

The language is modeled after their policy.

Assemblywoman González:

Is that where someone died recently?

Senator Harris:

It is; however, the policy was updated after that death. What you are looking at is modeled after that updated version of the policy.

Assemblywoman González:

Do you know if the community was able to weigh in on the creation of that policy?

Senator Harris:

I do not know whether the community was at the table as that policy was developed, but I sure as heck brought them to the table as I developed this bill.

Assemblywoman González:

As many of you know, I was heavily involved in the protests over the summer and sometimes it is very difficult to hear if police are dispersing; sometimes you are dispersing or you are running away because they are either shooting at you with tear gas, so I am curious how do we know that orders were dispersed and how do we know that, when you are in

a large group, say in downtown with hundreds of people, that you know that these orders were given and that you are trying to follow these orders—because it can be very difficult, as you are aware.

Senator Harris:

I will point you to line 43 on page 7, section 4, subsection 7, paragraph (b), subparagraph (1); that language is in there for that explicit reason. It must be "given in a manner that each order may be heard by those persons," and then we put some ideas into place there, including giving that from multiple locations and at times possibly in multiple languages depending upon the crowd. The intent here is for officers to do their best to ensure that everyone in the crowd has had a chance to hear prior to taking action.

Assemblywoman González:

Are they being trained on this? Just from experience, it is very difficult. Even myself, there were multiple times where orders were given but you did not hear them, or officers are going one way and folks are going another way. How do we decide if they say, Well, we said it three times, so now we have authority to use X, Y, and Z?

Senator Harris:

I think you are hitting on an important point. We sit here in the Legislature and we can only do so much by putting things into law. The follow-up is often left to those who we direct to do things. I am confident that law enforcement agencies are regularly training their officers on what the state of the law is and so as the law changes, it is my hope that the training would also evolve. But we also have to give them a little bit of time to catch up to the law. We will have to see how it works in practice. If there is a heavier hand that is needed, we will continue to reassess.

Assemblyman Orentlicher:

One of the things we have seen with some of these excessive force cases is the failure of fellow police officers to intervene. I know other states have put in duties. Is that something that you thought about, including the duty of colleagues to intervene?

Senator Harris:

Thanks to Chairman Yeager, during the 32nd Special Session, that is already in the law [Assembly Bill 3 of the 32nd Special Session]. We have a duty to intervene here in Nevada.

Chairman Yeager:

Thank you for the shout-out, Senator Harris. I appreciate it.

Assemblyman O'Neill:

Believe it or not, after 40 years in law enforcement, I can agree with a lot of your intent in the bill. But it also means I have several questions. I must admit, some have already been brought up. I do think you have some very vague descriptions in here that need to be clarified. The first one is about the definition of use of force that you want reported. I know there are agencies that require, if an officer pulls his weapon, period, he must make out

a use-of-force report. That means that if he is going into a building on an in-progress burglary not knowing if a subject is in there or not, and pulls his weapon, he must make a use-of-force report. That would be my first question on section 3 on reports that must be made. What is your definition of use of force? In addition, does it include all use of force or just substantiated use of force?

I will be honest with you, I had a complaint made against me when a person was trying to put a gun to my head and I was using his girlfriend, who had also assaulted me, as a weapon; she complained that I used an arm bar and was trying to push him off me with her. She complained that the arm bar was too tight and that I hurt her while I was trying to get my head blown off. It was unsubstantiated, so I am asking you, describe use of force and what kinds of use of force, to what level, are you asking for. I feel that is an unnecessary report being made and skews the data, which I then also have a question for Ms. Walsh on.

Senator Harris:

What we are doing is tying this to the national use-of-force data collection already being done by the Federal Bureau of Investigation (FBI). I am asking police departments to collect the data that is already outlined in the FBI's data collection.

Assemblyman O'Neill:

That is what I wanted to hear; that we are using that standard and we are not subjecting to, like I was saying, some of these lower or more strenuous standards that are in place by some agencies. I appreciate that very much. Chairman Yeager, if I may, can I ask Ms. Walsh to come up? I have a question on data.

Senator Harris:

Before Ms. Walsh steps up, I just want to let you know that this data will also be aggregate and anonymized and so there will be no ability for a random person to look up Assemblyman O'Neill and the one time that Officer O'Neill may have used force and how often he particularly uses force against women versus men or anything like that. This will just be aggregate data that we can hopefully use to make better policy.

Assemblyman O'Neill:

In 40 years, I had several use-of-force reports. None of them were substantiated and some of them were quite serious to the extent of harm done to me in protection of my life and others.

Senator Harris:

I think that is an important point. This is not a bill that is designed to target individual officers or turn them into bad guys as they try to do their job. We just want to get the data so we know what is going on.

Assemblyman O'Neill:

That is the part that I agree with you on in the intent. I understand that and want to thank you for that part too, because I do think it helps in the long run. Ms. Walsh, in your data that you were reporting on use of force, when you did the mapping, did you overlay any of that use of

force by law enforcement on areas that had high Uniform Crime Reporting (UCR) Program Part I crimes or violent crimes and did any of them coincide together? Usually use of force is in high crime areas instead of other areas that have low crime rates.

Emily Walsh:

I specifically did not work with this data, but I know that the data source *Mapping Police Violence* has found that the level of crime, specifically violent crime, does not in any way correlate to the use of force used in those areas. I can provide you those statistics after the hearing. But I know on their main website, they provide their hot item statistics and that is one of them. There is no correlation there.

Assemblyman O'Neill:

That is interesting. I would like to see that.

Assemblywoman Summers-Armstrong:

You said something earlier, Senator Harris, that I think might deserve some expansion and that is, the "state of the law" was a statement that you made. The current state of the law is that when it comes to protest and demonstration, we still have a right to peacefully assemble. Is that correct?

Senator Harris:

Yes, that is correct. I am hoping to codify that and that is what you see in the section about protests. I think we need to make it very clear; we live in America, where each person has the right to protest without fear of being harmed by police officers.

Assemblywoman Summers-Armstrong:

Thank you for that; I really appreciate it. I think a lot of us get caught up and we forget sometimes, no matter what the topic is, that we have a right to peacefully assemble and to protest and bring our ills to the public. I think what you are trying to do is make sure that there is understanding on both sides on how people assemble and how, when it is time to disperse, that is done in a civil and respectful manner. I appreciate all the questions. I think that people have addressed a lot of the concerns and questions that I had. Thank you for the data; thank you for not being subjective, but really bringing quantitative data. I think that we really need to have that in order to move forward. I appreciate your time and effort on this.

Assemblywoman Kasama:

With regard to protests in section 4, subsection 7, the section I have concern with, subparagraph (b)(1), is where we have "Except as otherwise provided in this paragraph, at least three orders to disperse, given in a manner that each order may be heard by those persons, including, without limitation, issuing the order from multiple locations and issuing the order in multiple languages." You said you were going to adjust that in the proposed amendment coming up that, if possible, or if it is imminent, it does not have to be three orders to disperse. My concern there is, if it is a peaceful protest and now it escalates into a non-peaceful protest, and law enforcement do not have with them somebody who speaks that language, it seems to me we have to have "if possible"—"If possible issuing the order in

multiple languages," because if it becomes a non-peaceful protest and there is nobody there to issue the language according to this statute, the law enforcement will be held accountable, and maybe they have to respond quickly because it is becoming unpeaceful, and now there is a requirement that it is said in a language. I think we need "if possible" in there, and I would imagine that, depending on the circumstance, many times they will have an officer that has that language, but I think it should not be a requirement; it should be "if possible."

Senator Harris:

I am not sure if that was a question, but I thank you for your comment. I would turn then to that last part that we have had a little bit of discussion about, about there being an immediate threat of physical harm or death or some imminent harm to property. Maybe we are into that category at that point and then none of those requirements, after I make the amendment, would apply. I would like to see police departments ensuring that if they are going to a protest in a certain community where they know that people speak a different language, that they bring someone with them to police in that area so that if something like this happens, they are prepared. I think there are a couple of different ways to address that, and it is my intention to allow officers to act immediately when it is necessary to do so.

Assemblywoman Kasama:

I guess that is what I wanted to ensure and it will come in the amendment.

Chairman Yeager:

Are there any other questions from Committee members? [There were none.]

Senator Harris:

Chairman Yeager, if you do not mind, I would just like to provide a little additional information to the Committee about how the use-of-force database would work. I am working with the Central Repository for Nevada Records of Criminal History (Central Repository) on updating their system that would allow police departments to directly interface with that system. Each department would not be required to set up its own reporting mechanism. It is my understanding, after discussions with the Central Repository, that all police departments in Nevada already interface with them for the UCR Program. They can do that in two ways. If they are already technologically set up, it is an automatic thing. If they are not already technologically plugged in, then there is a login that all police departments can use to enter that data manually. Those mechanisms would remain in place and would be expanded to allow this uniform data collection of use of force.

Chairman Yeager:

Thank you, Senator Harris. Is there anyone in Carson City who would like to testify in support?

Tonja Brown, Private Citizen, Carson City, Nevada:

In section 3, subsection 1, I do not think it goes far enough. It says, "On or before July 1 of each year . . . force that occurred during the previous calendar year." I would like to see that changed to say during the previous calendar years beginning from 1970 forward. The reason

I say that is because there are still law enforcement officers who have become district attorneys, judges, so on and so forth. I just want to bring up a brief case going back about 20 years ago, the Paiva [*John Paiva, Margaret Schepp, and Guy P. Felton III, Administrator of the Estate of John Paiva, Jr., Deceased. v. City of Reno; Richard Kirkland, Chief of the Reno Police Department; Brian Chittenden; Gary Quam; Chris Alexander; Gary Pointer; and Does 1-20*, 939 F.Supp. 1474 (1996)] case. It dealt with a Reno detective and a lawsuit in which it was filed in federal court before the Honorable Edward Reed. It turns out that there was a situation where Mr. Paiva was having an incident with his neighbors. They called the police and they showed up. He answered the door, did not want to talk to them, and he shut the door. The officers opened fire, killing Mr. Paiva, and the detective assigned to the case ordered the person in the evidence room to destroy the evidenced door that showed that the bullet holes were fired from the outside. Mr. Paiva did not have a gun and did not pose a threat to them; he just did not want to talk to them. Ultimately, the family settled. That detective then retired from the Reno Police Department and he now works for Washoe County. He has been an officer since the 1970s. That is why I am thinking we need to look there, and we also need to look at civil litigation.

Chairman Yeager:

Ms. Brown, I will let you know you are close to your two minutes. I would just ask you to keep your remarks to the bill as presented. I think you are going a little bit beyond.

Tonja Brown:

I would like to see something like this and then maybe look into civil litigations because, to get a complete database on it, you really should look at that because it will show officers involved going over decades.

Chairman Yeager:

Is there anyone else in Carson City who would like to testify in support?

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

We are testifying in strong support of S.B. 212 (R1). This has been quite a process on this bill, a traumatizing process to be quite frank, and every time we come in and we talk about this on Fridays with a large group of stakeholders and we are right, it does not go far enough, it never does, from our perspective. But here we are, and we are doing the best we can. We have a good bill before you that does some things that I want to explain to you.

I will focus on the protest section. What it is meant to achieve is to codify a constitutional dispersal of a protest. This is a minimum standard that has to be met and is meant to elevate that beyond the constitutional floor of dispersing that protest. First, it is the issue of gas. How does law enforcement disperse a protest? They start using gas. They use kinetic energy projectiles. How do we scale that back to keep people from being harmed, including people like me who go out in my legal observer vest at a protest? I ended up shot in the gut and in the back and in the emergency room. How do we prevent that from happening? There is the constitutional floor of the dispersal of the protest before law enforcement officers can

disperse gas to clear out an area to get people to move after they have declared that this is an unlawful assembly. How do we clear that out in a safe manner that allows for people to disperse in an orderly way?

Then further in the bill addressing the kinetic energy projectiles, we want to scale back the use of those. Those are dangerous weapons. They are often called nonlethal weapons when really, they can harm people. They put me in the emergency room. Let us think through that for a moment. We should not be using those weapons at all for dispersal purposes. Those should be used only when a law enforcement officer's life is in danger.

I want to thank Richard McCann from the Nevada police officers union for working on language that captured another element of this bill. Just because an unlawful assembly has been declared does not mean that we should shoot kinetic energy projectiles at people who are remaining in an area, frankly unlawfully at that point. If a person is not engaged in an activity that is going to harm a peace officer or anyone in the vicinity, you cannot use those projectiles on that individual. You have to give them the opportunity to disperse. You have to focus on truly violent behavior in that area. That is what those sections are meant to achieve. We have worked very hard on them. I am happy to have conversations with all of you about what has happened leading up to the bill that is before you today. If you have any questions for me, please feel free to call or send me an email.

Chairman Yeager:

Thank you, Ms. Welborn. I appreciate your testimony and appreciate you sharing your personal experiences as well. Is there anyone in Carson City, on Zoom, or on the phone who would like to testify in support?

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

I support S.B. 212 (R1) moving forward because there has to be some type of guidelines in place if we are not prohibiting the use of restraint chairs in their entirety. It was disheartening to see the original language prohibiting the use of restraint chairs in its entirety removed, though I understand the pressure to the Senator from police and lobbyists.

As someone whose brother was asphyxiated to death in another torture device at the Washoe County jail, I understand the consequences of using these types of devices on community members in crisis. The hobble was used to hog-tie my brother, which every single page of the manual states it should not be used to hog-tie a human being. Prohibiting the use of restraint chairs would have been vital in preserving the sanctity of life. Countless people have died in restraint chairs at jails and prisons. These torture devices, as I believe them to be, have claimed numerous loved ones. Nicholas Farah was recently asphyxiated at the Clark County Detention Center. He died within two minutes of deputies putting him in the chair. If the language mirrors Las Vegas Metropolitan Police Department's policy, I will remind you Nick died under those policies.

Checks every 15 minutes are too long. Nick was killed in less than a minute. Respiratory issues are not going to wait 15 minutes if they are going to occur. Brain damage begins within 15 minutes. What is law enforcement's definition of "evaluate"? A visual look at the person is not sufficient. A verbal conversation should be had when the person is in the torture device. Constant supervision should be the requirement. Is it too much to demand law enforcement fulfill their Eighth Amendment constitutional obligations to community members? It is care in custody; not kill in custody. I ask, what is law enforcement's definition of violent or life-threatening? That language is vague.

I do have to support the bill moving forward though as, again, something is better than nothing. I cannot speak to Clark County, but if someone dies in Washoe County like my brother was asphyxiated, there will be no investigation. Honestly, until *Graham v. Connor*, 490 U.S. 386 (1989) and *Tennessee v. Garner*, 471 U.S. 1 (1985), the whole objectionable, reasonable thing are overturned and district attorneys prosecute police who use excessive force, murder, or kill due to negligence. This is just like putting a Band-Aid on it. These are used to diffuse demands for prosecuting police brutality, and punishment for guilty cops is what families really want. It is true change. But I do appreciate Senator Harris and her original intentions with the bill.

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

We are in support of S.B. 212 (R1). We would like to thank Senator Harris for bringing this bill forward and trying her best to work with all stakeholders to make this a good bill. Change is definitely needed, and this is a small measure towards change. It does not go as far as it could go, but we should not let perfect be the enemy of good. This is a good step, and we should continue taking steps forward to work on issues between policing and our communities.

Jim Hoffman, Member, Legislative Committee, Nevada Attorneys for Criminal Justice:

Nevada Attorneys for Criminal Justice supports S.B. 212 (R1). We believe these are simple, commonsense steps that the Legislature can take to align use-of-force standards with what is actually necessary and helpful for the safety of the community. While we can and should do more, this is a good first step. We would like to thank Senator Harris for bringing this bill.

Eric Farah, Private Citizen, Chandler, Arizona:

I am the brother of Nicholas Farah, who was killed by Las Vegas Metropolitan Police Department in a restraint chair two years ago. While he was not an immediate threat to himself or others, he was immediately put into the restraint chair once arriving at the Clark County Detention Center. In under two minutes, four officers killed him by not allowing him to breathe, all while several others and medical personnel were watching and were within six feet of him. He died by positional asphyxiation just like George Floyd. This is not uncommon. I have talked to numerous other inmates who have lost consciousness while also in the chair and have come very close to dying as well. Clark County Detention Center uses this as a weapon on a daily basis. This is a huge reason many other cities have already

completely banned the chair. They have also killed multiple people. Not only is it a huge liability for the state and city, but never again should families ever have to go through the additional cause of death caused by the restraint chair in Nevada.

No action or discipline was ever taken by Las Vegas Metropolitan Police Department or Clark County Detention Center for killing my brother. They all still work there and threaten the inmates that they will kill you in the restraint chair like they did to my brother. For the record, no one has ever reached out from the detention center to our family to help update the policy. Although this bill is not enough, it is a great start. I appreciate Senator Harris for including us. I ask on behalf of my family and my brother's two youngest daughters, who will never see their father again, to support this bill.

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

I have done this for a few years, but I have just gone back and forth. I have signed in in support, but pursuant to Committee rules, there were some things in the bill that needed to be changed. But I am here in support because we have actually worked very hard on this amended version and the amendment to come. We appreciate Senator Harris working with all of the stakeholders in such a thoughtful and considerate manner. It is because of this cooperative deliberation and the resulting amended bill before you and the cleanup to come that we are able to arrive in a supportive position.

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

We are here in support of S.B. 212 (R1). Last year was a year of reckoning like none before, where hundreds of thousands of people across the nation took to the streets to demand action to systemic racism after the murders of George Floyd and Breonna Taylor. Despite the jury's guilty verdict in the Derek Chauvin trial this week, there is a long way to go for justice for all people who have been brutalized or killed by the police or those who live in constant fear they could be next. The murder of Nevadans like Jorge Gomez and Miciah Lee illustrate this. Before us you have an opportunity to make a meaningful step forward in police accountability. We urge your support of this legislation.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office:

We appreciate Senator Harris for spearheading this crucial bill. These are important first steps to start to ensure accountability, transparency, and rebuilding trust in our police agencies. This bill builds upon the important measures that this body passed during the special session and promised community members that we would continue to work on. This bill is the result of a lot of discussion and heavy negotiations. Although not perfect, we do support this bill. It is not a complete overhaul of the system that is needed but provides much-needed change. Justice is a journey, not an end, and we are just starting on that journey. We urge your support to ensure justice and rebuilding public trust in our police agencies.

Calli Wilsey, Senior Management Analyst, Intergovernmental Relations, City of Reno:

We are in support today with the cleanup amendment the bill's sponsor referenced in her presentation earlier. We want to thank Senator Harris for inviting us to the working group on this legislation and ensuring a collaborative effort to arrive at the proposal in front of you today. We appreciate and encourage the questions and conversations this Committee had today to ensure the language in the bill is clear and straightforward. The City of Reno and the Reno Police Department remain committed to engaging with our community and members of the legislative body surrounding these important issues. We thank you for the opportunity to provide testimony.

Teena Acree, Private Citizen, San Diego, California:

I want to thank Senator Harris for bringing this bill forward and everyone on the call this morning. This bill is a crucial first step for change, especially those that are supporting this bill. My uncle, Byron Williams, was killed in Las Vegas, Nevada, on September 5, 2019. He was riding his bicycle to the gas station. His death was ruled a homicide and my family has not gotten justice. This bill is a crucial first step and we need change. Although the bill is not perfect, we are in support. I want to thank everyone who is also in support.

Doralee Uchel-Martinez, Private Citizen, Reno, Nevada:

I am at home now, so it is quiet and am able to spell my name. We are in support of this bill. I am sure you have all seen the video last week regarding the woman who was stabbed. We just want to include people with disabilities. Be mindful of their needs and the appropriate practice with the policy that you will be putting forward with this bill. Thank you so much. I would be remiss if I did not say, because of your awesome District 29, Assemblywoman Cohen, I am so active today because the website, Nevada Electronic Legislative Information System, is really accessible.

Chairman Yeager:

Thank you, Ms. Martinez, we hope you had a good workout. Is there anyone else who would like to testify in support? [There was no one.] Is there anyone who would like to testify in opposition?

Steve Grammas, President, Las Vegas Police Protective Association:

I am also a commissioned officer of the Las Vegas Metropolitan Police Department. I want to thank the Committee and Senator Harris for having a conversation with me before this hearing. I was under the impression that I would have a little bit more time, so I am going to try to speed up my testimony.

While I am not in support of the bill, I am in support of the theory of the bill as I believe it is. In 2011, the Las Vegas Metropolitan Police Department invited the Department of Justice (DOJ) and the Office of Community Oriented Policing Services personnel to collaborate with them in an attempt to achieve a best practice model for use of force. Through this collaboration, Las Vegas Metropolitan Police Department undertook massive reform to its

use-of-force, de-escalation, and handling of the mentally ill policies. They did so under Sheriff Doug Gillespie at the time. The national push at the time was for the DOJ to look into problem police departments and place them under consent decrees for forced change.

The Las Vegas Metropolitan Police Department reached out on their own to the DOJ and said, We want to voluntarily do better. We want to work with the DOJ on how to make a best practice policy for use of force. This was under former President Barack Obama's Administration. After a nine-month assessment of the changes made, Metro did in fact become the gold standard in police reform. This reform was included with *Graham v. Connor*, 490 U.S. 386 (1989), a case that has been upheld under heavy scrutiny in many cases. To this day, they continue to strive for excellence in policing through community partnerships, and engagement with lawmakers and stakeholders as we seek out input from concerned groups like the American Civil Liberties Union, the Latin Chamber of Commerce, the LGBTQ (lesbian, gay, bisexual, transgender, and queer/questioning) community, and the National Association for the Advancement of Colored People, to name a few.

Law enforcement in this state has some of the finest leaders in law enforcement I believe in the country: leaders like Chief Thedrick Andres with the Henderson Police Department, Chief Pamela Ojeda with the North Las Vegas Police Department, Sheriff Joseph Lombardo, Chief Louis Molina of City of Las Vegas, Chief Justin Roper of Washoe County and Chief Jason Soto of Reno, to name a few. All of them are committed to excellence in the field of law enforcement. To me, they all qualify as our state experts for policing. These chiefs and sheriffs are either elected by the people or appointed by city councils who are also elected by the people. Both chiefs and sheriffs continually preach community first in their respective departments. These leaders deserve the ability to collectively come up with the newest and most progressive policies for policing and then report those to the Nevada Peace Officers' Standards and Training (P.O.S.T.) Commission. This group is also extremely diverse, probably one of the most diverse we have seen in leadership in this state, representing members of the Latin community, female community, and the African-American community.

I believe our state government owes it to these professionals to allow them to prove that they can make all of the necessary changes to policy without enacting specific verbiage in law. If standardization of police policy on use of force is the goal, then this bill is easily simplified in my opinion. While I am not very well-versed at proposing amendments, as it has been made clear to me this morning from conversations with folks, and many of you know that I am very new to this and usually there is someone else sitting in my place up here, what I would love to see is that P.O.S.T. require all police departments in the state of Nevada to have a standardized use-of-force policy. This policy would be collectively discussed by the leaders of the major law enforcement agencies from the state. The departments will report their newest policy to P.O.S.T. before the 82nd Session of the Legislature. Nevada P.O.S.T. would present the standardized use-of-force policy to the legislative body at that time.

As time goes by and new methodology for policing comes forward, these leaders and professionals in the field of law enforcement will continue to get together to update and report the new practices to the Nevada P.O.S.T. Commission. This would include the language related to sections 1 and 2 related to de-escalation and use of force on certain subjects. There is no better example of a use-of-force policy today than Las Vegas Metropolitan Police Department. I would assume we all, after reading our policy, can agree with that statement.

One of our very own assemblymen, Tom Roberts, was even part of the process of changing this policy back when he was in our department. I would hold our policy up against any in the United States. If this bill is about best practice, we have the model. Senator Harris has worked with Las Vegas Metropolitan Police Department and has instituted almost every aspect of this bill to match our policy, as she has made mention today.

I would ask that we leave policy for police departments to the experts whom I have mentioned. Those leaders deserve the respect as professionals to be able to get this right. Through collaboration amongst the leaders in law enforcement and with oversight from Nevada P.O.S.T., who would then report back to this body, I believe Senator Harris's hope for a best in practice statewide policy on use of force will be and can be achieved.

Chairman Yeager:

Thank you, Mr. Grammas. I gave you a little bit more time there because I know we had a lot of support testimony. We do not have a lot of time, but I wanted to give members the opportunity to ask a couple of questions.

Assemblywoman Summers-Armstrong:

I understand your concern, but you said something earlier that this is the policy that you preach. I think what the concern here is not the preach but the practice. If Las Vegas Metropolitan Police Department is the gold standard and there has been an effort by those involved to codify that standard to make it consistent across the state, which we know is not the case, what is your concern and what is your opposition if the whole purpose is just to codify consistency across the state?

Steve Grammas:

My position is that we let the leaders of law enforcement report to P.O.S.T. and that P.O.S.T. implements these plans and this policy. By instituting things into law, everything has a potential to start leading down the road of penalties and enforcement and potentially people going to jail for violating, maybe unknowingly, laws. That is a concern for me as the leader of the Las Vegas Police Protective Association, not for people that are doing things that they should not be, but sometimes doing things that they do not know that they should not be. But what I would like to see is the leaders in law enforcement working with folks to say, Hey, we are going to let you try and work this out. I know the community has had some concerns about things that go on with law enforcement and police work. You would be naïve to say that there is not. But I think our group here has done a good job and I think they can

continue to do a good job. I do not think it needs to be codified in law, steps on de-escalation and things like that. I think it is best left to them to adopt the policy, to P.O.S.T. to follow through on the policy, and then bring it all to you, ma'am.

Assemblywoman Summers-Armstrong:

So, it is okay for citizens who do not have the benefit of all the money that the police department has to do internal training to be held accountable when they do not know a law and do not follow that law to the letter, it is okay that there are penalties for them, but not okay for there to be the possibility of a penalty for noncompliance for police departments that get millions of dollars each year from our tax dollars for training, for them not to have any possibility of being held accountable for stuff that they should know how to do. I am struggling with the situation here, so please help me.

Steve Grammas:

Our officers are out there making split-second, life-or-death decisions sometimes. Sometimes it is not life or death; sometimes it does involve physical force. They are out there trying to enforce the laws as set forth by the Legislature. When we look at de-escalation techniques, there is a wide variety of ranges you could take where you could have done this. If it is not necessarily there, if I was not trained on it, because—even in our policy as in-depth as it is, policy cannot capture everything—the fear, unfortunately, when you cannot capture everything, as Senator Harris and I talked about prior to the hearing about a certain scenario, was, Okay, maybe we do not think of everything. I think that is why it is important to have the leaders of the law enforcement agencies sit down as the heads and talk about what policies that they can push out, effectively train—we are always a proponent for more training, which I am not sure we get enough of, actual hands-on training—but that they can push that out and say, This is what we need to do. There is no ambiguity. Putting things into the law that can be vague can start a slippery slope for folks. I do not know of any laws that are vague as far as the citizenry not in the course and scope of their duties for working. If they are out there, crimes have intent, you have to have intent to commit crimes.

Again, we talked prior to this hearing about the discharging of kinetic energy to the spine. We are trained to fire any projectile at center mass, and part of that is the spine if the back is the target. Now, we have to look at potentially augmenting our shot of a beanbag round or a projectile to aim somewhere else. We are responsible for that round and that is why we take that center mass theory, to make it an easier position for us. I know I am getting a little off topic, but our cops are always accountable. There are a lot of things that can happen in an incident that whether knowingly or unknowingly, I just would not want to see our officers getting prosecuted for doing things that maybe they are unknowingly or vague in what they are doing. I think the policies that we train on are exactly what they should be getting.

Chairman Yeager:

In the interest of time, we should move on, but thank you again for your testimony, Mr. Grammas. Is there anyone in Carson City, on Zoom, or the phone who would like to testify in opposition to S.B. 212 (R1)?

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

Unfortunately, I am here opposed to S.B. 212 (R1) today due to the rules of the Committee. We did support the bill in the Senate, but unfortunately, as Senator Harris described, sometimes when the draft language comes out, it does not accurately reflect all discussions that were had in our stakeholders' group meetings. I do want to thank Senator Harris. She has been the most engaged legislator with law enforcement. I have had numerous conversations with her going back to before the session even started.

As has been stated, much of what is in this bill reflects Las Vegas Metropolitan Police Department's policy. As has been mentioned, we have handled hundreds of protests this last year and continue to handle protests on our agency, even as early as Monday or Tuesday of this week. Ninety-nine percent of those protests are peaceful, and no problems occur and people are law-abiding. But we did have a couple of protests last year where violence occurred, property damage occurred, and officers were injured. As was stated, it is just not practical in a deadly force situation to have to give a dispersal order. The word "death" should be removed from section 4, subsection 7, paragraph (a), line 37 of the bill.

I also share the concerns of giving a dispersal order in multiple languages. We do give dispersal orders on our agency in English and Spanish, when feasible and when it appears that the crowd may be Spanish-speaking. But when a protest has turned violent and a dispersal order needs to be given, there is a lot of confusion and giving dispersal orders in multiple languages can add to that confusion. I believe that needs to be narrowed down to English and Spanish.

Las Vegas Metropolitan Police Department's use-of-force statistics are available online. You were given some statistics today that I encourage you to go to our website and look at our use-of-force data. See for yourself what our statistics are. I will not get into the specific statistics today, but I encourage you take a deep dive into some of these cases that you hear about and look at all of the facts of the cases.

As a final note, it was stated by Ms. Walsh that no data was collected from the Clark County Sheriff's Office, but data was collected from Las Vegas Metropolitan Police Department. Las Vegas Metropolitan Police Department has been consolidated since 1973 and we are the Clark County Sheriff's Office and the city police, consolidated into one entity under Sheriff Lombardo, who is obviously elected by the voters of the county.

With that, Chairman Yeager, I look forward to working with Senator Harris moving forward so that I can once again be in support of this important piece of legislation. I thank you for your time.

Chairman Yeager:

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

Troyce Krumme, Police Sergeant, Vice Chairman, Las Vegas Metro Police Managers and Supervisors Association:

I apologize for not being there in person. We are in opposition to S.B. 212 (R1) per Committee rules. Several of the key pieces of our opposition were mentioned by members of the Committee as well as Mr. Grammas and Mr. Callaway.

Corey A. Solferino, Lieutenant, Special Operations Bureau, Legislative Liaison, Washoe County Sheriff's Office:

I want to first thank Senator Harris for her collaboration and active engagement in these powerful topics we are trying to address in our state. Senator Harris is passionate about criminal justice reform and has actively engaged in conversations for months to learn more on the subject matter and make educated decisions on our industry's best practices.

Pursuant to the rules of the Committee, we are in opposition to S.B. 212 (R1) today. I do want to note for the record that we were in support on the Senate side and believe this to be a drafting error in the language. As several members have addressed and discussed this morning, section 4, subsection 7, paragraph (b), subparagraph (3), lines 7 through 9 present a complicated requirement. In deadly force situations, an opportunity to give a dispersal order may not be practical nor reasonable given the circumstances. Just a few examples: hostage situations, active shooters, and aggressive actions which will result in substantial bodily harm or death if immediate action is not taken.

We believe that the removal of this language will place us back in a position of support. We appreciate Senator Harris's active collaboration with law enforcement and a willingness to understand the complexities of the law enforcement function and use-of-force scenarios. We will continue to work with our state representatives to ensure Nevada is a state leader in best policies and practices.

Chairman Yeager and Committee, thank you for this opportunity to speak before you today. We are currently opposed but hope to be able to move back to a position of support as we work hand-in-hand with Senator Harris to craft what we believe to be solid policy. Previous to my comments here today, I had the honor to present before this Committee back in February and present our use-of-force data and statistics that are available both on our website and in our end-of-year report [2020 State of the Sheriff's Office] for the Washoe County Sheriff's Office. I encourage all legislators or community members who commented about that to reach out to us so we can continue this important dialogue.

Chairman Yeager:

Is there anyone else who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in neutral?

Alexis Tucey, Deputy Administrator, Division of Child and Family Services, Department of Health and Human Services:

I just wanted to extend my thanks and appreciation for everyone's hard work on this particular bill and indicate we are in the neutral position of S.B. 212 (R1).

Chairman Yeager:

Is there anyone else who would like to testify in neutral? [There was no one.] I would invite the star of the morning, Senator Harris, back for any concluding remarks.

Senator Harris:

I appreciate the Committee's time. I just want to offer a commitment to the stakeholders that I will not accept any amendments that stakeholders do not agree on across the board. We have been working very hard on this language, as I am sure you all have heard, and that is no offense to any members on this Committee. I am more than open to bringing every suggestion that each of you or anyone else has to the full group, but I have committed to them and I will remain true to my word that this is a collaborative process and we all need to get to a place where everyone agrees or the amendments will not be taken and I will not be proposing them on my behalf. That is not to say that the bill was perfect and that you all may not have some suggestions. I just want to reiterate my commitment to the people I have been working with for months and months that we are going to lock this language down as a group. Thank you for your time and consideration, and I will see you all again very soon.

Chairman Yeager:

Thank you, Senator Harris. I know we had some discussions, seems like years ago, but it was during the special session about use of force and I think what we agreed on at that time was that the special session probably was not the best place to try to tackle this kind of issue. I want to thank you for doing this really hard work with a lot of interested parties over the last several months since the special session. We certainly appreciate it. It was good to see you this morning. I am sure we will see you again soon. I will close the hearing on S.B. 212 (R1). I will open it for public comment. Before we get to public comment, I will reopen the hearing on S.B. 212 (R1) for concluding remarks from Ms. Walsh.

Emily Walsh:

I just wanted to clarify based on the statistic that the caller mentioned, that they are correct. The Las Vegas Metropolitan Police Department and Clark County Sheriff's Department are combined. What I meant to say is that the Nevada Highway Patrol officer-involved deaths that occurred in Las Vegas are not included in those numbers. As it stands, there were 70 officer-involved deaths that are attributed to the Las Vegas Metropolitan Police Department. Again, I just urge you to pass this bill. Data is very important, and it can only help future legislators make better policy decisions as well. Thank you very much for your time.

Chairman Yeager:

I will reclose the hearing on S.B. 212 (R1). I will open it for public comment.

Carol Luke, Private Citizen, Las Vegas, Nevada:

I am the biological mother of Thomas McEniry. He was shot and killed by Las Vegas Metropolitan Police Department on November 24, 2015. I am in support of Assembly Bill 131 and Senate Bill 212 (R1). I believe that whether they are regularly in contact with the people or not, the law officers need to wear these body cameras and they

need to have them on anytime they come into interaction because sometimes they are not a Metro officer in uniform and yet incidents happen. As long as [unintelligible] things like that they do need to [unintelligible] myself, I have been in trouble and I have seen the authorities abuse their authority which they should not do because not everybody is a criminal that goes around murdering and killing. They do have things like mental health and other things. They really need to use caution of who they interact with and take away from shootings, either shooting in their knees or arms or something, but there is no need for murdering our children. I was at the Jorge Gomez's one and I heard the gunshots go off and it reminded me of the time my son's gunshots went off. I do not want nobody else to hear gunshots go off because their child had his tablet in his hand and it was mistaken for a gun or anything else, you know. I believe the employees really need to be retrained in the laws of things to deal with mental health issues and people who are on drugs and stuff, that are not a threat to society because these people are [unintelligible] or not. They are handled as a threat and therefore their lives are taken when they were not really a threat.

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

I am the sister of Thomas Purdy, murdered by Reno Police and Washoe County Sheriff's Office, hog-tied and asphyxiated to death during a mental health crisis. Thank you, Eric Farah, Teena, and Carol for sharing your loved ones' truth and advocating for change in hopes nobody else will lose their life to police. We families are stronger together. I am empowered by our collective efforts as Las Vegas families united for justice.

Thank you, Assemblywoman Summers-Armstrong, for your questions regarding the last bill. Data, I would like to bring up Washoe County's dashboard. They just recently put up, and they falsely stated, that there were zero homicides at Washoe County jail since the year 2000. I hope you all immediately recognize that is false data from Washoe County Sheriff Darin Balaam. I pray after hearing me every day you realize that is simply false and I believe intentional propaganda by Sheriff Balaam. It took the *Reno Gazette-Journal* calling them out on it for the dashboard to be changed. He listed the homicides on the first dashboard as "excited delirium" and zero homicides. Niko Smith was asphyxiated by Sergeant Corey Solferino, by the way. There should be a database to review complaints made against any officer in Nevada.

Jorge Gomez was simply heading home to his vehicle after a dispersal order on June 1. An officer had been shot and somebody was going to be held accountable that night. The hysteria created by the officer's shooting that night amongst Las Vegas Metropolitan Police Department is typical. Las Vegas Metropolitan Police Department has shown us just how much they respect the people's right to peacefully assemble. Rubber bullets can be life-altering. Journalist Linda Tirado was permanently blinded in her left eye in Minnesota. Use of tear gas, as with all other chemical weapons, is prohibited by the 1925 Geneva Protocol. We cannot use it in war, but we are using it against our community members. That is sad. It is wrong; it needs to change. Policies are not law, and what do cops say to us, If you do not like it, talk to your legislators. That is what your constituents are doing this session and us families who have personally lost our loved ones to police.

I just want to remind everyone last year, while the families of those killed by Reno Police Department, Sparks Police Department, and Washoe County Sheriff's Department were honoring our loved ones during Reno Cop Watch's annual event supporting families, Reno police literally stood across the street laughing as mothers were on the mic pouring their hearts out, crying to the community, wanting justice just like George Floyd's family got: charges and jail time. What does that say about Reno police? Please support bills that promote transparency and accountability. If law enforcement opposes a bill, it is probably because it promotes accountability and transparency. You hear them all think they are doing gold standard work; I literally laughed out loud.

Chairman Yeager:

Ms. Grant, could you please wrap up your testimony? You are at your two minutes.

Annemarie Grant:

I support the bill.

Chairman Yeager:

Is there anyone else who would like to provide public comment? [There was no one.] Are there any questions or comments from Committee members? [There were none.] I want to say how nice it was to have as full of a room as we are allowed to have at this point. Thank you to those in the audience who stuck with us through a pretty long morning. Committee, it has indeed been a long week. I will not say much other than to provide you with the good news that we will not be having a meeting on Monday. A second piece of good news is we will be starting at 9 a.m. on Tuesday. We do not have the agenda for Tuesday out yet. We will go from there. Everyone, please get some rest this weekend as we get ready for the last 30 days or so of the session. The meeting is adjourned [at 10:54 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 fact sheet regarding Senate Bill 108 (1st Reprint), submitted and presented by Julianna Melendez, Nevada Youth Legislator, Senate District No. 10.

[Exhibit D](#) is a collection of written testimony of Nevada Youth Legislators Mahdote Abebe, Senate District No. 11; Sahi Chundu, Senate District No. 3; Romana Dvoran, Senate District No. 13; Adele Espinosa de Los Monteros, Senate District No. 14; Alexander Wong, Senate District No. 8; and Lauren Wong, District Youth Advisory Council Member and Senate District No. 8, in support of Senate Bill 108 (1st Reprint), submitted by Tina Ashdown, Research Assistant/Program Facilitator, Constituent Services Unit, Research Division, Legislative Counsel Bureau.