# MINUTES OF THE
# SENATE COMMITTEE ON JUDICIARY

## Eighty-first Session
## May 14, 2021

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 2:43 p.m. on Friday, May 14, 2021, Online and in Room 2135 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Melanie Scheible, Chair
Senator Nicole J. Cannizzaro, Vice Chair
Senator James Ohrenschall
Senator Dallas Harris
Senator James A. Settelmeyer
Senator Ira Hansen
Senator Keith F. Pickard

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Rochelle T. Nguyen, Assembly District No. 10
Assemblywoman Shondra Summers-Armstong, Assembly District No. 6
Assemblyman Steve Yeager, Assembly District No. 9

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst
Nicolas Anthony, Counsel
Gina LaCascia, Committee Secretary

**OTHERS PRESENT:**

William Dean Isham
John Piro, Office of the Public Defender, Clark County
Kendra Bertschy, Office of the Public Defender, Washoe County
Christine Saunders, Progressive Leadership Alliance of Nevada
Jim Hoffman, Nevada Attorneys for Criminal Justice
Holly Welborn, American Civil Liberties Union of Nevada

William Pregman, Battle Born Progress
Tonja Brown, Advocates for the Inmates and the Innocent
Adrian Lowry
Annemarie Grant
Matthew Wilkie
DiAnte Swartzfager
Nathaniel Phillipps
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association
Jennifer Noble, Nevada District Attorneys Association
Corey Solferino, Lieutenant, Washoe County Sheriff's Office
A.J. Delap, Las Vegas Metropolitan Police Department

CHAIR SCHEIBLE:
The meeting of the Senate Judiciary Committee is now open. We will start with the work session. There are a number of bills on the Agenda, so I will take them in a consent calendar format.

PATRICK GUINAN (Policy Analyst):
I will read bill summaries from respective work session documents: Assembly Bill (A.B.) 107 (Exhibit B), A.B. 112 (Exhibit C), A.B. 113 (Exhibit D), A.B. 145 (Exhibit E) and A.B. 318 (Exhibit F). There are no amendments on any of these bills.

**ASSEMBLY BILL 107 (1st Reprint)**: Revises the procedure for determining whether a person may prosecute or defend a civil action without paying costs. (BDR 2-564)

**ASSEMBLY BILL 112**: Revises provisions relating to compromised claims of a minor. (BDR 3-806)

**ASSEMBLY BILL 113 (1st Reprint)**: Increases the limitation of time within which a criminal prosecution for sex trafficking must be commenced. (BDR 14-610)

**ASSEMBLY BILL 145**: Adopts the Uniform Registration of Canadian Money Judgments Act. (BDR 2-772)

**ASSEMBLY BILL 318 (1st Reprint)**: Revises various provisions relating to estates. (BDR 3-805)

SENATOR OHRENSCHALL MOVED TO DO PASS A.B. 107, A.B. 112, A.B. 113, A.B. 145 AND A.B. 318.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:
This work session is closed. There will be another work session later today. I now open the hearing on A.B. 396.

**ASSEMBLY BILL 396**: Makes various changes relating to the use of deadly force. (BDR 15-1042)

ASSEMBLYWOMAN SHONDRA SUMMERS-ARMSTONG (Assembly District No. 6):
In section 1, subsection 1 of A.B. 396, we clarify homicide is justifiable when committed by a peace officer, not a public officer, a peace officer. This change is to *Nevada Revised Statutes* (NRS) 200.140.

A change to NRS 171.1455, in A.B. 396, section 2, subsection 2 indicates deadly force may be required if a person being apprehended who poses an imminent threat of serious bodily harm to the peace officer or others within the vicinity.

This is critical language because it is important that we make a distinction when someone is being apprehended, that they are causing an imminent danger to the peace officer or threatens someone else, before deadly force is used. We have had well-documented incidents where an offender who was being apprehended, searched and restrained, attempted to flee the peace officer and deadly force was used by the peace officer to stop the offender from running away.

I have with me today William Dean Isham, who was present during the Assembly hearing on A.B. 396. Mr. Isham can give a different perspective of the bill.

WILLIAM DEAN ISHAM:
I am a former New York City police officer, a national board member and local president of the National Association of Blacks in Criminal Justice (NABCJ). We support and applaud this legislation to meet the new level of deadly force expected by the Las Vegas Metropolitan Police Department's (LVMPD) use-of-force policy. For the benefit of our great State, we urge you to pass A.B. 396.

More progressive states and police departments are changing laws, and Nevada is long overdue for this change. This echoes back to 2005, and we welcome these changes to our laws. Realizing that police policy could easily change with the next sheriff, A.B. 396 is necessary. Justice, unfortunately, is not always swift, but today we can make this life-saving change.

I speak not only on behalf of NABCJ but with the cooperative support of several community-based organizations—such as the National Association for the Advancement of Colored People, Las Vegas Chapter, Roxann McCoy, President; the East Vegas Christian Center, Pastor Troy Martinez; the National Coalition of 100 Black Women, Inc., Las Vegas Chapter, Dr. Sandra Mack, President; and the Fountain of Hope AME Church, Pastor Gregory McLeod—that all strongly urge the passage of A.B. 396. This bill is an effort to restrict the use of deadly force by peace officers in effectuating an arrest of persons who present no imminent threat of serious bodily harm or death to the officer or others.

Similar language in this bill is now part of a majority of states' use-of-force laws. Many were introduced as a result of the events from 2020. This edition of A.B. 396 would give teeth to the new police policies and afford victims and families of victims a Statewide legal redress.

SENATOR HARRIS:
A similar bill was passed in the Assembly today, Senate Bill (S.B.) 212. Are the provisions related to use of force in A.B. 396 in conflict with S.B. 212?

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

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:
No. There is an opportunity to complement the language. In S.B. 212, an amendment adding section 3.7 speaks to "imminent" in dealing with people who are a danger to themselves and behavior of the police when trying to apprehend or deal with these people in a situation where they are being extracted from a home or when they have mental illness issues. The term "imminent" could be used in other instances as well. Just because a person is not mentally ill and does not pose a threat, the same standard of care, patience and respect for life should be applied in any situation with any and all persons when effectuating an arrest. Imminent should be the standard. Our peace officers should take a half-second pause before acting—not that they cannot act. We do not want to tie their hands and say they cannot. We are asking for a millisecond pause to assess whether the situation is imminent.

SENATOR CANNIZZARO:
In A.B. 396, section 1 references whether homicide results from the use of force by the peace officer in accordance with NRS 171.1455, but then section 2 amends NRS 171.1455. In looking at the amendment for S.B. 212, the object of this bill resides in NRS 171.1455 and implements de-escalation techniques. It provides for when it is appropriate to use force, what must happen before using force, and what is objectively reasonable under the circumstances to bring people under arrest. It also talks about the level of force used and retains the probable cause "has committed a felony or" language as opposed to A.B. 396 language which makes it "and" instead of "or."

We are either adopting language in S.B. 212 or confining it to "and" and then adding the word "imminent." The bill refers directly to S.B. 212. There could be a conflict which legal counsel will need to let the Committee know about.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:
These bills do not need to be mutually exclusive. There is room for accommodation on both sides. Where Senator Harris's bill lists the parameters, it does not mean that when we are walking, we cannot chew gum at the same time. There is still room in instances that may not be listed and laid out because no legislation can speak to every single situation. When we look at whether someone is mentally ill, pregnant, over 70 years of age, it is all objective. We know from studies that oftentimes people believe Black children appear older than they are. Peace officers need to decide whether to believe a Black child is the age he or she says. But if no one tells the peace officer,

he or she will need to guess that child's age. It is important we give peace officers as many tools to save lives as possible.

Whether you adopt my bill solely or wrap it into S.B. 212, the word "imminent" is critical and another tool the peace officers can use. It is also a standard that LVMPD adopted.

SENATOR CANNIZZARO:
We should be focused on what you are trying to accomplish with this bill. You have made some good points. We all want to give law enforcement the tools to comply with all laws.

I am concerned that A.B. 396 talks about doing two different things than what has been outlined in S.B. 212. This might be a policy choice.

NICOLAS ANTHONY (Counsel):
In reviewing S.B. 212 as voted out of the Assembly Committee on Judiciary today, it does appear that both S.B. 212 and the provisions in A.B. 396 touch on NRS 171.1455 although in slightly different capacities. From a legal standpoint, it could be read together as a policy choice for this Body if both bills were to pass in the current form. Senate Bill 212 has the de-escalation components, and A.B. 396 has the "imminent" plus the "and" component. The bills could be codified in such a way if both bills passed, there would be no conflict.

SENATOR OHRENSCHALL:
Mr. Isham, since you have worked on this issue for many years and you have the experience working as a police officer in New York City, if this bill were to pass, do you see anything that would hinder you as a law enforcement officer if you were back on the streets patrolling? If this bill does not pass, what kind of things might we continue to see happening on the streets?

MR. ISHAM:
A difference could be argued under NRS 171.1455 whereas A.B. 396, section 2, subsection 2 does not mirror the subsection 1 piece that speaks about the use of deadly force. We want it to say "and/or" imminent. This addresses and makes it understood that we are talking about serious bodily harm and the use of deadly force. This makes it stronger and clearer and applies

to both areas. Subsection 2 leaves out "the use of deadly force" that we also want included.

SENATOR PICKARD:
Section 1 of S.B. 212 proposes to delete the language regarding escaped prisoners who have been convicted of a felony, suppressing a riot and protecting against an imminent threat to life, replacing it with NRS 171.1455. In A.B. 396, we are making this part conjunctive in someone who has committed a recent felony, not an escaped convict, invokes the infliction or threat of serious bodily harm and poses an imminent threat.

Let us say a child molester who has been convicted escaped from custody and is now a serious risk to society. Are you saying that peace officers cannot use deadly force by blocking the felon's car with their patrol car? And unless the felon is pointing a gun at the peace officers or innocent victims, posing an imminent threat, the peace officers cannot do anything? It appears this bill is handcuffing the peace officers.

I understand why we are taking this path, I agree the media has sensationalized a continuing problem, and I do not want to endanger the general public. How do we expect law enforcement to understand the line if not to allow the person or felon to go?

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:
I have been a Black woman in America my entire life. We have spoken among ourselves and in our communities, we have talked to the police, to our government officials, and have come before legislative bodies and federal bodies, we have been telling people for generations that there is a problem. Now that we have camera phones and people are speaking publically and posting on social media, we know more. This is not sensationalizing, we are not trying to exaggerate something. This problem has been out there—now it is in people's faces. The pictures and videos are easily disseminated.

It is an exaggeration to say law enforcement is being handcuffed. Our law enforcement officers carry guns and Tasers, there are SWAT teams, and police helicopters fly over my neighborhood every night. There are extraction teams, military vehicles, combat equipment and drones. There are numerous ways that law enforcement can apprehend an offender.

This bill says when a person is running away from police, no matter how horrible a person he or she may be, we want officers to take that person back into custody, not to become frustrated and believe the only option is to use deadly force. Deadly force should only be used if there is an imminent threat.

I do not know about your community; in my community, we have sexual predators who are out on parole—throughout my community. They have to live somewhere. Just because they are sexual predators, we do not get to throw them in an internment camp. Just because they have a record does not mean we can shoot them in the back or use deadly force all because they are afraid. If they have done the time and now are free, they have a right to exist. We have a process by which people come before a court and a judge, their peers, and are tried for their crimes. It is disingenuous to believe the only thing we can do to apprehend people is to shoot them, which is using deadly force.

SENATOR PICKARD:
My point was media has sensationalized or spent a lot of time in the public space talking about something hidden for a long time. It has caused a significant public reaction. As a result, the pendulum has swung, and this bill moves the line for law enforcement in what they can and cannot do. Based on this bill and in conjunction with S.B. 212, how are officers to know what they can and cannot do? The way the bill reads, officers cannot use a means of apprehension that can result in bodily harm or death, which is considered deadly force, for anyone except those that meet the standards under NRS 171.1455. We have changed S.B. 212 significantly. If we were to adopt A.B. 396, section 2 makes the two components conjunctive, meaning the offender would have had to commit a felony—which involves the infliction or threat of serious bodily harm or use of deadly force—and pose an imminent threat of serious bodily harm to the peace officer or others. Would this not preclude apprehending someone unless nonlethal force was the only available means of apprehension?

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:
No. After Dylann Roof shot and killed nine people at a church in South Carolina, he ran and the police were able to apprehend him without killing him, even though he had committed a felony of murder.

Another man shot people in Colorado, and the police were able to apprehend him without killing him. Another man in Georgia went to four different locations

and shot eight people. The police apprehended this man without killing him, and he was able to face justice before a judge and his peers, which he was constitutionally entitled to have.

There are options. When we tell ourselves the only way we can apprehend bad people is to kill them, we are saying we can use deadly force; we limit ourselves. The police are well-funded, well-trained and well-supplied. They have plenty of options, and they use these options all the time. Which modes of apprehension do they use and on whom? Many people seem to be arrested and live to tell about it. We only see certain people who end up being dead instead of arrested. We want officers to take a second in time to consider the options and to bring people in alive to be judged by their peers and by a judge.

MR. ISHAM:
There was an incident a few days ago when police made an apprehension where deadly force might have been used but because of the climate now, they were able to apprehend this person without using deadly force.

In 2005, a young man named Swuave Lopez, who was not a good person, was apprehended, attempted to escape while handcuffed, started running away from the police and was shot in the back while escaping. Where I come from, we say it is either "flight or fight." When a person is handcuffed and running away, that person is in flight mode and no immediate threat to anyone at that point. I do believe federal law agrees with this. In not passing this bill, we could possibly make room for rogue cops, and that is not something we want in our State.

A rogue cop scenario could be a peace officer who just allows the offender to escape and simply shoots him or her in the back. Another scenario may be a just-burglarized store and someone is running down the street; some people just run because police are coming, but he or she may look like the description described by police dispatch. At this point, the person fleeing is not a felon but a suspect who may, in fact, be the wrong person. There is a problem here. That extra second to consider the right thing to do is crucial. For some officers, it may be easy because maybe they feel the fleeing suspect could not be caught, so a rogue officer just shoots the suspect instead. I am not saying this will happen although it could. If we could prevent that from happening, we will not need to face it later. It is just wrong. A fleeing suspect is not posing an immediate threat of danger to the peace officer or anyone else.

SENATOR HANSEN:
I see a different world than you do as far as how the police are treated and how they behave. Handcuffing the police is a mild definition. We have restricted the ability of police to do their job to such an extent that the police these days are afraid to use any force, even when they legitimately should use it. Public safety and peace officer safety has been compromised. We are now taking away the ability to deal with riots. Take a 29-year-old peace officer shot in the back of the head during a riot. Should he have delayed another second?

I have a hard time with bills like this because it is so easy for me or anyone else, sitting here in a safe environment saying things like "was it really an imminent threat—did the guy have a mental illness?" We are constantly asking our peace officers in the field to do so much and make such draconian decision-making in such tiny windows. If they fail, they can get injured or killed, and other people get harmed as well.

We have defunded the police, we have fired chiefs of police in big cities. Since then, we have seen a huge spike in murders in those cities—predominantly of young Black males. Is there a connection here since law enforcement was removed in those areas? This is just another antipolice bill. It is always the cops' fault—they are the ones abusing use of force.

I cannot support this bill because we end up harming the very people you think you will be protecting. The more we defund the police, the more we make it so they are paranoid to stand up and do their job. In some circumstances, police need to do what needs to be done to protect people from the ones who would do harm. This whole thing strikes me as wrong.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:
This is a difficult conundrum we find ourselves in. In this Country, there is never a simple solution. Often, people talk about crime in inner cities, young Black men dying and gun violence in those cities, but we do not do the required backtrack. The problems we see in Chicago, for instance, did not happen yesterday, the day before or even five years ago. The issues in Chicago go back 50 years or more, and they are about gang violence that did not start in the Black communities. If you do a little reading, you would be surprised how that evolved. I have family in Chicago, and the stories are real. The defunding, the lack of jobs, the lack of opportunity, the segregation feeds into a lot of this. For someone to say we defunded the police is not true if you look at the dollars

that go to the police. You would need a study over a significant amount of time to determine whether crime has gone up in those communities.

We are not handcuffing the police; this bill does not do that. This bill is about an officer taking a half-second to think about what he or she is about to do. I have friends who are in law enforcement, and I would never want to place them in harm's way. Many of them are Black and have a different perspective. They act in a different way in the field because they see themselves. We need police in our communities. But we have a history, and we want our police to treat every community with the same consideration. I gave several instances where non-Black offenders have committed murders and lived to tell about it. This did not happen because the police were handcuffed; they just chose a different path on how to go about apprehension. We are hoping this legislation will make this a part of the training, a part of the mindset to think before you act. That is all we want.

MR. ISHAM:
If we took out the word "or" from the bill and left the word "and," would this cover both subsections 1 and 2 to section 2 of A.B. 396?

MR. ANTHONY:
Yes. Deleting the word "or" and leaving the word "and," subsections 1 and 2 would be read conjunctively, meaning you need both the commission of a felony and to possess an imminent threat of serious bodily harm to the peace officer or others.

CHAIR SCHEIBLE:
The word "or" with "and" it requires the peace officer to have probable cause to believe the offender has already been arrested or a warrant has been issued, and the offender has already committed not just a felony but a violent felony before the officer can use deadly force at all. Is that correct?

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:
I can only read what is in my bill because I do not know all the parts of NRS 171.1455.

CHAIR SCHEIBLE:
When we remove the language about justifiable homicide in section 1 of A.B. 396 and restrict section 2 that amends NRS 171.1455 which talks about

escape, are we leaving open a situation when officers respond to a dynamic scene and find someone threatening to kill someone, but has not done so yet because they are still in the act, and if the officers cannot prevent that person from killing without using deadly force, would they have to wait until the offender committed the felony causing substantial bodily harm or the infliction of a serious threat of force before being justified in using deadly force to stop the offender?

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:
No. A similar example was used in the Assembly. If someone comes into this building, takes me hostage and has an arm around my neck, I am now under threat of serious bodily harm or death. The officers can use whatever means necessary at that time. The officers had milliseconds to assess the situation, they see the person is in the act of committing a felony and see I am in danger.

CHAIR SCHEIBLE:
The bill language does not say in the act of committing a felony. It says has committed a felony.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:
It also says "and" poses an imminent threat of serious bodily harm to a peace officer or others.

CHAIR SCHEIBLE:
But the crime, the felony, has not been committed at that point. Person A points a gun at person B would be an assault with a deadly weapon. But that is not necessarily the infliction or threat of serious bodily harm or the use of deadly force. That requires probable cause and a process to determine probable cause of whether the act committed of pointing a gun at another person is assault with a deadly weapon. Every day in Nevada, justices of the peace throw out cases where a person points a gun at another person, saying there is no probable cause to believe a felony has been committed.

If an officer arrives on the scene of person A pointing a gun at person B, he or she could not, in good conscious, be assured that there is probable cause to believe that a felony has been committed, even as they watch someone point a gun at someone else. I do not see in this bill where officers are allowed to utilize deadly force to stop that person from committing what is definitely a felony, which is pulling the trigger. Pulling the trigger is a felony most days of the

week, but until that happens, a felony has not been committed by probable cause. That is my concern with this bill. There are going to be instances where section 2, subsection 2 applies and subsection 1 does not.

MR. ISHAM:
Under *Tennessee v. Garner,* 471 U.S. 1 (1985), federal law dictates that you cannot shoot a fleeing suspect. A fleeing suspect does not pose an imminent threat to the officer or others at that point.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:
In any situation where there is an imminent threat of bodily harm and someone's life is at stake, of course, we expect the police to do what they can. Someone pointing a gun at someone is an imminent threat. Senator Harris's bill speaks of imminent threat.

If you try to dissect this as if a human brain cannot have two consecutive thoughts to make a decision, we are pretending like we are not rational people but we are rational people. If I am a police officer and you are in a situation where someone is pointing a gun at you, you are in imminent danger, and I will try and protect your life.

CHAIR SCHEIBLE:
I agree, philosophically and conceptually. Part of our job at this Legislature is to dissect those situations and spell out for law enforcement when they are allowed to use deadly force and when they are not allowed. The way this bill reads, they are not allowed to use deadly force unless the person they are about to apprehend has already committed a felony. I understand in concept we can agree what we want the officer to do, but the law has to reflect that consensus. This bill does not reflect that consensus because there is a prerequisite. The officer must have probable cause to believe that the offender has already committed a felony before he or she can use deadly force.

MR. ANTHONY:
Chair Scheible, your interpretation of this bill is correct. Other statutes at play here are not necessarily in this bill. For instance, NRS 200.120 covers justifiable homicide by any person, and that is the killing of a human being in self-defense or in defense of an occupied habitation or a motor vehicle against another person. Assembly Bill 396 specifically deals with use of force by a peace officer when preventing escape. This bill is narrowly tailored to that end.

CHAIR SCHEIBLE:
It is bad policy to start applying the standards for a justifiable homicide that apply to the public to peace officers. There is a reason we separate those statutes, and we spell it out for peace officers because we do hold them to a higher standard. This bill not only affects NRS 171.1455 when a suspect is fleeing, but it affects NRS 200.120, which covers justifiable homicide by a peace officer. We removed the section which is protecting against an imminent threat to the life of a person.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:
Is there a question?

CHAIR SCHEIBLE:
Yes. Show me what I am missing that allows a police officer to utilize deadly force? Walk me through this. You are a police officer, you utilize deadly force, you kill someone who has not yet committed a felony, but you do it because you are preventing that person from taking another person's life. You have to utilize the statutes to justify your actions or not use the statutes at all; how do you justify that with this language?

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:
I am not an attorney. I may not have an answer to your question. I can only present the language of my bill before you today. You will have to determine among yourselves whether any piece of A.B. 396 could be resurrected. Even if you get rid of the word "and," using the word "or" instead, that is okay, but we need to keep the word "imminent" in the bill. There is space and necessity for concurrent thought before deadly force is used.

We all are here to legislate and everything should be made clear, but we are also told that we have to give people space to use good judgment. Part of this is to allow the function of good judgment. Police officers are not just thinking about one thing when doing their job, they are also challenged and charged with using more than one thought process when they pull that trigger—they have options. This is reasonable under the circumstances.

MR. ISHAM:
My concern was leaving the "imminent threat of danger," and that needs to be a controlling factor in the equation. If that is the case and both areas are covered, then it would be okay. We need something in place right now, and we

can live to fight about this another day. We do not have any phrase such as "imminent threats" in our laws, and it needs to be there.

JOHN PIRO (Office of the Public Defender, Clark County):
Imminent is the key word in A.B. 396. It is important and necessary.

There were some comments made about the pendulum swing; perhaps the pendulum needed to swing because the way we have been doing things is not working. We trust civilian control over our military; perhaps it is time for civilians to exercise some control over our police so our society can function in a safer and more just way. This bill takes a step toward that end—not too far but enough. We urge this Committee to pass A.B. 396.

KENDRA BERTSCHY (Office of the Public Defender, Washoe County):
This bill is an extension of bills passed over the last Special Session, from the community demanding additional support and accountability.

Section 1 of A.B. 396 does not eliminate any defenses a peace officer would have if proceeding to trial. A self-defense claim would not be hampered by this bill.

In section 2, there may be some confusion between the use of deadly force versus the use of a deadly weapon, which could be the use of a car. You can use a car to ram and blockade, using those police methods to effectuate a DUI arrest. I wanted to make sure this was clear and on the record that those procedures are not hindered by this bill.

We do agree that the word "imminent" is important and necessary. During Assemblywoman Summers-Armstrong's presentation, I pulled up the LVMPD's use-of-force policy online. Not only does it have the words "imminent threat," specifically when trying to prevent and effectuate an arrest from someone trying to escape, LVMPD also includes the violent felony discussed today. This is important because if someone was not arrested, he or she is still presumed innocent under the eyes of the law. We are now talking about whether we are giving police officers the right to potentially kill and take a life. This is why the use of the word "imminent" is necessary to ensure those protections are in place to protect our community members.

CHRISTINE SAUNDERS (Progressive Leadership Alliance of Nevada):
We are in support of A.B. 396. This Body promised real criminal justice reform this Session. This is a bill that communities disproportionately impacted by police violence want passed. Do right by your community and pass A.B. 396.

JIM HOFFMAN (Nevada Attorneys for Criminal Justice):
We support A.B. 396. The Swuave Lopez story is a good argument in favor of passing this bill. Swuave was a 17-year-old accused of murder in 2006. He was arrested by the police in Las Vegas, who handcuffed and searched him, and left him standing against the police car while filling out the arrest paperwork. Swuave took that opportunity and ran until the police shot him in the back multiple times, killing him. They knew he did not have a weapon because they had just searched him. They knew he did not pose an imminent threat, but they shot him anyway. This is not the kind of policing we want in Nevada.

I know a lot of people have an image of our police officers as a sheriff from a western movie, riding into town with his white hat and shining star to save the day. But that sheriff, John Wayne, never shoots the bad guy in the back while he is running away—that is something the people with black hats do. We want our police to be like John Wayne, not Lee Van Cleef. We need our legal structure to reflect that expectation. It needs to be illegal for police to shoot a fleeing unarmed teenager in the back. Passing A.B. 396 is the way to do that, and we urge the Committee to pass the bill.

HOLLY WELBORN (American Civil Liberties Union of Nevada):
Between 2005 and 2020, 121 officers had been arrested for murder or manslaughter. Only 44 were convicted and approximately 30 percent of those cases involved a victim who was armed. This bill provides an accountability we have been asking for by coalitions and community advocates. When you look at the justifiable homicide statute, a variety of circumstances should not be public policy of this State. The public policy should be to impose the highest possible standard on law enforcement, to prevent injury and death at the hands of the police. Just as Jim Hoffman said, we need to hold law enforcement to the highest standard possible.

Early in the negotiations on S.B. 212, we had talked about this provision. The Justice Reform and Accountability Alliance had proposed language that stated, "A peace officer may use deadly force only if there is probable cause to believe that the individual poses an imminent threat of death to the peace

officer or to others." Perhaps language like this could help clarify what we are talking about in section 2 of A.B. 396. At what point are these homicides justifiable? We encourage your support to move this bill forward.

WILLIAM PREGMAN (Battle Born Progress):
We are in support of A.B. 396. We need to tighten the protocols for the use of force by law enforcement. It is too common that unnecessary and unjustifiable violence are used by some officers. There must be an imminent threat to public safety before deadly force should be used. It should not be so much to ask that our police officers are tasked with protecting communities and not kill as a first resort.

As the Country reckoned with the Derek Chauvin trial over the murder of George Floyd, it is time for a serious conversation about the use-of-force policy. Chauvin was not the first, and not the only police officer, to use inappropriate force that resulted in killing in the control of their custody. Please support A.B. 396.

TONJA BROWN (Advocates for the Inmates and the Innocent):
I echo the previous comments from the callers. To do nothing on this bill is allowing what is going on to continue, and that is not right. People need to be held accountable. People who are not committing crimes and not holding a weapon should not be shot and killed by law enforcement, particularly if they are running away or handcuffed, not posing a threat to anyone.

ADRIAN LOWRY:
There have been too many family members and community members killed in this State. People being shot and killed while running away must stop. I ask the Committee to support A.B. 396.

ANNEMARIE GRANT:
I am the sister of Thomas Purdy who was murdered by Reno police at the Washoe County Sheriff's Office (WCSO) during a mental health crisis. This bill is about preserving the sanctity of life, not putting handcuffs on law enforcement.

We think of deadly force as shooting someone, but we know from the trial of Derek Chauvin that deadly force includes other means. Perhaps, if this bill was in place in 2015, my brother would be alive. Miciah Lee, a young 18-year-old

African-American teenager in crisis, drove away from police and was then shot and killed. We cannot have law enforcement being judge, jury and executioner—we have a justice system for a reason.

The community is speaking. Please hear them and act. Do not take it personally. Please pass A.B. 396.

MATTHEW WILKIE:
I urge your support on A.B. 396. It is not handcuffing the police. This bill is about bringing accountability forward and making everything more transparent. This bill is not a free giveaway making things easier for criminals. Please support A.B. 396.

DIANTE SWARTZFAGER:
I am in support of A.B. 396. This bill is not only important but valuable to the change our communities are talking about regarding the use of force by police. We are not trying to handcuff the police; we all need the police. But we need some type of language within legislation that stops the injustice. We want this bill approved and moved on—not just sit around and have amendments added down the road.

NATHANIEL PHILLIPPS:
It is vitally important to address police accountability and police brutality. One of the Senators mentioned he must be living in a different world when it relates to the police in his community. He is accurate in that statement because in overpoliced Black and Brown communities, police are often there as an occupying force and presence. From other legislation proposed during this Session, there is evidence of overpolicing in certain zip codes.

We must reject categorically the saying that we are handcuffing the police with this bill. It is ironic and disrespectful to use this language, especially when this legislation is championed and supported by people who have been subject to police oppression. People most likely exposed to deadly and excessive force are usually already disenfranchised and marginalized by society. Police brutality and police killings by shootings are the leading cause of death for young people of color. This is a public health crisis that legislation like A.B. 396 addresses and seeks to prevent. I urge this Committee to take a different route than seemingly caring more about the power to kill and end lives in this State than to preserve and protect.

This Body has not heard the bill on the death penalty. Now we see criticism when it comes to commonsense legislation that would save lives and go a long way to fighting for eliminating systemic racism in our communities. Police are violence workers, and we need to remember that. I urge your support of A.B. 396.

ERIC SPRATLEY (Executive Director, Nevada Sheriffs' and Chiefs' Association):
We are in opposition to A.B. 396. Section 2, subsection 1 should not include the word "and." This word is a critical error in this bill.

JENNIFER NOBLE (Nevada District Attorneys Association):
We are in opposition to A.B. 396. We appreciate the bill and do not object to the concept, but an imminent threat should be in play if an officer uses potentially deadly force. Our opposition is not an effort to limit police accountability but is based upon the plain meaning of statutory interpretation applied by our courts.

There is a disconnect between the expressed intent of the presenters and the actual language of the bill. As Mr. Spratley conveyed, our primary concern is the word "and," where it is used conjunctively, not disjunctively, and appears to prevent an officer from appropriately reacting to an imminent threat of serious bodily harm if the person had not committed a felony that falls within the narrow parameters of section 2, subjection 1 of the bill. Police officers should be able to defend themselves and others whenever there is an imminent threat of bodily harm regardless of the reason that may have brought them to the scene. We all agree on this issue, but it is not how the bill reads. The word "and" makes the bill inconsistent with the right of self-defense applicable under NRS 200. The bill appears to apply a reduced or altered right of self-defense. An earlier reference to NRS 200 might assist this bill, but that suggestion was not adopted. That is why we are in opposition to A.B. 396.

COREY SOLFERINO (Lieutenant, Washoe County Sheriff's Office):
We are opposed to A.B. 396 because it compromises public and officer safety. The use of deadly force is an officer's last option. No officer wants to take a life. Those who are forced to take a life must forever live with the consequences of those actions. Some never recover and are forced to leave the job they love. Federal caselaw governs the use of deadly force and has specific criteria that must be met. There is no freelancing in the use of deadly force encounters; in most instances, officers only have a fraction of a second to make

a life-or-death decision. Our officers are well-equipped, but no magic tool makes every use-of-force encounter successful.

Some of the examples used in the presentation of this bill are neither factually sound nor in line with our training philosophy or our performance in the field. In study after study, assaults on law enforcement have gone up with officers hesitant to use lawful force when legally justified to do so. The use of body-worn cameras deployed in the field has further limited the use-of-force cases and provided an excellent training tool to evaluate, train and hold our law enforcement accountable for their actions in the field.

I defended my thesis in earning a master of science in criminology, which included the consequences and negative effect responses on police legitimacy. I have many resources, periodicals and case studies available to share with the community on use of force, strength theory and the role it plays in officer and citizen encounters. The WCSO is not perfect, but it is committed to the community it serves. We listen to our stakeholders and deploy resources where they are most effective and efficient to earn the respect of our citizenry and further enhance our social and ethical response to the public we serve. Our law enforcement coalition is committed to meaningful criminal justice reform and using evidence-based practices to guide strong policy decisions.

We cannot support policy decisions that further harm public safety and the officers in the field who put their lives on the line every day. We encourage the Committee's opposition to A.B. 396.

A.J. DELAP (Las Vegas Metropolitan Police Department):
We are in opposition to A.B. 396 and echo the reasons spoken in prior calls. We are pleased that much of our current use-of-force policies have been implemented in this Session. However, this bill provides more confusion than clarity. I have spoken with several attorneys throughout the day, trying to understand what is being accomplished with this bill, the legislative intent and what it will mean for the future.

As police officers, we have a duty to protect the communities we live in, the public, our families and ourselves. As a 24-year police veteran, I cannot adequately train this legislation or apply it on a daily basis involving pursuits where a person, per the legislation, has probable cause and has committed a felony involving serious bodily injury or threat. In the scenarios where I believe

I may have an imminent threat, I am not sure of the legislative intent. Because of this, we cannot support the measure as written. For these reasons, the LVMPD is in opposition to A.B. 396 and urges the Committee not to pass the bill.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG:
This issue is painful and somewhat contentious, and that it is not to everyone's liking. But it is well past time we have a harsh and frank discussion about criminal justice reform and the true effect of policing on the communities at risk.

Last year, this Body prohibited police from using chokeholds unless there was an imminent danger to the police officer. Some laws equate to self-defense, and we cannot look at one area of the law in isolation and not realize that any time someone is accused of something, they are looking at the law as a whole and different chapters of the law. Various areas need to be read together for a complete picture. These statutes need to be read in conjunction.

There was mention of Swuave Lopez. This this bill is about a fleeing person; it is narrow. We need to keep this in mind and recognize the purpose of this bill. I want some movement with this bill and would consider removing the word "and," but the word "imminent" is critical and needs to remain in the bill. It is not unreasonable to hold law enforcement to a higher standard. Law enforcement benefits from our respect and our tax dollars. They also benefit from our laws, and it is not too much to expect them to use "imminent" as a standard before using deadly force.

If this legislation is accepted and applied by those in authoritative positions, it will help bridge the lack of trust between communities of color with law enforcement. These communities have not historically had the best of relationships with law enforcement, but we all must live together. There needs to be a concession on all sides and acceptance of our roles. There is room for trust-building, and we should move forward by using the word "imminent" as a bridge to further that trust.

CHAIR SCHEIBLE:
I do share your hope in moving forward with further conversations. The hearing on A.B. 396 is now closed. We will now go to our second work session for today. There are a number of bills on the Agenda, so I will take them in a consent calendar format.

MR. GUINAN:
I will read bill summaries from respective work session documents: A.B. 42 (Exhibit G) and amendment, A.B. 104 (Exhibit H) and amendment, A.B. 132 (Exhibit I) and amendment, A.B. 202 (Exhibit J) and amendment, A.B. 237 (Exhibit K) and amendment, A.B. 251 (Exhibit L) and amendment, and A.B. 394 (Exhibit M) and amendment.

**ASSEMBLY BILL 42 (1st Reprint)**: Makes various changes relating to criminal law and criminal procedure. (BDR 14-371)

**ASSEMBLY BILL 104 (1st Reprint)**: Revises provisions relating to wrongful convictions. (BDR 3-586)

**ASSEMBLY BILL 132 (1st Reprint)**: Establishes provisions relating to custodial interrogations of children. (BDR 5-783)

**ASSEMBLY BILL 202 (1st Reprint)**: Revises provisions relating to charitable lotteries and charitable games. (BDR 41-581)

**ASSEMBLY BILL 237 (1st Reprint)**: Revises various provisions relating to real property. (BDR 10-22)

**ASSEMBLY BILL 251 (1st Reprint)**: Makes various changes relating to juvenile justice. (BDR 5-986)

**ASSEMBLY BILL 394 (1st Reprint)**: Provides that behavioral health specialists performing mobile crisis intervention services are immune from civil liability under certain circumstances. (BDR 3-1046)

SENATOR SETTELMEYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 42, A.B. 104, A.B. 132, A.B. 202, A.B. 237, A.B. 251 AND A.B. 394.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:
The second consent calendar for the day is now closed. I will now move to the next work session.

MR. GUINAN:
I will read the summary of A.B. 141 as noted in the work session document (Exhibit N).

**ASSEMBLY BILL 141 (1st Reprint)**: Revises provisions relating to the sealing of records for summary evictions. (BDR 3-569)

SENATOR CANNIZZARO MOVED TO DO PASS A.B. 141.

SENATOR OHRENSCHALL SECONDED THE MOTION.

SENATOR PICKARD:
This bill involved a small number of cases when the moratorium was in place, and those evictions were for cause, not just because someone could not pay rent. It would be a disservice to the community to seal the records when the evictions were not because the renters could not afford to pay rent but for other reasons. Because of this, I will vote no on A.B. 141.

SENATOR SETTELMEYER:
My concern is there needs to be some end in sight; so far, there is no end due to the Covid-19 emergency. As long as there is federal money, we will not see the end. Because of this, I will be voting no on A.B. 141.

THE MOTION CARRIED. (SENATORS HANSEN, PICKARD AND SETTELMEYER VOTED NO.)

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MR. GUINAN:
I will read the summary of A.B. 398 as noted in the work session document (Exhibit O).

**ASSEMBLY BILL 398 (1st Reprint)**: Revises provisions relating to sales of residential property. (BDR 10-812)

SENATOR CANNIZZARO MOVED TO DO PASS A.B. 398.

SENATOR OHRENSCHALL SECONDED THE MOTION.

SENATOR PICKARD:
When sellers are represented by a licensee, the licensee is required by ethical duties to disclose what they know about a property, and this bill undermines that duty and will create a problem for the licensee. If the licensee does not disclose what he or she knows about the property, they will be subject to discipline by the Board of Realtors. Because of this, I will vote no on A.B. 398.

THE MOTION CARRIED. (SENATORS HANSEN, PICKARD AND SETTELMEYER VOTED NO.)

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MR. GUINAN:
I will read the summary of A.B. 296 and amendment, as noted in the work session document (Exhibit P).

**ASSEMBLY BILL 296 (1st Reprint)**: Establishes a civil cause of action for the dissemination of personal identifying information or sensitive information under certain circumstances. (BDR 3-121)

SENATOR CANNIZZARO MOVED TO AMEND AND DO PASS AS AMENDED A.B. 296.

SENATOR OHRENSCHALL SECONDED THE MOTION.

SENATOR PICKARD:
I am distressed by the language in this bill, which authorizes doxing of police officers when the majority are trying to do a good job. This bill also implicates judges, who are elected officials and already in danger because they make difficult decisions that can affect anyone in a civil court or family and criminal courts. I once had a circuit court judge tell me that a judge is lucky if 50 percent of the litigants dislike him. If it is only 50 percent, then they are doing okay because usually everyone dislikes them for some reason or another. Because of this, I will be voting no on A.B. 296.

CHAIR SCHEIBLE:
Can we get clarification from legal on whether A.B. 296 would protect behavior that targets law enforcement officers with harassment and the like?

MR. ANTHONY:
As currently written, A.B. 296 would exclude law enforcement officers or an elected officer acting in an official capacity. This means that a lawsuit could not be brought if an elected official or a police officer was a victim of doxing.

CHAIR SCHEIBLE:
Would the other provisions of law that currently criminalize sharing of that personal identified information still apply?

MR. ANTHONY:
Yes, that is correct.

ASSEMBLYWOMAN ROCHEELE T. NGUYEN (Assembly District No. 10):
With regard to A.B. 296, law enforcement officers, district attorneys, judges and many more are already protected by Nevada law because it is unlawful for them to share things like home addresses and photographs of officers—that is already criminalized. This bill concerns civil issues and does not authorize officers and elected officials to be specifically doxed. They are protected under NRS 289.025.

SENATOR PICKARD:
A distinction is made in that if an action is brought by those elected officials and law enforcement for civil actions, they are subject to antistrategic lawsuits against public participation litigation. This makes it particularly difficult and as a result, most of the electives do not bring suit because they could be forced to pay the other side's attorney fees. This bill implicitly opens a window. I recognize that it does not expressly authorize doxing, which would be contrary to public policy. Because of the language in the bill, I will be voting no.

ASSEMBLYWOMAN NGUYEN:
Part of the amendment to specify an elected public official is because our public officials are defined so broadly. I wanted to make sure that innocent people—who did not voluntarily put themselves in a position whether they ran for office or even judicial office—were not included.

THE MOTION CARRIED. (SENATORS HANSEN, PICKARD AND SETTELMEYER VOTED NO.)

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MR. GUINAN:
I will read the summary of A.B. 342 and amendment, as noted in the work session document (Exhibit Q).

**ASSEMBLY BILL 342 (1st Reprint)**: Makes various changes relating to offenders. (BDR 16-511)

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED A.B. 342.

SENATOR CANNIZZARO SECONDED THE MOTION.

SENATOR PICKARD:
I am still not comfortable with the bill, but it is better with the amendment. I will vote it out of Committee.

CHAIR SCHEIBLE:
The vote is to amend in a different way and remove all the sections except for section 1. The change in the timeline is so the board no longer evaluates the procedures every other year; it is now changed to every five years. The parties will continue to discuss the bill because there are some improvements to be made with lifetime supervision.

THE MOTION CARRIED. (SENATOR SETTELMEYER VOTED NO.)

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MR. GUINAN:
I will read the summary of A.B. 396 and amendment, as noted in the work session document (Exhibit R).

**ASSEMBLY BILL 396**: Makes various changes relating to the use of deadly force. (BDR 15-1042)

CHAIR SCHEIBLE:
We have the sponsors of A.B. 396 here, and I did speak with Assemblywoman Summers-Armstrong earlier. There is an amendment to the bill which I support. It is important that we talk about the policy and do what we can to protect the public.

SENATOR HANSEN:
The bill is better than it was, but I am still uncomfortable with it. I will still be voting no. It does seem like the bill has changed enough to be feasible. I do not think anybody, whether you support the bill or not, wants any rogue police out there or any excessive levels of force, but we need to be reasonable. To constantly go after the police and make it to where they cannot make any decisions in the field and in their line of duty without having to be under a microscope will harm their ability to do their job.

SENATOR CANNIZZARO:
There has been some good work done on A.B. 396 in conjunction with S.B. 212, which is another good bill that is putting in place the right kind of accountability we can expect from law enforcement while still allowing them to do their jobs when there is an imminent threat.

SENATOR PICKARD:
I still have a question as to whether the word "imminent" would still do violence to the intent of protection by peace officers. I want to speak with some experts. I will be voting yes and reserve my rights.

> SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED A.B. 396.
>
> SENATOR CANNIZZARO SECONDED THE MOTION.
>
> THE MOTION CARRIED. (SENATORS HANSEN AND SETTELMEYER VOTED NO.)

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MR. GUINAN:
I will read the summary of A.B. 400 and amendment, as noted in the work session document (Exhibit S).

**ASSEMBLY BILL 400 (1st Reprint)**: Revises provisions relating to prohibited acts concerning the use of marijuana. (BDR 43-485)

CHAIR SCHEIBLE:
Assemblyman Yeager is here if there are more questions regarding his bill. We have come up with an amendment which includes the amendments from the Department of Motor Vehicles as well and are reflected in the work session documents Exhibit S.

At the time of the hearing on A.B. 400, Assemblyman Yeager presented an amendment that would create rebuttal presumption of intoxication for a felony level DUI. The alternative we are proposing is to remove the per se levels for misdemeanor DUIs. The per se levels of intoxication would remain in statute for marijuana for felony DUIs. For the edification of the Committee, a DUI is a felony if it is the offender's third DUI, if it resulted in substantial bodily harm and death.

SENATOR PICKARD:
In your explanation, would those be considered disjunctive?

CHAIR SCHEIBLE:
Yes. Any of those three elements I mentioned can trigger the felony adjudication of a DUI.

SENATOR PICKARD:
On a practical level, what happens when we eliminate the per se levels on the misdemeanor charges?

ASSEMBLYMAN STEVE YEAGER (Assembly District No. 9):
Everything would proceed almost exactly the same as it does now. The officer would perform the field sobriety tests and can still take the driver's blood sample, which shows a number, but the number would not be conclusive proof of guilt. That means at trial, the prosecutor would have to prove beyond a reasonable doubt that the driver was actually impaired while driving. They would use the factors such as how the person was driving and how he or she reacted to being pulled over and questioned.

SENATOR PICKARD:
Would that result in a jury instruction that indicates legislation has taken those factors out and we do not rely on the blood sample numbers? We do not want to increase the number of DUIs because the district attorneys do not believe they will be able to get the conviction. As a former defense attorney Assemblyman Yeager, how do you see this playing out?

ASSEMBLYMAN YEAGER:
The misdemeanor DUIs are solely bench trials with the municipal court judge or the justice court judge. There would be no instructions given for the most part. I do not believe this will hinder DUI prosecutions. Most of the misdemeanor DUIs tend to be multiple substances where you have alcohol, cannabis and maybe something else. In a case where there is just cannabis, the offender would be able to explain his or her history of usage why they feel able to drive with the substance in their system, just like a prescription drug. Ultimately, the judge would decide if the State has proved the case beyond a reasonable doubt. Most of these cases get negotiated, and very few go to trial. I do not think this would change.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED A.B. 400.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HANSEN VOTED NO.)

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MR. GUINAN:
I will read the summary of A.B. 424 and amendment, as noted in the work session document (Exhibit T).

**ASSEMBLY BILL 424 (1st Reprint)**: Revises provisions relating to pretrial release. (BDR 14-374)

SENATOR PICKARD:
My concern is the 48-hour hearing time. There will be times when the State does not have time to pull these things together in 48 hours, and that 48-hour window might fall in the early morning on a weekend. There could be

times when the district attorneys cannot speak with the parties involved and be prepared for a hearing. With this information, what does good cause shown involve? How does this work?

CHAIR SCHEIBLE:
It would be a decision by a judge to grant a continuance for good cause, and good cause does appear elsewhere in the NRS. It is a term interpreted over and over. Certainly, parties do argue about what constitutes good cause, which is completely appropriate. From a process standpoint, this would be either party communicating with the judge, and this could be in an informal or formal manner in which additional time is being requested before the hearing. The judge will decide and, if appropriate, give the parties a new date and time for the hearing.

SENATOR PICKARD:
This bill may authorize pretrial releases in counties that do not have the resources, and that may cause trouble for particular counties.

Section 4.7 of Proposed Amendment 3374 in Exhibit T requires the person being released to sign a document indicating they will appear at a hearing. Do we know how many of these people fail to show up at these hearings?

CHAIR SCHEIBLE:
The main purpose of signing the document is to ensure the person has been informed of the next hearing, so there is no question about whether that person knew about it because it has been acknowledged by the signed document. For this reason alone, it is worth keeping that language in the bill.

SENATOR PICKARD:
I recognize under section 4.9 of Proposed Amendment 3374 in Exhibit T that the court has grounds for a contempt under NRS 22.010.

MS. BERTSCHY:
We do not require everyone to sign these documents. I would note that Washoe County does not keep this data. One of the recommendations from the Committee to Conduct an Interim Study of Issues Relating to Pretrial Release of Defendants in Criminal Cases was to actually track this data, so we could have answers to these types of questions.

SENATOR SETTELMEYER:
I wanted it to be 48 "judicial" hours because some of the smaller counties I deal with have some serious concerns and reservations with large-scale events. Some communities may have five cases a week. With Burning Man producing 50 cases a day, this increase makes it problematic. We have recently seen the courts get inundated due to the actions of individuals. Because of this, I cannot support A.B. 424.

SENATOR HANSEN:
I like the bill and agree with the points made. I have talked with Senator Harris at length and was convinced until I heard from the rural counties. I believe there are still some significant issues. Even with the amendments, these counties do not have the resources to comply with the timeframe.

The main testimony indicated that the bigger problems are in Washoe and Clark Counties, more so than the rural counties. Because of this, I will not be supporting the bill.

SENATOR CANNIZZARO:
I am still comparing this bill with S.B. 369 from a process and legal standard standpoint. I will support the bill, but we may need adjustments so the two bills make sense together, if that may be the case.

**SENATE BILL 369 (1st Reprint)**: Revises provisions relating to criminal procedure. (BDR 14-375)

CHAIR SCHEIBLE:
I echo your comments. As we move forward in the process, with additional reprints and comparisons to S.B. 369, we will ensure that they match each other. There may be additional floor amendments for that purpose. If anyone else sees anything that needs to be addressed after this work session, we can deal with that as well; my door is always open.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED A.B. 424.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HANSEN, PICKARD AND SETTELMEYER VOTED NO.)

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MR. GUINAN:
I will read the summary of A.B. 440 and amendment, as noted in the work session document (Exhibit U).

**ASSEMBLY BILL 440 (1st Reprint)**: Revises provisions relating to the issuance of certain citations. (BDR 14-376)

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED A.B. 440.

SENATOR CANNIZZARO SECONDED THE MOTION.

SENATOR CANNIZZARO:
In some instances, a citation is not appropriate; this bill allows for those instances. Because of this, I will be voting yes on the bill.

THE MOTION CARRIED. (SENATORS HANSEN, PICKARD AND SETTELMEYER VOTED NO.)

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CHAIR SCHEIBLE:
That concludes our work session. We can now move to public comment.

MS. BROWN:
Over the years, Nevada has created some wonderful legislation on criminal justice reform, but there are still some areas where the laws need to be revised from the ground up. This starts with the offices of the district attorneys and their qualified immunity—prosecutors committing grave violations without having any repercussions. Prosecutors who withhold evidence at the expense of an innocent person must be accountable for those actions and not protected by their own.

Another area needing change is the statute of limitations when dealing with perjury. If perjury is committed and a person is convicted and incarcerated or dies in incarceration, the statute of limitations does not apply—charges should be brought against them.

Public officials or district attorneys who hinder or delay an investigation that results in no formal charges against a person who has committed perjury should be held accountable for their actions—for the harm they have caused others to get a conviction, yet end up with no conviction.

My hope is that in 2023, our Legislators will look into making our criminal justice reform complete by creating new laws.

MS. GRANT:
This Session, I have asked that police be held accountable, and some of the bills that have passed are a step in that direction. I would like to see the focus in the next Session remain on police reform but also consider holding prosecutors accountable for their actions. We need to take away qualified immunity.

I have listened to not only this Committee's hearings but others over this Session. Over and over, I have heard district attorneys respond that there is a policy for this or that. Policy is not law, and it is much easier to say they are following policy instead of having mandated legislative oversight. When Brady violations were brought up in one hearing, the district attorney's representative acknowledged that there are no true consequences when they withhold evidence.

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CHAIR SCHEIBLE:
That brings us to the end of our meeting. We are adjourned at 8:19 p.m.

RESPECTFULLY SUBMITTED:

Gina LaCascia,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE:

| EXHIBIT SUMMARY | | | | |
|---|---|---|---|---|
| **Bill** | **Exhibit Letter** | **Begins on Page** | **Witness / Entity** | **Description** |
| | A | 1 | | Agenda |
| A.B. 107 | B | 1 | Patrick Guinan | Work Session Document |
| A.B. 112 | C | 1 | Patrick Guinan | Work Session Document |
| A.B. 113 | D | 1 | Patrick Guinan | Work Session Document |
| A.B. 145 | E | 1 | Patrick Guinan | Work Session Document |
| A.B. 318 | F | 1 | Patrick Guinan | Work Session Document |
| A.B. 42 | G | 1 | Patrick Guinan | Work Session Document |
| A.B. 104 | H | 1 | Patrick Guinan | Work Session Document |
| A.B. 132 | I | 1 | Patrick Guinan | Work Session Document |
| A.B. 202 | J | 1 | Patrick Guinan | Work Session Document |
| A.B. 202 | J | 5 | Assemblyman Steve Yeager | Work Session Document |
| A.B. 237 | K | 1 | Patrick Guinan | Work Session Document |
| A.B. 251 | L | 1 | Patrick Guinan | Work Session Document |
| A.B. 394 | M | 1 | Patrick Guinan | Work Session Document |
| A.B. 141 | N | 1 | Patrick Guinan | Work Session Document |
| A.B. 398 | O | 1 | Patrick Guinan | Work Session Document |
| A.B. 296 | P | 1 | Patrick Guinan | Work Session Document |
| A.B. 342 | Q | 1 | Patrick Guinan | Work Session Document |
| A.B. 396 | R | 1 | Patrick Guinan | Work Session Document |
| A.B. 400 | S | 1 | Patrick Guinan | Work Session Document |
| A.B. 424 | T | 1 | Patrick Guinan | Work Session Document |
| A.B. 440 | U | 1 | Patrick Guinan | Work Session Document |