

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

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

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:00 p.m. on Wednesday, March 31, 2021, Online. [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

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nicolas Anthony, Counsel
Sally Ramm, Committee Secretary

OTHERS PRESENT:

Nissa Tzun, Cofounder, Forced Trajectory Project
Teena Acree
Yesenia Moya
Michael Willoughby, Battle Born Progress
Rick McCann, Executive Director, Nevada Association of Public Safety Officers
Ronald Najarro, State Director, Americans for Prosperity
Lynna Ranley
Nick Shepack, American Civil Liberties Union of Nevada
John Piro, Clark County Public Defender's Office; Washoe County Public Defender's Office
Leslie Turner
Julliette Roberson, Correctional Lieutenant, Department of Corrections
Chuck Callaway, Las Vegas Metropolitan Police Department

Senate Committee on Judiciary
March 31, 2021
Page 2

Eric Spratley, Nevada Sheriffs' and Chiefs' Association
John Abel, Las Vegas Police Protective Association
Calli Wilsey, City of Reno
Lisa Rasmussen
Elizabeth Neighbors, Forensic Director, Division of Public and Behavioral Health,
Department of Health and Human Services
Patrick File, Nevada Open Government Coalition
Nathaniel Phillips

CHAIR SCHEIBLE:

Anyone intending to testify today may submit written comments. Each person will have two minutes to testify; you may also simply state you agree with a former testifier. When the hearing is concluded, there will be time for public comment. To submit written testimony during or after the meeting, the email address is SenJUD@sen.state.nv.us.

The hearing on Senate Bill (S.B.) 236 is open.

SENATE BILL 236: Makes various changes relating to public safety. (BDR 23-217)

SENATOR DALLAS HARRIS (Senatorial District No. 11):

There are three parts to this bill: early warning system, traffic stop reporting and an Interim study, as shown on the slides ([Exhibit B](#)).

The first part of the bill relates to early warning systems. Our criminal justice system is not blind or bias-free. The saying is "We all have bias, and we are all unaware of it." I am proposing a system be established to measure specific criteria, if present, indicates an officer is succumbing to bias. This bias can cause acts that may put the law enforcement agency at stake or at risk for substantial monetary damages. An early warning system specifically is designed to track indicators of bias and can reduce the agency's liability and protect it from issues that can be avoided. This system also can help to improve an officer's performance and understanding of when and where he or she exhibits bias. We can utilize training, counseling and additional supervision to help an officer realize when bias may exist and provide strategies and tools for what that officer can do to become more aware of the existing bias. This will help him or her use a more equitable and objective lens when making decisions. The proposed system asks police departments to look at specific indicators that help

them identify and intervene before the risk escalates. This system is not punitive or designed to be used against officers.

The proposed early warning system has the following elements: It tracks and measures incidents of bias indicators. Examples of indicators are a large number of citizen complaints or improper searches, and how often the officer resorts to the use of force or any other indicator that an officer has a negative attitude toward community policing or other things concerning relations between law enforcement and the community. It also tracks problematic behavior indicating when someone is likely to exhibit bias prior to informed decisions on the job. This gives law enforcement agencies the data and tools to address the indicators at an appropriate level for the officer, which starts with increased supervision and training or counseling. The idea is that police departments can take their expertise and put together indicators they believe will exhibit someone who might be displaying bias and offer some curative measures before serious harm comes to fruition.

Do warning systems work? We trust the Doppler to indicate the weather. We all know it does not always happen in the way it was forecast, but it prepares us for extreme events by measuring the temperature, barometric pressure and other indicators that may result in a catastrophic event. The early warning system used in law enforcement has the same purpose. We want to help leaders identify potential problems and to intervene so these problems do not become catastrophic. This includes specific measures allowing for supervisory organizations and regulators to use best practices and to adjust the behavior indicators to achieve the required results in preempting bad behaviors.

The second part of the bill is related to traffic stops. Data collected does not have enough information for analysis and does not address issues reported to this body in 2003. For people to feel that justice is being equally applied, we must demonstrate equity through data. The last study done regarding racial profiling in traffic stops was a 2001 legislative interim study resulting in a report presented to the Legislature in the Seventy-second Legislative Session in 2003, "Racial Profiling and Mandatory Data Collection in Nevada: How Will Law Enforcement Respond?" by Gregory M. Roehm, which indicates grave disparities in who was stopped and what happened after the stop, including who was handcuffed and who was subsequently arrested. At that time, Black males made up 6 percent of the population in Nevada but were 15 percent of the traffic stops. Generally, this type of overrepresentation was apparent across all

kinds of racial groups and jurisdictions that participated in the study. As a result of the study, internal procedures may have changed, but there is no evidence of that change in the policy. It is imperative that the Legislature take another look at this in an aggregate sense and get some statistical analysis on whether these biases exist in traffic stops, so we can determine if there is a problem and if so, figure out the best way to solve it.

The most important piece in this change is we can standardize information to make qualitative changes in policies and procedures inside law enforcement agencies. To understand all of the issues of concern, we need to be more specific about what we are collecting, making sure officers are trained in the right way to collect the data and report it consistently. What you see in the bill is a centralized data collection system where police officers will use their existing traffic stop infrastructure to add this data. This will not require police departments to buy new software. It will not require departments to write the same ticket two different times. In the past when we did the study, police officers were writing this information on index cards and handing them in. This bill presents a much better system. The data collected from this early warning system will provide real qualitative statistical analysis.

I acknowledge that we have work to do on the traffic stop language to ensure that we are capturing the right type of traffic stops. This is not designed to require police officers to write down information if they are stopping someone for a diversion from a hazard in the road, for example. I look forward to an amendment that will make some of this aggregate, anonymized data available to the public for analysis. It is important we understand bias and possible profiling in these traffic stops. The Proposed Amendment 3150 to this bill ([Exhibit C](#)) would work together to create some behavioral change and better policing. Agencies will be able to identify potential issues up front and collect comprehensive data so that issues can be abated and best practices can be employed uniformly across the State. This will create a more effective justice system.

The last piece of the bill is related to how we use policing in society. I am always reminded that for medical issues, we send EMTs; for gas leaks, we call the gas company; for a fire, we call the fire department. For any other crises under the sun, law enforcement is called. When police do not have the tools necessary to address the actual crisis at hand, they do not always handle it perfectly. Police officers are by no means social workers. They are not

psychiatric nurses. They are trained to address certain issues. I am asking to have an Interim study on how we can better align our crises responses to the actual crisis.

Doing all of these things will help prepare Nevada for the future. Often, we create policy in retrospect. It is important for agencies to adjust in an appropriate way. We have policies held over from the civil rights era of the 1960s. Young people today do not know how to address an envelope to send it through the postal service. Our way of thinking must change along with the people we serve. We also note that Nevada has a booming population growth that is changing demographics and technology, which requires faster, more efficient responses from law enforcement because situations are changing and becoming more complex.

Early warning systems are used by human resources offices to allow agencies to prepare for imminent threats. They rely on clear consistent data to measure any potential bias. If bias results in damage, liability must be appropriately assigned. Nevada's law enforcement agencies will operate better if we develop an early warning system to preempt issues and provide some accountability for grievous violations if they happen. Las Vegas Metropolitan Police Department (LVMPD) has an early warning system in place. This bill would not require any police department that already has an early warning system to create one different than what it is already doing. It was important to me to allow police departments to take into account the factors they feel necessary because they are the experts on policing.

NISSA TZUN (Cofounder, Forced Trajectory Project):

Forced Trajectory Project is a media and public relations organization dedicated to advocating for survivors and families impacted by police violence. For the last 12 years, we have been deeply immersed in communities impacted by police violence nationwide; for the last 5 years we have been focusing on Las Vegas. In that time, we have advocated for over 20 local cases of police violence, investigating what happened, resources and needs of the families and survivors. We also create media to help victims and survivors in the midst of their traumas piece together their narratives. Senator Harris reached out to me to speak on this critical legislation because of the work we have put into understanding police violence in the Las Vegas community.

Senate Bill 236 is a critical piece of legislation for this time. It has been critical since long before the killing of George Floyd. This bill will help create avenues for police accountability. Early warning systems are important. Las Vegas Metropolitan Police Department has one, but its system has to be revisited. The purpose of implementing an early warning system is to catch bias and problematic behaviors exhibited by police officers. This must be done before the bias and behaviors result in a dire situation like seriously injuring or killing a civilian.

The reason I support this measure so staunchly is the 20 local cases on which we have worked. We have identified multiple cases where the same officer was responsible for killing a civilian. Raphael Olivas was killed on July 14, 2011, after his mother Alma Chavez called the crisis intervention team for health because he was having an emotional breakdown. He was killed within two to three minutes of the arrival of LVMPD. Alma Chavez saw the whole incident. She was denied witness testimony, detained in her house and searched immediately after she saw her son take his last breath. Nine months later on April 22, 2012, Officer Christopher Grivas and one of the officers involved in the killing of Raphael Olivas were involved in another shooting, killing a black woman, a mother of two teenaged girls who was a social worker and a special needs teacher. Her name was Sharmel Edwards. Had Grivas's previous involvement in Olivas's death or perhaps previous problematic behaviors he exhibited prompted a red flag through this early warning system, maybe Sharmel Edwards and Raphael would be here today.

Another example involves a recent case you may be familiar with. Rex Wilson, a former U.S. Marine, businessman, husband and father of nine Native American children, of the Oglala Lakota Tribe from the Pine Ridge Reservation in South Dakota, was shot 36 times on October 12, 2016. Officers John Squeo and Christopher Gowens are two Las Vegas Metropolitan Police Department officers involved in that shooting. They were also involved in the fatal shooting of Brian Keith Day the previous year in July 2013. It has recently been released that John Squeo was the officer who shot nonlethal trajectories at Jorge Gomez, a Black Lives Matter protestor who was open-carrying, causing Gomez to run for his life, only to be shot 19 times by 4 other LVMPD officers on June 1, 2020. Other cases show officers involved in repeat fatal use-of-force incidents like the killer of Tanner Chamberlain, Thomas McEniry and Pedro Ramirez. These are just a few of the 20 cases we have looked at.

Other sections of S.B. 236 also offer more avenues of accountability including data collection, traffic stop reporting to the Department of Public Safety and implementing studies on crisis response and policing. An amendment is likely to allow the aggregated data to be available to the public. As we work with many families across the Nation, we have witnessed how aggregating and analyzing traffic stop data can support identifying bias in patterns and practices of police departments. The Racial and Identity Profiling Act of 2015 that passed in California has helped that state identify significant racial bias for African Americans driving in California. Senate Bill 236 can support our efforts for transforming policing in Nevada by putting the safety of our citizens at the forefront of policing.

TEENA ACREE:

I am a war veteran with distinct honor and appointment in Iraq and Afghanistan. Nothing in those war zones prepared me for the police bodycam footage of my uncle, Byron Williams, who was murdered by LVMPD on September 5, 2019. His death was ruled a homicide, and we do have a pending civil case. He was riding his bicycle to the gas station when he was racially profiled and stopped; what should have been a minor offense of not having a light on his bicycle turned into his death. He was initially chased by a police car. He surrendered and complied, but the officers pinned him to the ground. All bodycam footage shows officers on their knees. He started pleading for his life, saying "I cannot breathe."

In the fact-finding review, it was told to us that he said he could not breathe over 21 times. Instead, his cries were unanswered, and the officer viciously attacked him using vulgar language. A female officer told him "Ain't no one coming for you." There was a male officer saying "Get up or we are going to drag you." That is exactly what they did. They dragged him to a different area. One of the body cameras shows an officer asking, "Is he breathing?" Instead of an officer using his hand or his palm to check his pulse, the officer used his foot to check if my uncle was breathing. At that time, all the body camera footages were turned off for a period of time—I am not sure how long it was turned off. Once it was turned on, the ambulance was on the scene and CPR was being administered.

If this bill is passed, the data collection statistics and analysis will help prevent any person of color from being racially profiled and killed. The warning signs

would prevent an officer from doing what they did to my uncle, using vulgar language and showing bias that we see on the redacted footage.

SENATOR SETTELMAYER:

Did all the cases you discussed happen in Nevada?

SENATOR HARRIS:

Each of the stories you heard are from here in Nevada.

SENATOR SETTELMAYER:

How many counties are already doing what you discussed? You indicated that Clark County does. At least two of the four counties I represent have a detection system in place to help address issues that occur that may be affecting them in some respect.

SENATOR HARRIS:

I will have to do a little bit of digging for you. I know that LVMPD has one. I am not aware of any other in the State, but I would not be surprised if Washoe also has an early warning system in place. I will get back to you on that.

SENATOR SETTELMAYER:

Someone might be out there from the Sheriffs' and Chiefs' Association who may help you find out. If a person is pulled over and the police pull out a form to access this information, who will be the person determining the ethnicity of the person being pulled over?

SENATOR HARRIS:

While developing this, I was presented with two options. Either we force police officers to ask people their ethnicity when they stop them, or we allow police officers to take their best guess. There will also be an opportunity for the community member to claim unknown ethnicity. This means we collect the data by asking people, which puts police officers in an uncomfortable position; we allow the officers to give their best guess; or we do not collect the data at all. I do not see that as a better alternative.

SENATOR SETTELMAYER:

A suggestion, maybe there is a compromise. I may have received a few speeding tickets or things of that nature, and the individual asked me to sign off on that ticket without admitting guilt. Would it be appropriate to let the driver

decide at that time whether to indicate ethnicity on the ticket? I do not approve of putting the officer in the awkward spot of asking, and it would be completely improper for anyone to assume the ability to guess another's ethnicity.

SENATOR HARRIS:

If you have a better option, I would be happy to take a look at it. The State of Oregon has done this data collection, as has California, so I have committed to law enforcement agencies to connect them with partners in those states to develop best practices for how we can get this done.

SENATOR SETTELMAYER:

In that respect, do you have any idea how those other states did it? Does the officer determine, or does the person who is pulled over self-divulge?

SENATOR HARRIS:

I believe it is the former.

SENATOR SETTELMAYER:

That is interesting. Since we make people sign the form when they get stopped, they could decide whether to decline to give the information or choose to do so.

SENATOR HANSEN:

With the whole concept of bias, I have noticed consistently that there is a strong gender bias throughout law enforcement. Males are overwhelmingly more likely to be stopped—young males, especially, of all races. Our State prison populations are disproportionately male. Yet our populations are half female and half male. Are we now suggesting that our entire criminal justice system is biased against males? Obviously, disproportionality there is provable.

SENATOR HARRIS:

I am happy to detect any bias in the system and address it in any way possible.

SENATOR HANSEN:

My point about bias is males commit most of the crimes, and it is disproportionately young males. When I am driving down the road and I get some hot rod speeding by me, it is almost never a 55-year-old Black or White guy; it is almost always some young kid, and it is almost never a girl. So when the police are pulling people over and we are seeing a disproportionality between

racess and gender, did anyone ever consider that those people are the ones who are committing a disproportionate share of the crimes?

SENATOR HARRIS:

Yes, we have considered it, and there is no evidence African Americans are more likely to speed. There is evidence that males are more likely to speed, hence the higher insurance rate for males. The statistical numbers are not there. To imply that 6 percent of African-American males comprise 15 percent of traffic stops because they speed more often clearly misses the mark.

SENATOR HANSEN:

Perhaps, but I would also point out that when we look at all the police statistics in Nevada, there is almost a complete absence of Asians. Whites are disproportionally singled out apparently by these biased cops who, for some reason even though they are racist, somehow overlook the Asians. The statistics are pretty clear that White people get disproportionately pulled over on a percentage basis compared to Asians. Are we going to suggest that the cops are more biased in favor of Asians than Caucasians?

SENATOR HARRIS:

Senator Hansen, it is not my intention to suggest anything. We are going to collect the data and let the statistical analysis bear out what it may. People with appropriate skills will take into account all of these relevant factors including an increase in people in the city on a given day, time of day, all of the other multiple factors that can get to a point where we can statistically say with a 99 percent certainty that bias is leading this and not something else. If the statistics do not bear that out, great. There is nothing we need to do. If it does bear it out, we have the ability to address it. All of these other things that may be playing a part in how often people are stopped can be statistically accounted for, and that is what will be done.

SENATOR HANSEN:

Here is the reality. They have been collecting this data for years. When I came in as a freshman Legislator, racial profiling on traffic stops was a hot topic. I am intrigued you said that LVMPD is doing the right job and this will not impact them. Yet the 20 cases that Ms. Tzun mentioned all involved LVMPD. I would also like to ask Chair Scheible and Vice Chair Cannizzaro, since they represent the District Attorney of Clark County, if there is a bias going on in Clark County with the police. Are you aggressively prosecuting the cops who are the bad

guys there? The District Attorney is one of the checks and balances in the whole system, yet we have people suggesting at least 20 cases of police violence. Were the cops who committed the police violence aggressively prosecuted by the existing District Attorney?

SENATOR HARRIS:

We all have bias. Bias is not a crime. However, when you are a police officer, it can manifest in different levels of harm to people. This bill does not criminalize police officers who display some bias. It tries to ameliorate it by offering them some kind of awareness about their bias, additional supervision or training, whatever needs to be done to address the issue. I mentioned LVMPD has an early warning system in place; it is not my intention that it creates a brand new early warning system. None of us are doing our jobs perfectly, so that was not my intention in that statement at all.

SENATOR HANSEN:

Everybody does have a bias, and it is not limited to cops. It seems to me that some Legislators have biases against law enforcement at the moment.

CHAIR SCHEIBLE:

Senator Harris addressed questions to both Senator Cannizzaro and me. That is not appropriate during this hearing because it is Senator Harris's bill, but I remind everybody that while I work for the Clark County District Attorney's Office, I do not represent it. I take an unpaid leave to be here chairing the Judiciary Committee. While my experience there informs some of my knowledge in criminal law, I in no way represent the District Attorney's Office while I am here or any of its political positions.

SENATOR PICKARD:

This has been in the news and in the discussions in this building since I have been here. I want to look at the language of the bill. When we say "bias" in the context of this bill, we are talking about racial bias, not bias against red hair or bias against black hair or bias against body shape; whatever it might be, we are talking about racial bias?

SENATOR HARRIS:

If the early warning system detects that an officer has a bias against people with dark hair, I do not want people with dark hair to be disproportionately

affected by police violence. There is little evidence that type of bias manifests itself in any meaningful way, but we will see racial bias coming forward.

SENATOR PICKARD:

Do I understand that the bill is intended to look at racial bias, or are we looking at any bias that human nature might produce?

SENATOR HARRIS:

The bill includes that police departments are the experts on detecting these bias indicators and what type of corrective actions might need to be put into place. The language does not specifically state racial bias indicators, but the history of America and of policing in America would suggest this is the largest issue when it comes to types of bias being seen.

SENATOR PICKARD:

What kind of direction are we giving to law enforcement in this State through this language? Speaking of race-based decision-making or biases, does the consistent use of that type of decision-making indicate a bias that needs a curative measure to be applied?

SENATOR HARRIS:

We want to flag people who may be displaying bias and put some interventions in place before that bias manifests itself in some type of catastrophe for the officer and the people and families involved.

SENATOR PICKARD:

I appreciate your recognition that it does affect both sides. I am looking at section 1 language in the bill. You refer to a "large number" of something, and we have not defined that. Will that be up to LVMPD to define what is large within its context?

SENATOR HARRIS:

Yes. A large number may change depending on the type of assignment—the beat that you walk. Note that section 1, subsection 1, paragraph (a) says "for example." These are some of the key things that law enforcement agencies should be looking at, but it is up to them to make it flexible enough for people who are involved in certain types of work. Large number may mean a different thing for those who are walking the beat.

SENATOR PICKARD:

We are leaving them a system that you claim is broken and the ability to define the parameters of measurement within their system. We are not giving them guidance as to what is a large number or how any of these things indicate a bias. You may have a number of car crashes that have to do with the drivers' vision. This has nothing to do with bias. An officer may be flagged for a large number of arrests with no charges being filed, even though the officer has no control over that number. It is up to the district attorney's office to decide what arrests result in charges. In at least one of the stories we heard, as tragic as it is, Clark County District Attorney Steven Wolfson found that the officers had no choice. I do not see how that necessarily points to bias. I am not arguing that they should not do it. If we take this on, we need to give direction. If we do not give direction, I do not see how they change what they are doing because we are not telling them how to change.

It boils down to the question, can we cure bias? Can you regulate against human nature? I want to find out how to give direction on this in a meaningful way. I agree we need to do that, but we should do it in a way that gives law enforcement the direction they need and not just be beating on them.

SENATOR HARRIS:

This is not a bill to beat on anyone. Being identified by this system simply means you may be displaying bias, and we are going to get some additional training. Can we cure bias everywhere? Absolutely not. But a mechanism here that if you are flagged by this four times, we have some curative measures. Maybe police work is not for you. I do not anticipate this happening often, but the goal is not a punitive measure at all. If you have a lot of crashes and it is because you are blind, that is not the one thing that gets additional supervision and training. These are meant to be multiple factors that considered together can throw up a red flag that can suggest an officer might have some bias they need to address, and we want to get help for that person. Time and time again, we require police officers to be trained on cultural competency and diversity, and how to manage people with mental illness. We tried all of that, so we should also give this a shot. We must ensure that police departments have a system in place that can simply raise a flag on officers who may need a little additional help.

SENATOR PICKARD:

I will probably disagree with you to the extent that on the whole, law enforcement does remarkable work with the limitations and scrutiny it is given, and that extends to the district attorney's office too. I know Chair Scheible and Vice Chair Cannizzaro work hard to protect the citizens of the State, and I disagree that bringing this kind of attention phrased the way it is and presented the way it is suggests that law enforcement is not doing an adequate job. Why is section 18, subsection 1, saying that, "To the extent that money is available, the Department may contract with a third party to review all public information?" If the premise is that all the things we have tried have not worked, why would we not require an independent review of this data to see what law enforcement is not seeing or what you think they should be doing differently? When I do an appellate brief, I have two or three other attorneys look at it because they will see what I have not seen; yet there is no requirement for review here except as money is available. I do not understand why we leave that independent review up to chance.

SENATOR HARRIS:

I do not disagree with you that we need to have the review done, and it is my intention to get this review done. I am in discussions with a couple of people who would do this statistical analysis. What you see is legislative language to enable authorization to enter into a contract with a third party and to do so with different funds that I am working with Department of Public Safety to secure.

SENATOR PICKARD:

Senator, your heart is in the right place; you are trying to make things better. I do not question that. We may disagree on the method. I am concerned about making sure the police get the kind of guidance they need to accomplish this. When we talk about a large number of citizen complaints, what if the complainants are all Caucasian against a Caucasian officer? That is clearly not bias, so we need to look hard at the language; otherwise, this might be an exercise in futility like all the others you listed.

SENATOR HARRIS:

It was not my intention to suggest that these trainings have not worked. It is simply to suggest we already have the requirements put into place. I hope that we will have officers who are biased go back through those trainings, if that is found to be the best kind of intervention. I could not bring forward a bill that

would require officers to go through more training in this vein when we have clearly taken steps to do that already.

Ms. TZUN:

I recall hearing Senator Hansen on a call about the domestic violence bill asking about the statistics regarding different communities. This is no different. It is a piece of legislation asking to aggregate more statistics. White folks being pulled over by White cops does not necessarily mean no bias. There are biases against racial groups. It could be classist or what kind of car is involved, how you are dressed and what your hairstyle is.

We have seen in the work we do there is significant bias for homeless people in Las Vegas by police officers. Legislation has been passed that is discriminatory against homeless people and people who suffer from mental illness who are exhibiting odd behaviors. The more data we aggregate, the more we can learn and analyze how to improve policing in Nevada. Also, all the cases I mentioned are local cases impacted by the LVMPD. I encourage everyone to research local cases in Las Vegas and in Nevada to learn more about policing and how it looks in Nevada rather than looking at national cases that did not happen here.

CHAIR SCHEIBLE:

Senator Harris, I am looking at the amendment we are working from [Exhibit C](#). In section 14, a definition of profiling that starts on page 8 identifies some of the categories of bias that we would be looking at like age, race, ethnicity, sexual orientation, religion, homelessness and disability. I want to confirm that while that applies to section 18 where we get an outside consultant to review the possible profiling, is it fair to take from that list a general understanding of the kinds of bias that will be considered in this process?

SENATOR HARRIS:

Yes, this is a good list, and for Senator Hansen's edification, political affiliation is also on that list.

CHAIR SCHEIBLE:

Being a member of law enforcement and struggling with this issue, I appreciate that the early warning system has statistically been proven effective. Personally, my bias has been recognized in the past, and I have been accused of racism on Twitter, in court, on Facebook and in person. It is a jarring and unpleasant experience which I know does not compare to the actual oppression that people

of color, people with disabilities and other communities face. Senate Bill 236 takes the lightest touch possible. People are not being called out on Twitter, being placed on the record in a court of law or posted on a list in their front lobby. Instead, they are having private conversations with data to say it has been noticed that over the six months these ten things happened, or over the last year this same thing happened eight times and this is not normal.

I cannot think of a lighter touch than a one-on-one conversation based on private, personalized information to make a change. This is not intended to be punitive or to pull the officer out of the regular line of duty and reprimand him or her but to say you have this unconscious bias. The officer might not accept or recognize the need but must either attend this cultural competence training or have the conversation with a particular officer. This process will be individualized to whatever the bias, whether it is the way a certain race or people who speak a certain language are being treated, or maybe communication skills with people who have disabilities. Connections with the right resource will be made to address the specific issue being faced without any penalty or shaming but to help improve job skills.

YESENIA MOYA:

I have lived in a few zip codes where officers are filling up their quotas with racially profiled traffic stops. I have been stopped, ticketed and treated harshly. I have witnessed my friends and loved ones stopped, treated harshly and then incarcerated. This can lead to loss of livelihood, loss of one's family or worse. We need this data. Officers need to know how they impact their communities. If they are going to be doing this work, they need to understand the history and what they are causing. At this point, members of our communities fall into anonymity and there is no accountability or place to go when we are being harassed or mistreated by law enforcement. I urge you to pass S.B. 236. It is imperative to communities that have been marginalized in this State, and we need to do better because enough is enough.

MICHAEL WILLOUGHBY (Battle Born Progress):

I am a reverend and the son of a cop. My dad gave nearly his entire adult life to protecting and serving the people. He was empowered to change or end lives every day. My dad started his career in the post-Serpico era, and he benefitted from the attention paid to ethics because of that. This bill is a step in that spirit. It will help good cops be better and help the folks who are not cut out for it find out before there is another tragedy. Most importantly, it is something we can do

to stop the trend of Black men and women dying at the hands of law enforcement. We all have bias. We also have a moral imperative to take action to correct things when we know they are wrong. Overwhelmingly, Black men and women are dying unjustly in the street, and each of us knows this. Their lives matter. Black lives matter. There is more bias out there. This bill can accommodate that bias too. Please exercise your power and do something. Please support S.B. 236.

RICK McCANN (Executive Director, Nevada Association of Public Safety Officers): This bill requires law enforcement agencies to establish early warning systems and to be guided by selected elements in this bill. That is not unreasonable, and it will require further dialogue with the law enforcement agencies to develop those policies. Dialogue is not a bad thing. We need more of it. Statistical analysis is not a bad thing. It is all in how the data is used. For these reasons, we support S.B. 236 and encourage this committee to do the same.

RONALD NAJARRO (State Director, Americans for Prosperity): We support S.B. 236, which establishes early warning systems and a system for the recording, collection and review of information concerning traffic stops and other stops made by law enforcement officers. This bill prioritizes transparency and accountability in a way that is critical to improving community trust. The early warning system provisions will help us by identifying problematic officers, and the collection of traffic stop data will help identify whether discrimination, intentional or unintentional, is occurring.

Recent research reviewed 95 million traffic stops in 56 different police agencies and found that Black drivers are more likely to be stopped by police and searched after being stopped when compared to White drivers, even though officers are less likely to find contraband when searching Black drivers than White drivers. These disparities continue to exist even when the researchers controlled factors such as difference in the drug behaviors and other potential variables that could cause this disparity. Police pull over more than 50,000 drivers on a typical day, more than 20 million motorists every year. This is the most common police interaction with the community, and developing a way to track it in Nevada will provide crucial data for future reforms. On behalf of our 96,000 activists across Nevada, we urge you to support S.B. 236.

LYNNA RANLEY:

My brother Thomas McEniry was murdered by LVMPD within one minute upon arrival of the police. Kyle Prior, the same officer who murdered my brother, murdered another civilian, Pedro Ramirez, a year and a half later. He used the same excuse both times, saying the Taser failed to work. These are real facts and real cases that could have been avoided if a system was in place to determine unconscious biases. In the 1920s, the NAACP started reporting traffic stops for Black people. They presented this information to the federal government and noted how Black people were more likely to be harassed by the police, and what they were charged for was more likely to be untrue.

Here we are 101 years later, still asking for the same system to be in place. It is not our responsibility as civilians to keep a count of the biases officers have. It is the duty of the county or the State. It is the duty of LVMPD to account for their biases. A system is needed to account for these biases so it is not the public's responsibility to go on Google and fact-check everything. Police organizations need to take accountability and offer transparency to us. That is why I support this bill.

NICK SHEPACK (American Civil Liberties Union Nevada):

We support S.B. 236 and the much-needed data it will provide. Being critical of government agencies such as law enforcement and how the employees do their jobs and serve the public is healthy for society. Government employees conducting their jobs in a racially biased manner is not. These two things are not the same. We often hear of data holes in policing and that nobody hates a bad cop as much as a good cop does. An early warning system to identify bad actors in law enforcement should be welcomed by all. This type of system will not only help to protect the community but allow law enforcement agencies to more effectively manage their departments. Our support of this bill is by no means intended to indicate that we trust police departments to robustly police themselves. Law enforcement is notoriously bad at holding itself accountable and disciplining deserving officers appropriately. The implementation of this bill will need to be closely monitored, and law enforcement agencies that fail to use this new tool effectively must be held accountable.

We welcome the collection and the dissemination of traffic stop data this bill requires. We know that drivers of color are far more likely to be stopped than their White counterparts. Every driver probably violates some provision of the vehicle code at some time during even a short drive. Because of this, it is easy

for the police to target a specific driver, following that person until even the slightest mistake and then pulling him or her over. This data will help us identify overpoliced communities and racial bias in the system and is critical in crafting effective reform in the future. We also support the study and believe that crisis response call centers would become important parts of the public safety apparatus in the future.

JOHN PIRO (Clark County Public Defender's Office; Washoe County Public Defender's Office):

We are grateful for the measures being taken to examine bias and root it out. What stays in the dark cannot be dealt with. It must be brought to the light, and that is what needs to happen. We fully agree with Mr. McCann when he said dialogue and statistical analysis are not bad things. That is what needs to occur for us to move forward.

LESLIE TURNER:

Black lives matter. If that statement makes you feel uncomfortable, you should take an objective look at United States history, especially the history of legislation in this Country and State, and please investigate your own bias. If that makes you feel uncomfortable, then bias is there. There is nothing radical nor unreasonable in this bill. This is the bare minimum, data collection and transparency. It is not a coincidence that some of the officers involved in shootings have been involved in multiple use-of-force incidents prior to that. It happened in the George Floyd case and happened locally with Jorge Gomez. Maybe their lives could have been changed if we had paused and looked at problematic patterns. Everyone should be in support of this bill. If law enforcement has nothing to hide, nothing to change, as is often depicted in these hearings, then it should be open to prove it to the community and to build trust. Further, if law enforcement wants to build trust with the community, it has to meet the demands in the community that does not trust it. What is done in the dark needs to come to the light. I continuously hear the notion that we are here to build bridges and trust with the community. Building trust means transparency and addressing problems that have existed in this Country for decades.

JULIETTE ROBERSON (Correctional Lieutenant, Department of Corrections):

As our agency is in support of this specific bill, we have identified several bills requiring additional training for our staff. We are requesting the opportunity to prepare a quality comprehensive training program and/or modules that will

incorporate all of the bills that encompass all topics and subjects as they relate to social justice reform. This will enable us to ensure meaningful and adequate training and request necessary resources to fulfill both initial and continuous training so we can adhere to this for all the bills in this Session. We do have preliminary projections for training relating to any specific subject, so feel free to reach out to us.

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):

We are here in opposition to S.B. 236 as written. We had a dialogue with Senator Harris and appreciate her willingness to reach out and engage us. Maybe with the pending amendments, we can at least get to the point of neutral on this bill.

Las Vegas Metropolitan Police Department has used an early warning system for over a decade. Data collection is important in law enforcement, and this is no exception. It does require a deep dive to evaluate the data. One example is that an officer may be assigned to work in an area with a high concentration of a certain demographic of people; on average, conducting traffic stops in that area would show a higher percent of persons of that demographic being stopped. It is not enough to just look at the baseline data. I also agree with the comments made for officers to be asking motorists their data, but it is also not appropriate to be guessing data. I recommend that data be collected through traffic citations issued and sent to the State as one mechanism that would collect that data. There also could be potential costs associated with the data collection piece, and we are willing to work with the Senator on that issue.

Regarding some of the testimony during the hearing, I take offense at the term "police violence." Police officers are out doing a difficult job on a daily basis, and they react to the actions of suspects and people who they encounter on calls and on stops during the course of their duties. If someone dies in the custody of an officer, it could be caused by a heart attack or drugs in their system. If they are in police custody, the coroner's office rules law enforcement as a contributing factor to the death and will rule it a homicide, even though other factors may play into that.

I am not aware of any homeless study in Clark County that shows law enforcement is biased toward the homeless. Our Homeless Outreach Team assisted over 500 people to get off the streets since it has been operating, and we have a robust program where we go out and assist homeless people to find

resources they need. We support data collection and an early warning system, but we want to ensure that data is being collected and analyzed in the proper format.

ERIC SPRATLEY (Nevada Sheriffs' and Chiefs' Association):

The majority of the concerns for law enforcement leadership have been addressed with the Proposed Amendment 3150, [Exhibit C](#). I need to direct your attention to sections 13 and 16 of the amendment. The words in these sections "or any other purpose" triggered the data collection requirements of section 17. If a police officer stopped a person walking down the sidewalk to hand back the wallet that fell out of his or her pocket, that officer would then be required to further delay that person while gathering information for this data collection. This would fall under the language in section 13, "or any other purpose." Similarly, if an officer stops a vehicle to inform the driver that her coffee cup is on the roof of her car, that officer would then be required to delay that person while gathering information for data collection, even though it is not a traffic violation to drive around with a coffee cup on the roof of your car as long as it does not fall off. This scenario would fall under section 16 language "or any other purpose."

Similarly, in section 1, this bill applies to each law enforcement agency per NRS 289.010 which was broadened by S.B. No. 242 of the 80th Session. A lot of agencies need to establish an early warning system, and while that may be the intent of the bill, it will apply to agencies per section 12 which are numerous. According to NRS 289.150, there are sheriffs and their deputies to whom this should apply. But then it applies to tribal officers, persons appointed by the Nevada Supreme Court, security officers appointed by local governments under certain circumstances, special investigators of the Attorney General's Office, criminal investigators for the Secretary of State, parole and probation officers, school police officers, officers employed in detention facilities for children, Legislative Police, Department of Corrections and all of the other things in NRS 289. We do not think this is the intent of the bill.

JOHN ABEL (Las Vegas Police Protective Association):

This is the second major bill involving law enforcement where Senator Harris has not reached out to the single-largest police union in the State, the Las Vegas Police Protective Association, or the largest group of law enforcement unions, the Public Safety Alliance of Nevada. We have two objections in this bill. The outline states to recognize "bias," yet several of

the factors listed in this bill have nothing to do with any implicit bias such as an accident or when an officer calls in sick. If we had conversations with Senator Harris, she could have let us know how this works for the officers. We would not have been opposed to this portion of the bill if the authors of the bill could show how officers have no newly added paperwork or documentation. Senator Harris makes reference to disproportionate stops on Black males, yet a large portion of car stops are observed from behind the vehicle. Registration information or vehicle law violations typically do not afford the officer an ability to even recognize the race of the driver. Also, in Nevada, vehicle windows are often tinted and further keep an officer from recognizing particulars or numbers of occupants.

It appears that Senator Harris only had people speaking on what appears to be the antipolice side. The woman who testified today is a member of the Forced Trajectory Project which supports the demands by Families United 4 Justice, including demands to abolish unions, the Las Vegas Police Protective Association specifically and the resignation of Sheriff Joe Lombardo. This does not seem fair. The Committee should be recognizing that these groups and their testimony are anti-police at best. Most people who are upset by police seem to consistently want to tailor laws when their family or friends do nothing wrong and the police profiled them. While we feel for the families left behind after any deadly force encounter with the police, testimony forgot to mention that Mr. Williams was under the influence of a controlled substance, had a heart attack recently and had just run about one-and-a-half miles while being chased by law enforcement. This is just some inflammatory testimony against police and the law enforcement community.

CALLI WILSEY (City of Reno):

The Reno Police Department has an early warning system in place. We find it a valuable tool for the reasons discussed today, and the Reno Police Department will be able to comply with the provisions set forth in that section. Since this was a question brought up during the hearing, we wanted to ensure the Committee has this information. We appreciate the bill sponsor's comments that additional conversation will occur related to the traffic-reporting section. We understand the policy intent here and believe the additional discussions will help work through some of the logistical nuances in the language.

LISA RASMUSSEN:

I want to make it clear that I laud all of the efforts that Senator Harris has done to bring this bill forward, working with many in the community to get this bill to the place where it is. The only reason I am testifying in neutral instead of support is because the provisions on qualified immunity were removed, and they were a step in the right direction. The bill is necessary because it gives us data. We cannot make smart, informed policy decisions without data. My support for that is not because I am a cop-hater. And other people who support the bill are not cop-haters either. It is because we want information so, as a body of people in Nevada, we can make good, informed decisions. I think this is great and that the Committee should support it. I am sorry to hear some of the resistance from law enforcement who feel attacked because I do not think that is the intent of the legislation.

ELIZABETH NEIGHBORS (Forensic Director, Division of Public and Behavioral Health, Department of Health and Human Services):

In light of the amendments, the Department of Public and Behavioral Health will be removing its fiscal note on this bill in its entirety.

PATRICK FILE (Nevada Open Government Coalition):

We are testifying as neutral on S.B. 236. We have expressed concerns about the breadth of the confidentiality provisions in the bill. We are confident that the amendment, if accepted, will ease those concerns.

CHAIR SCHEIBLE:

The hearing on S.B. 236 is now closed.

NATHANIEL PHILLIPS:

We already know that bias exists in the system of policing and the criminal justice system at large in this Country. The entire system is predicated and was founded on both implicit and explicit bias, from police forces catching escaped enslaved people to busting unions in the North. We know that bias is tolerated and excused in policing unlike any other industry. A guy with a gun and the full force of the law can have devastating and lifelong consequences.

The two facts about bias we unequivocally know are that in Nevada and nationally, Blacks are killed at two times the rate of White folks. We also know that the Mountain West—Nevada and surrounding states—has the highest rate of police killings. Within the region, Nevada has the highest rate of police killings

per capita in the Country. We cannot be sidelined or distracted by the spectacle of violence with police shootings. Violence occurs in all aspects of policing. When a police officer kills someone, it is spectacular, so we should not lose sight of all the other ways that police can impact violence on our community. It is troubling to me that officers will not be held accountable for the bias. Accepting training for causing harm on a civilian is not accountability. I believe those methods should be stronger.

To respond to opposition from some law enforcement representatives, they were silly and superfluous, wanting to hold agents of the state—people who are empowered by the law and paid by tax dollars—to not act violently against other people is not antipolice, it is antiviolenence. Police violence is a real thing. Sadly, it is indicative of the culture of violence in American society.

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Senate Committee on Judiciary
March 31, 2021
Page 25

CHAIR SCHEIBLE:

Public comment is concluded. The meeting is adjourned at 2:42 p.m.

RESPECTFULLY SUBMITTED:

Sally Ramm,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

| EXHIBIT SUMMARY | | | | |
|-----------------|----------------|----------------|--|---------------------------------------|
| Bill | Exhibit Letter | Begins on Page | Witness / Entity | Description |
| S.B. 236 | A | 1 | | Agenda |
| S.B. 236 | B | 1 | Senator Dallas Harris | Introductory Presentation |
| S.B. 236 | C | 1 | Senator Dallas Harris | Proposed Amendment |
| S.B. 236 | C | 8 | Eric Spratley / Nevada Sheriffs' and Chiefs' Association | Proposed Amendment Sections 13 and 16 |