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Governor

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Justice Lidia Stiglich
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STATE OF NEVADA

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NEVADA SENTENCING COMMISSION

MINUTES DRAFT

Date and Time: **February 23, 2024**

Location: **VIRTUAL ONLY**

MEMBERS PRESENT

John Arrascada
Chief Michelle Bays
Dr. Shera Bradley
Chairman Christopher DeRicco
Deputy Chief Aaron Evans
D.A. Chris Hicks
D.A. Mark Jackson
Deputy Director Troy Jordan
John McCormick
Julia Murray
Jon Ponder
Erica Souza-Llamas
Assemblywoman Venicia Considine
Assemblyman Brian Hibbetts
Senator Nicole Cannizzaro
Senator Lisa Krasner
Vice Chair Christine Jones Brady
Chair Justice Lidia Stiglich

MEMBERS EXCUSED

Suzanne Crawford
Director James Dzurenda
Evelyn Grosenick
Franklin Katschke
Dr. Jennifer Lanterman
Director Beth Schmidt
Judge Bita Yeager

STAFF

Executive Director, Jorja Powers
Deputy Director, Jenna Buonacorsi
Management Analyst III, Marie Bledsoe
Management Analyst I, Jose Sepulveda
Administrative Assistant III, Hunter Jones

1. **Call to Order / Roll Call**
   [Meeting called to order at 9:00 a.m.]

Chair Justice Lidia Stiglich: All right. I'll now call to order then, the February 23, 2024, meeting of the Sentencing Commission. It's good to see everybody and welcome to those who are viewing on the Legislature's website. This is the fifth meeting of our 2023-2025 meeting cycle, and I will now ask Director Powers to take the roll.

Director Jorja Powers: Thank you, Chair.

(ROLL CALL IS CONDUCTED BY DIRECTOR POWERS; QUORUM IS MET)

2. **Public Comment**

Chair Stiglich: All right. Thank you. I will now open agenda item number two, the first period of public comment. There are two periods of public comment. One at the beginning of the meeting and one at the end. Members of the public have two options for submitting public comment. First, members of the public may do so in writing by emailing the Department of Sentencing Policy at sentencingpolicy@ndsp.nv.gov. Public comment received in writing will be provided to the Commission and be included by reference in the meeting minutes. The second is speaking in person. Due to time constraints in-person public comment will be limited to two minutes. There's any public comment either here in Carson City or Las Vegas, please make your way to the table now. And for those of you that come up to testify, please make sure you hit the microphone button and speak clearly into the microphone. So, let's start here in Las Vegas. Is there any public comment here in Las Vegas? All right. Good morning.

Ms. Amanda Laz Maria: I am here because it takes my attention about people who's been sentencing without any reason here in Las Vegas and everywhere. People's rights have been violated and where are you? That's the question. Because to me, it's been happened about five times, in school district, with the union, the police, at the police station, and at the court. I had been, if I can say, sentencing, because every time people is pronounced guilty, they have been sentencing, right? Okay. So, it is important for you to know that Article One from the Constitution and make conscience. If you do something, do something. Make conscience of them. That they are violating people's rights. Okay? I sent a proposal to the Legislature and if you really are interesting in people, just look through that, and read the proposal, and do something.

Chair Stiglich: Is there any public comment in Carson City? All right.

Mr. John McCormick: Doesn't look like we have anyone here.

Chair Stiglich: All right, thank you very much. We'll close agenda item number two. Since there's no more individuals who wish to speak today.

3. **Approval of the Minutes of the Meeting of the Nevada Sentencing Commission held on January 19, 2024.**

Chair Stiglich: We'll turn then to agenda item number three. Members of the Commission have been provided with copies of minutes from the January 19, 2024, meeting. Are there any edits, comments, or corrections? All right, hearing none, I'll entertain a motion to approve those minutes.

JOHN MCCORMICK MOVED TO APPROVE THE MINUTES OF THE JANUARY 19, 2024, MEETING.

JON PONDER SECONDED THE MOTION

MOTION PASSED

4. **Presentation Regarding Forensic Lab Testing**

Chair Stiglich: We'll then turn to open agenda item four, "Presentation Regarding Forensic Lab Testing". There are a number of bills introduced during the 2023 Legislative session regarding fentanyl. Senate Bill 35 passed adding language and penalties regarding fentanyl. The problem being faced, here in Nevada and nationwide, is a difficulty in accurately detecting and quantifying the presence of fentanyl and other substances within a sample. Today, we will hear from three forensic labs in Nevada regarding this subject and also, get an overview of the myriad forensic activities touching our criminal justice community. We'll begin with the Las Vegas Metropolitan Police Department Forensic Lab and then proceed to the Washoe County Forensic Lab and the Henderson Forensic Lab. So, if our presenters could come forward.

Ms. Cassandra Robertson: Good morning, thank you for having us here. My name is Cassandra Robertson, I'm the Director of the LVMPD Forensic Lab. Next to me, I have our Executive Director.

Ms. Kim Murga: Good morning, I'm Kim Murga, thank you.

Ms. Robertson: All right. So, we are the largest forensic laboratory in Nevada, and we have about 87 laboratory personnel to include administrative staff at our lab. So, we're broken up into six details. So, we have our biology DNA detail, which has 34 laboratory personnel, chemistry, which has seven laboratory personnel, firearm, which has 16 laboratory personnel, latent print, which has eight laboratory personnel, toxicology has 13, and our administrative/quality detail, has nine laboratory personnel.

So, our biology DNA detail is broken up into two units. We have our casework unit and our database unit. Our casework unit will examine evidence for biological materials and then try to attempt to get a DNA profile, which then they can try to compare to any known DNA samples taken in the case. Our database unit will collect database samples from our convicted offenders and our arrestees' samples, and they will process those database samples to include into the database, the CODIS database, which is known as the Combined DNA Index System. And then, the whole purpose is to try to develop potential leads. In 2023, our casework unit received over 2,400 requests and completed over 3,000 cases. Our database unit received over 11,900 convicted offenders and arrestees samples and completed over 12,000 convicted offenders and arrestees samples. The detail itself entered over 13,000 samples into the CODIS database and generated over 470 hits or potential leads for investigation.

Our firearm detail is broken up into two units, our casework unit and our NIBIN unit, which also stands for National Integrated Ballistic Information Network. So, the casework unit will examine items of firearms related item evidence, such as firearms, cartridge cases, bullets, and they are to determine the functionality of the firearm. They also perform comparison of the bullets and the cartridge cases found at the crime scene and they will determine the make and model of the firearm based on looking at the bullet, and then, sometimes we can restore serial numbers if they are obliterated on the firearm. Our NIBIN unit will specifically shoot these firearms and then they will also examine crime scene cartridge cases to enter into the NIBIN database. And what they will do is, they will perform searches between images in that database to try to develop any potential leads for cases. In 2023, they received over 7,000 requests and they completed over 8,200 cases. They entered over 8,400 samples into the NIBIN database, and they generated over 3,200 leads.

Our latent print processing detail, they perform processing on casework as well as comparison. So, for processing they will develop documents and recover latent prints from items of evidence and for comparison they will compare those latent prints to any exemplars in the case. They also will do searches in the AFIS database, which is known as the Automated Fingerprint Identification System. That is so they can try to develop leads to help with the investigation. In 2023, they received over 240 requests and completed over 280 cases. They entered over 500 samples into the AFIS database and generated over a thousand hits.

The toxicology detail is broken up into two units, it's the blood alcohol and drug screen/confirmation unit, as well as the breath alcohol unit. They receive specimens, mainly from driving under the influence for DUI cases. The blood alcohol unit will determine the concentration of alcohol in blood samples. The drug screen confirmation cases, they perform an examination of blood for the presence and the concentration of controlled substances in the individual's system. The breath alcohol unit, they will perform the maintenance

of the state-mandated breath alcohol program for the southern part of Nevada. In 2023, toxicology detail, they received over 6,900 requests and completed over 7,200 cases for blood alcohol cases. They received over 5,000 requests and completed over 5,400 cases for drug screen and confirmation cases. They performed over 190 calibrations on the Intoxilizer 8,000 Instrument and over 1,500 breath alcohol tests were performed on those instruments.

Our chemistry detail is broken up into two units, our seized drugs unit and trace materials. Seized drugs will analyze powders, liquid, tablet, plant materials, and other suspected contraband for presence of controlled and non-controlled substances, and dangerous drugs. Our trace materials unit identifies and compares specific types of material that may be transferred from one to another. In 2023, seized drug unit received over 1,500 requests and completed over 1,300 cases. Trace materials unit received over 70 requests and completed over 60 cases.

And finally, our administrative and quality detail. So, they oversee the quality management system for the laboratory, and we are accredited by the ANSI National Accreditation Board also known as, ANAB, and we are accredited for forensic testing and forensic calibration. We also abide by two other standards, the FBI Quality Assurance Standards known as QAS, for the biology DNA casework and database unit. We also abide by the Minimum Required Operating Standards known as MROS, and that's for our NIBIN unit. Maintaining accreditation is a requirement for us to receive any federal grant funding but, it's also very important for us to ensure that we are following proper guidelines, as well as documenting our training program, personnel being routinely tested, and what we're documenting, using documented and reliable procedures. And this will give the judicial system community and our department confidence that we are performing forensic analysis properly and accurately.

So, what's the difference between quantitative analysis and qualitative analysis in the seized drugs world? So, qualitative analysis is an analysis in which we are identifying a specific substance. So, is it present or is not present? Quantitative analysis is when we are trying to determine the amount or the concentration of the substance that's in the sample. So, we're essentially trying to determine how pure it is.

So, in our seized drug unit, as I mentioned earlier, we perform qualitative analysis on powder, liquids, tablets, plant materials, and other suspected contraband and, like I said, we're determining if that substance is present or not. We identify over 700 controlled and non-controlled drugs, such as cocaine, methamphetamine, heroin, marijuana, fentanyl, phencyclidine or PCP, oxycodone, amphetamine, and many more.

Our seized drugs unit perform quantitative analysis on certain plant material sample to determine if the delta-9-tetrahydrocannabinal or THC is above 0.3%. In performing quantitative analysis on these type of plant material, there are minimal safety issues with this type of testing. However, we do not quantitative analysis on any other type of controlled substances.

We did a research for other laboratories to determine what they perform. We found that for qualitative analysis, they're routinely performed by over 250 laboratories in the United States. This analysis is generally accepted in the forensic community. For quantitative analysis over 45 forensic laboratories in the United States perform quantitative analysis. Methamphetamine is the most common drug that is analyzed quantitatively and most of the quantitative analysis performed by other laboratories are usually performed for federal charges. There are currently over 400 forensic laboratories in the United States existing at the municipal, county, state, and federal lab levels.

So, we listed some safety concerns on quantitative analysis and to perform quantitative analysis on any drug, all drug samples would have to be grind into a fine powder, which aerosolizes the sample, and the purpose of grinding it is so we can homogenize the sample to make sure the mixture is complete and when you grind it, for our laboratory we receive pills, usually. So, you have to take those pills and just grind them so it's all mixed up, which then can aerosolize that substance. For fentanyl and its derivatives aerosolizing of the sample is extremely dangerous and requires additional extensive safety precaution. So, we would need separate spaces with dedicated HVAC, and duct work, and hood, which requires to ensure the aerosolized

fentanyl does not escape from the dedicated space. So, fentanyl itself is very deadly. If you take a sugar packet it will have approximately five deadly doses in there. So, it doesn't take much, you need about two milligrams. That doesn't take much to hurt someone. Five hundred daily doses, sorry.

So, we also wanted to find out, okay which labs are doing quantitation on fentanyl. So, we found that the Customs and Border Patrol, and Drug Enforcement Administration, that they perform fentanyl quantitation for investigative purposes only and not for criminal charges. We did find one private laboratory, National Medical Services or NMS Lab, they quantitate fentanyl and three fentanyl derivatives, and they will do that at a cost of approximately $900 a sample. During this research we found no other local county or state labs perform fentanyl quantitation.

So, in summary our laboratory, we perform qualitative analysis for over 700 controlled and non-controlled drugs. We perform quantitative analysis for THC on certain plant material samples, no other quantitation on any other controlled samples. We found that other laboratories, over 250 forensic laboratories in the United States perform qualitative analysis and over 45 forensic laboratories in the United States perform quantitative analysis, but for those 45 forensic laboratories most of those cases are only for federal charges and methamphetamine is the most common drug that is analyzed for quantitative. The safety concern that we have for quantitating or quantitative analysis, is that all drugs have to be ground into a fine powder which then aerosolizes the sample and for fentanyl and its derivatives, aerosolizing that sample is very dangerous and can put lives at risk.

We offer for the Sentencing Commission and the Joint Interim Standing Committee are welcome to tour our Laboratory on Thursday, March 21st at 1000 to 1130 hours. If that date, time does not work we can schedule an additional date. To schedule please just RSVP myself. I gave my email and my phone number if you are interested, and we can schedule that for you to come to our laboratory and see what we do. Do you have any questions, or do you have anything to add?

Chair Stiglich: All right. Thank you. Should we do all the presentations and then take questions?

Director Powers: Or do you have to leave?

Ms. Murga: No, we do not have to leave. You'll find that we assured that we do not have a lot of duplicity and information with the three laboratories. We did collaborate and so I think that the other presentations will kind of build and kind of focus on different areas. And so, it may be beneficial to hear all the presentations and then we can all be present for questions, if that's okay? Thank you.

Chair Stiglich: Sounds like a plan. All right. Thank you so much. Right, then is Washoe County ready to proceed in Carson? Good morning.

Steve Johnson: Good morning. This is Steve Johnson; I am the Washoe County Sheriff's Office Forensic Science Division Director and I have with me Brad Taylor; he is a supervising criminalist for our chemistry units. We will be presenting in tandem.

So, the Washoe County Sheriff's Office Forensic Science Division provides forensic services for over 70 local, state, federal, and tribal agencies for 13 counties in Nevada. We also provide services for one county in California as well. Every year we enter into contracts with our customer agencies for these services.

Our laboratory has about 50 employees and this includes all analysts, supervisors, support staff, evidence technicians, and we provide services for breath alcohol, biology, which includes DNA and CODIS database, controlled substances, crime scene investigations, firearms examination which includes the NIBIN database, latent print processing, latent print comparison which includes the WIN/AFIS database, and toxicology. On this slide I included the number of full-time equivalents we have per section. We have a number of individuals who are crossed trained into multiple sections. So, where you may see three for crime scene investigation, we actually have six individuals that are trained in that section and then trained in another section as well.

Our controlled substance section currently has one and a quarter full-time equivalent to perform all controlled substances for northern central Nevada, or analysis. In 2023, we analyzed samples for 392 assignments, this was approximately a 16% increase from the previous year. One thing I want to emphasize is that each assignment can have multiple samples associated with it. So, when I say 392 assignments, that's not 392 samples, likely it's a much, much larger number.

Brad Taylor: The crime lab, the chemistry section in particular dealing with controlled substance section has three main confirmational instrumentation that we use. We use a Fourier Transform Infrared Spectrometer (FTIR), gas chromatography with a mass spectrometer so GC-MS, gas chromatography with an infrared detector (GC-IRD). Those instruments as I mentioned are dedicated instruments for IDing controlled substances in our samples that are submitted. None of these instruments currently, either they cannot be used for quantitating because it's just not their function, or they can't be dedicated to quantitating substances because they are our lone instruments for IDing substances, which is what we currently have to do in qualitative analysis.

And then, because this is educational and informational session, I took some notes from Vegas's presentation, and I want to add to that. It's currently not on the slide but, before I moved forward, there was a note for the SB 35, that the labs have trouble analyzing fentanyl and IDing, we don't. Labs can analyze and ID fentanyl and the derivatives as needed for our current legal system. It was the introduction of quantitation, which created the issues for the laboratories, which will be noted throughout the various presentations and the other testimonies. Nevada law is also written for qualitative analysis to allow us to do the analysis that we do in using language that includes any amount or mixture of a substance containing. That allows us to – and noted in Vegas's presentation, 250 other laboratories – to do qualitative analysis as what's needed for the legal system. The feds do have both laws and for quantitative meth and qualitative meth, they have two distinctions there. I'm not a federal employee, so I don't have to deal with those a lot but it's something that we've looked into before. So, just for awareness and education as those things were mentioned.

Moving forward we're going to talk about the controlled substance process that we currently use in qualitative analysis and how it's applied both from before samples get to us and then once it gets to us in the lab. Law enforcement currently can seize potential controlled substances during an investigation. They can conduct screening tests, field color tests, or possible instrumentation analysis such as, using a Handheld Raman or TruNarc and they can do that to determine what potential substance is there. So, they can get a preliminary tests to see what drugs could be there. They can also use balances to obtain the gross weights of the substance, and this is weighing. We encourage the law enforcement to weigh the substance with the packaging, so they don't have to expose themselves. So, they can get an idea of the weight and they can get idea of what substances can be present and then from that screening results and the gross weights those can be used to determine the charges.

For those of you who weren't aware, we threw in some slides of a Handheld Raman or TruNarc. These are common instruments available in, I think throughout Nevada at this point, but definitely in the north and we actually have two of them that we use within our own laboratory for screening as well. So, all you have to do is hold up the instrument, it uses the laser light, to the drug, it can scan through packaging, through plastic -- which is an advantage for safety and not having to deal with taking the drug out of the packaging -- and then, from that it gets a reading to determine if there is a drug present and it just flashes if the drug is there. It will actually say cocaine, fentanyl. It's not open to too much interpretation at that point, which is different than field tests, or color tests, chemical tests that officers can also use in the field.

When the drugs come to the lab, we receive them to support criminal investigations for court. So, our average turnaround time in our section from 2023, was about 65 days. Minimum two days and maximum 293 days. You can see there's a huge variance there because we can rush a case based on court need as needed, where other submissions to our lab may be held until we get to them because they're not prioritized by court date, or we hold cases occasionally, waiting as cases develop and maybe analysis will or won't be needed, so we'll hold that until we hear from the various DA offices that we deal with. So, some of those dates can be pushed out artificially because we're just waiting to see if analysis is needed, and we always

have other work to do in the process. So, we do prioritize all our case work based on court needs and dates if needed. Not all cases need to be analyzed by a laboratory to support the charges. Courts may settle cases with screening and weight information obtained by law enforcement agencies and that's very common.

So, our brief rundown of what actually happens to a sample when it comes to a lab for analysis for drugs. We obtain weights and perform screening on the samples. So, at this point the lab provides the official weights for the courts for the charges. So, if that's needed, that's always the first thing that we do, as well as screening the samples for preliminary testing, if possible, with that TruNarc or Handheld Raman. We can scan before we start getting into the sample. The sample is then prepared for analysis, and we are able with our current laws, to focus on possible charges based on the weights that we're seeing and the drugs that the preliminary tests have been indicating up to that point. We then analyze the samples to confirm the presence or absence of controlled substance and that's done by straightforward fairly small samples needed in the instruments that were stated at the beginning. The analytical data is reviewed to determine what's present, what's not present, if additional analysis is needed or not. And then, that data is used to generate a report and then afterwards 100% of a controlled substance reports are technically and admin reviewed. A technical review sends that information to a peer who is qualified to look at that data and come to the same conclusion or different conclusion based on the scientific data, so it's someone who can also do the work. And then, the administrative review goes to someone else to just look for administrative errors, typos, spellings, things like that. So, 100% of our casework gets reviewed by multiple people, the analyst, the tech reviewer, and the administrative reviewer. On average, a typical assignment can be completed in two to four hours. So, we can get a sample in and out, a single sample case, within an hour of analysis, and then, it'll have to go through the review process. So, it goes through two more people for that review and then those people also have to be available to do that review.

So, moving along to the differences that would occur from SB 35 as written from what we're currently doing, which I spelled out initially. So, up front the law enforcement can still seize potential controlled substances, that's the first step and then, they can perform a screening test to determine the potential substance. So, they can obviously check to see what drug may or may not be present there from the same means. Law enforcement can then use balances as before to obtain gross weight, so they still don't have to do anything different.

But, unlike the qualitative testing, law enforcement will not be able to use a screening test or wait to develop full charges at that point, if quantitative is needed. If testing is needed, the screening test may tell the officer what could be in the substance but the quantity or the purity will not be able to be determined by a field test. Likewise, the gross weights only provide the officer with the overall weight and not the quantity or purity of those and there's a lot not written yet off of SB 35. So, you know there's a lot up in the air as far as like what would and would not be needed, but we're just presenting based on the little bit that's presented in that. And then, quantitative analysis can only be performed then at the laboratory at that point, so the information needed, possibly, to move forward with charges can't be done until forensic analysis is needed.

So, as mentioned, all samples will have to be analyzed prior to charging or most samples, depending on how wording is written. We did do a review of case files in the first six months of 2023 with our DA's office and only about 30% of those cases were submitted to a laboratory for testing. So, the majority of the cases did not have to come to us based on just what was present, maybe the weights and stuff. The situation was able to be settled without having analysis done. Courts may not be able to settle cases without analysis if quantitation is required and the potential impacts of that could increase the number of laboratory submissions by 100% or more.

So, we presented the outline of how analysis would change if quantitation was needed for analysis, adding in some extra features just for understanding. So, the description, the process, we still obtain weights and perform screenings up front, just like an officer can. We want to know how much we have. We still provide official weights, and we can still get an idea of what may or may not be in that sample. And then, samples can be prepared for the normal qualitative analysis. We can't do a quantitative analysis until we've already done the work that we're currently doing to know what's there first, before we can go ahead and prep a

sample for quantitative analysis. So, it's doubling the amount of work we have to do for, currently, the same thing we are doing. So, we have to go through a full qualitative analysis which was described, the only difference here is that our focus, our ability to focus on the charges based on the weight and the preliminary testing, may not be able to be utilized because we don't know how much we have and that would play into account whether or not we'd have to analyze more moving forward, or what we would have, or what would need to be analyzed, or quantitated based on how the law ends up getting written. Then, we can analyze the sample to confirm the presence or absence of controlled substance that again, has to be done no matter what. So, the full work we do now still has to be done in the exact same manner, with the additions that sample preparation for quantitative analysis has to be based on the qualitative results first, but then possible sampling may have to happen. So, there's a process in the forensic world because we have to provide scientific and forensically sound analysis. Statistical sampling may need to be used to actually determine how much and what part of the sample we have to test for quantitation. That statistical sampling introduces an uncertainty which wasn't there prior to the processing qualitative analysis.

Then, we have to analyze the sample to confirm the quantity or the purity, so we have to actually go ahead and do the quantitative analysis. Which is a more complex, more in-depth process than just on top of our qualitative analysis we already did. So, it's an added process that's much longer. Analytical review of the data, just the analyst looking at the data from quantitative analysis adds significant time to the work, and we know this because our toxicology sections do a quantitative analysis on blood samples, and the time frame to do that work is larger than for controlled substance sections. And then, we do a report writing. We conduct technical and admin reviews of the notes and reports. And here because there is a lot more data in a quantitative analysis, there's significant time added to the review process on top of that. So, the time to complete analysis work, lab work, report writing, review, is projected to be four to six times longer per sample for quantitative versus qualitative. And we did check with the NMS labs, National Medical Services, and they confirmed that their quantitative testing takes about four times longer than their normal ID testing.

Mr. Johnson: So, as presented on the January 19th Joint Interim Standing Committee on Judiciary, our laboratory would likely need four to six additional analysts to maintain current turnaround times. So, this is the best projection that we can establish right now, given the data we've looked at with our own Washoe County's DA's office, but that may likely change depending on the needs of the other 12 counties we provide service to. As I noted too, during that presentation our lab has space to increase four analysts but it's unlikely we would be able to get that fifth or sixth and so, this could directly impact our turnaround times, which will likely impact also a person's right to a speedy trial, if we're not able to analyze the drugs in time.

Some additional concerns that were brought up, these were mentioned with Las Vegas's presentation but there is a very real concern to our laboratory staff about quantifying dangerous compounds, specifically fentanyl and its derivatives. They will have an increased exposure through the homogenizing process that was previously mentioned and then, as we presented too in that meeting on January 19th, there's also significant initial costs and ongoing costs to our laboratory. So, initial costs could range from half a million dollars to two and a half million dollars just to be able to quantitate all controlled substances or fentanyl, fentanyl derivatives, at least the legislative session had initially started with fentanyl and fentanyl derivatives. And ongoing costs could be anywhere from a quarter of a million dollars a year to almost one million and a quarter and this is larger due to the increase in personnel size, the consumables for the laboratory safety equipment, and then, additional instrumentation and there are service contracts associated with those.

We are an accredited laboratory and so, we also have to ensure that accreditation standards are met, and we are currently evaluating those standards along with national standards to ensure that the quantitative process could be done in a manner that is acceptable to number one: international standards, but then number two: to the national forensic standards as well. One important piece and this is I mean, very specific for forensics, in science, I should say, it's specific in science, but it's an important piece in forensics, is we'd have to validate methods for all controlled substances and a validation or validation of a method is essentially a scientific study to ensure that the instrument, the test that we're performing is accurate, it's precise, it's reliable, we know its limitations, we know what that instrument or that method can analyze for and so, there's a significant amount of time that occurs when we're doing this. As written with Senate Bill 35, it says, "all controlled substances" there could be a risk where we have a team that is regularly doing

validation methods just to keep up with that. NMS laboratories, they quantitate 25 controlled substances. NMS is a large private laboratory with more funding available or funding sources available than what you would find in most public laboratories.

During the January 19th meeting, it was mentioned by one member, that part of the evaluation of this going from a qualitative system to a quantitative system, was out of concern for individual users that may be charged with a higher-level trafficking or possession charged when the fentanyl levels were dropped. And it was also mentioned that the origin of the bill originated from Colorado and Brad was able to do some research and find the Colorado State House Bill 22-1326 that introduced quantitation of Fentanyl and it's derivatives.

The bill itself was limited to three drugs listed here on this slide. In the Colorado law with this bill, these drugs less than one gram -- for the Colorado law -- is a level one drug misdemeanor. These three drugs between one and four grams are a level four drug felony. The bill introduced this quantitative amount of one to four grams with a 60% total composition and that would increase that charge to a level two drug felony. If you look at the bottom of the slide, over four grams is also a level two drug felony. The bill only establishes quantitative analysis for the above three drugs and their analogs, and I want to note that the 60% total composition, we have been unable to determine where that number came from. I did call the laboratory director for the State of Colorado a couple of weeks ago to get some clarification on this bill and his laboratory, and to date -- he mentioned that this bill was in 2022 -- and to date they have not received one request to quantitate fentanyl or any of the other compounds listed here.

Mr. Taylor: Going off the Colorado bill and then comparing that to what Nevada currently has and had, what we found interesting, we brought some visuals along because when we talk about grams and number of pills, sometimes that's not relatable to some people or something that you can picture. So, as we go through these, I'll show you some examples of what we prepared with some safe materials, some aspirin, and some powdered sugar to give you a sense of where we were at one time, where Colorado is, and where we are now, for again, for informational purposes for everybody. We don't have it on the slides, but I thought it would be good to remind everybody, prior to 2020 the trafficking levels for schedule one substance was 4,14 and 28 grams. So, what you'll find is actually somewhat more where Colorado currently is. After the 2020 legislature, the laws were rewritten to change the trafficking levels and add some possession levels in there, but the trafficking levels prior to this last session were a result from the 2020 session, increased the trafficking, low-level trafficking to 100 grams of a controlled substance and then, high level trafficking to 400 and it became the same with schedule two as well, and then, at that time in 2020, fentanyl is a scheduled two substance and moved up to that same category. So, low-level trafficking was 100 grams, high-level trafficking moved up to 400 grams. And I will also add for historical purposes -- from the lab perspective -- that prior to 2020, fentanyl was just making it sort of inroads in Nevada. So, as fentanyl became a prominent dangerous drug, we were seeing the trafficking levels were also increased and then, this was readdressed in this last legislature in 2023, so that fentanyl was carved out from the schedule one and two substances and put a low-level trafficking charge at 28 grams and a high-level trafficking charge at 42 and so, it by itself had moved down to 28 grams, if you remember back prior to the 2020 session, was the highest-level trafficking that Nevada had at that point.

So, just for those are refences to where we were and where we are from 2023. And then, I parsed out the Nevada and Colorado comparisons and color-coded some of them. The color-coding the greens, oranges, and reds -- I don't know if they translated okay on the slide – to what would be somewhat comparable in each state at those levels. So, Colorado does have an under a gram misdemeanor charge that Nevada doesn't have. Nevada's possession, category E felony, doesn't start 'til 14 grams, anything under that is the first stage for the drugs. So, moving on and I'll provide -- and I can't see myself, but I don't think Vegas will be able to see me or people in Vegas – but I prepared essentially the powder equivalent of one tablet of our common fentanyl, this about 0.1 gram of substance. This is about the powder version of one tablet and if we wanted to make comparisons, if you say this was pure fentanyl, this would be about 55 lethal doses but generally there's one dose of fentanyl in varying amounts in a pill. The Colorado law at a fourth level felony from one to four grams. So, one gram is – and aspirin's a little heavy, so it's more of a unit dose – is about ten tablets and about a gram of powder. And then, the four, so the high side of that felony is 40 tablets, four

grams and then, four grams of powder, again, if it was straight fentanyl would be about 2,000 lethal doses. And then, at that point at that one to four, this is where Colorado has the quant option, the quantitative option. So, if it's 60% fentanyl, it can be boosted to a level two felony, which would be equivalent to our low-level trafficking, which we haven't got to yet in our weights and laws. So, the next stage is 14 grams, so this is anything this amount and under is for us, a category E felony possession. This has some deferral options. So, that's about 140 tablets and 14 grams, which again, if we're going for straight fentanyl that'd be equal to about 7,000 lethal doses and that's still possession for fentanyl or any other drug for one and two. Parsed out in the table is Colorado's next equivalent four to 50 grams, their level two felony trafficking. And then, our next level in Nevada is from that 14 to 28 grams is a category E felony. So, 28 grams, this is where the trafficking level for fentanyl starts at 280 tablets or 28 grams of powder, which is about 14,000 lethal doses. This is where the felony level starts and you can see in comparison to Colorado, it's substantially higher. What we found from this comparison was that Nevada laws are, when dealing with trafficking of drugs are, much, much higher than Colorado's. And then, for the next level up anything above 50 in Colorado is a level one felony, which is equivalent to our 400 grams – which we won't show here today – but our next level is 42 and above to 100. So, this is high-level trafficking for fentanyl 420 pills and 42 grams of powder, which again if straight fentanyl 21,000 lethal doses. So, this is our high level and then up to 100 grams – which I ran out of aspirin – but 100 grams of powder is about this much, about 50,000 lethal doses and then, 400 of any of these is more than all of these combined. So, as a visual, over 400 would be all this together and still a little bit more. So, that's where we land. I think we found it interesting to compare to see that the Colorado quantitation actually probably did address possible personal use at that low level of one to four, but it may not apply. We're not comparing apples to apples, when we compare the weight thresholds that are currently set in Nevada, having that low-level trafficking about seven times higher than what Colorado has.

Mr. Johnson: I want to emphasize we specifically looked at fentanyl. I know fentanyl and fentanyl derivatives were the start of the conversation during the last legislative session. Most of this presentation we referred to what it would look like if laboratories had to quantitate all controlled substances, but for the sake of time, we wanted to focus on that demonstration just on fentanyl. I have my contact information and Brad's contact information on this slide. We too would welcome anybody from this Commission or any of the legislative committees to tour our laboratory. Anybody who is interested in this topic, please send myself an email and we'd be happy to schedule. I know most of you in this room have very busy schedules, so we'd be flexible in whatever we can do to work with that and with that, that's our presentation. I know it sounds like we are holding questions till the very end, until after Henderson's presentation.

Chair Stiglich: All right. Thank you. If we could have Henderson come forward? Good morning.

Ms. Tonya Hiner: Good morning. Tonya Hiner for the record. I am the Criminalistics Administrator or the Crime Lab Director for the Henderson Forensic Laboratory and with me today is Afton Martinez, she is our Senior Forensic Toxicologist and Manager over at the chemistry section. We're here to talk about mostly the quantitative analysis of fentanyl and also seized drugs under the proposed Senate Bill 35.

So, some of the topics we're going to cover today are background, some safety concerns, some cost, increased turnaround times and increased backlogs, testing limitations, and then some unknowns.

So, just like the other two previous presentations, our lab conducts qualitative analysis for all seized drugs. For example, if we have something that contains suspected fentanyl, the chemist can take a very small sample of that, utilize proper PPE and a small containment hood to test that. Working with very small quantities allows for the safe handling, and minimal exposure, and contamination.

So, just like we've already talked about today, the difference between qualitative and quantitative analysis. Quantitative analysis, which is proposed, is determining the percentage of that material or purity level.

So, potential accidental absorption exposures in the laboratory specifically to fentanyl is mostly through inhalation, mucosal contact, and dermal. And this is a visual example on the screen of one M30 counterfeit pill that contains fentanyl broken down and kind of demonstrate the lethal dose of that.

So, counterfeit pills when they are produced, they are not produced using on exact science. They're not created in a laboratory. The DEA has done some quantitative testing for educational purposes and found that those pills can actually range from .02 milligrams to 5.1 milligrams per pill. So, that range varies per pill even though these pills can look very similar. Looking at them you cannot tell just by visual examination the level of that fentanyl, whether it falls within that range as little two milligrams of fentanyl can be fatal. So, just like the other laboratories talked about, if you have a single grain of table salt, that's about 0.3 milligrams and approximately six to seven of those grains can be fatal. So, according to the DEA website and facts about fentanyl, one kilogram of fentanyl has a potential to kill half a million people.

The Henderson forensic laboratory has received bricks of fentanyl for examination equaling 2.2 pounds or one kilogram. Again, according to the DEA website that can kill approximately half a million people. For quantitative analysis, that entire brick would need to be pulverized into a fine powder, homogenized, or mixed evenly, aerosolizing that powder creating safety hazards for testing, cleanup, emergency response if needed, and all our laboratories are equipped with Narcan. However, if we do have accidental exposure, somebody coming into that also has that risk for exposure. So, emergency response, repackaging, storage, disposal, transportation, and presentation in court.

So, leading science organizations advise that incidental or accidental skin contact with fentanyl when it's in a compressed powder like pills or in that brick, is very minimal. If you have proper PPE, it's not going to pose much danger. The danger exists with inhalation of airborne powder or aerosolized fentanyl.

So, when looking at proposed safety requirements for pulverizing fentanyl products in the laboratory we looked at personal protective equipment, building safety, storage safety, disposal safety, and transportation safety.

So, according to the National Institute for Occupational Safety and Health they recommend that environments with suspected large quantities of fentanyl powder require a self-contained breathing apparatus with a level A protection suit. So, that level A protection suit would include that SCBA total encapsulated chemical and vapor protective suit, inner and outer chemical resistant gloves, and then disposable PPE, so suits, gloves, and boots.

So, when you're grinding fentanyl into a fine powder, you're kind of looking at the three Cs of safety for laboratory, for the testing environment, containment, control, and capture. So, obviously we don't want this powder getting out into, not just the environment that they're testing in, but the rest of the laboratory as well.

So, our current forensic laboratory, we are in a 4700 square foot retrofitted building. We are building a new complex that should be completed in summer of 2024. Currently, approximately 40% of our cases have fentanyl or some sort of fentanyl derivative. Right now, we have three full-time employees in the chemistry section and one in training. We have one and a half in seized drugs because one of our seized drugs analysts is also responsible for our laboratory information management system -- he is the administrator -- and we have one in toxicology who does blood alcohol and blood drug, and with one in training. We have three full-time employees in our impression evidence section that includes latent prints, and footwear, and tire track examination. We have one full-time employee in 10-print, and one full-time evidence processing technician, and then, four administrative staff. So, we have 13 employees total. We are the smallest accredited forensic laboratory in the state.

We are, like I said, opening a new facility. So, we are in the middle of construction, we've been undergoing construction for about a year. I met with our architect and our construction manager to kind of talk about some of these safety concerns with Senate Bill 35 and they recommended again, because of safety for accidental inhalation or contamination to all staff, they recommended a completely independent kind of annex from the forensic laboratory. So, that all mechanical, electrical, plumbing and fire protection would be independent. So, you have no crossover utilities or waste to protect the staff. We also would have to require a negative pressure lab with a joint neutral pressure to kind of contain that powder and reduce cross-contamination in other sections of the laboratory. These instruments that we use not only in toxicology and seized drugs but are very sensitive. So, any contamination that could get into the air flow or ducts of the

system could potentially contaminate, if not separate, it could contaminate other sections of the laboratory using these highly sensitive instruments and those could possibly create false positives, due to that contamination.

So, we actually met with the architect, he designed kind of this separate annex that adds on to our current building in progress and the approximate cost of that addition would be about 26 million dollars. The laboratory that we are building would not have the capacity to or the space to do quantitative analysis. It's basically fitted for our current needs.

So again, we would want that construction to be walls of full height, airtight, we would have to have a vestibule. So, when those analysts go in and out of the laboratory space that it has a wash down, clean room, different air exchanges, mechanical returns low on the floor so when that powder falls that it's not continually stirred up, and then sealed concrete floors and no hard corners or textures where powders could get in.

We would also need separate testing. So, powder hoods, fume hoods, bio safety cabinets, instrumentation, and again, that rough estimate for that would be about 26 million dollars.

So, with the potential with ventilation from the laboratory, obviously laboratories have to vent out into the air. With airborne fentanyl, we had some issues that were raised by the architect that if this could pose a danger to the neighborhood. Also, vendors that come in and routinely perform preventive maintenance on these instruments, if that poses any kind of risk. Custodial people that have to come in and clean, or repair people that have to come in for the building. We would have to kind of look at any kind of study, possibly with OSHA for more guidance on protection of an employee's health and safety, and then, any kind of workers compensation analysis study due to increased risk of exposure for fentanyl.

So, there's safety issues also after testing in this large quantities of pulverized fentanyl powder. How are you going to store those? If they are scheduled for destruction, how we are going to actually dispose of them? And clean up non-disposable glassware, things like non-consumables, things you have to reuse for testing, how are you going to clean those outside the vented protected hood area? And then, safety issues for transportation. Currently we transport and confine vehicles for disposal and also for court. And then, our current contract for disposal will not allow for the incineration of plastic, so any containers that contain powder have to be removed, so that again, poses more risk for incineration and disposal.

Additional instrumentation that we would need for testing, our current seized drug -- just like Washoe County talked about -- they don't have the current instruments that can perform quantitation. We would have to purchase two new LC/MS Q-trap or Q-TOF instruments for that testing, specifically for quantitation. Each one of those instruments is about 500,000 to 800,000 dollars per instrument. The development and validation of methods -- just like Washoe talked about -- there's no other labs are currently doing this, that's kind of unknown cost and time, and then, the yearly prevented maintenance cost per instrument is roughly 46,000 dollars.

We would need three additional full-time employees. Our safety protocol requires that two people are in the laboratory at the same time, just in case there's an incident and then, for time off, we would need that third employee, so that we could rotate. And that's a recurring cost of approximately 420,000 a year that includes training, proficiency testing, and those consumables.

So, currently the Henderson Forensic Laboratory -- like I talked about -- has one and a half full-time employees in our seized drug section. In 2023, we had an average backlog of 44 cases and an average turnaround time of about 45 cases or 45 days, excuse me. Toxicology is currently the only section in our laboratory that performs quantitative analysis. They have one matrix, which is blood and they're looking for approximately 37 different drugs in those DUI cases and in 2023, our toxicology section had a backlog of about 60 cases and an average turnaround time of about 231 days. So, proposed quantitative analysis of seized drugs where we have unlimited samples per case, unlimited matrices because drugs can be in pill,

powder, plant, any kind of form, and upwards of 203 different drugs, that would have a big impact on our backlog and turnaround time. Probably greater than toxicology.

So, our projected financial impact, 26 million dollars for the lab build addition, 1.1 million dollars for instrumentation and plus those recurring costs for preventative maintenance after the initial three years warranty. Half a million dollars for personnel and training (annual). Method developments and matrix matching, we don't really know that cost because we don't know what that looks like. Increased personnal protective equipment and then, safety studies also unknown.

So, currently in our laboratory if we have an exhibit with a very small amount is tested. Usually, if there's one exhibit in the case that can be completed in a day or two. If there's one or more than one drug in that exhibit under qualitative analysis, that extra time needed is typically a few hours per additional drug. If we have a very large case with multiple populations, the time to complete that case is multiplied. Currently, it can take up to a month or more. For quantitative analysis that again -- just like Washoe County talked about -- is increased. That could take anywhere from two weeks to a few months or more if there's multiple samples in those large cases where we have multiple populations, and that testing could span over a year or more for that one case.

So, Washoe County did a great job with putting some of these numbers in, but we looked at what kind of current prescribed user for oxycodone, a high-end tolerant user can have about 2.6 tablets a day or about 78 tablets a month.

So, the legal patient, 78 tablets a month under the current possession that 14 grams, that equates to about 140 tablets of qualitative analysis and then, the current lowest trafficking at 28 grams, that's 280 tablets.

So, under quantitation, if we use those same thresholds and we have that variation of those tablets again, 0.02 up upwards to 5.1 milligrams of fentanyl per tablet. If we use those same thresholds of 14 grams that increases that tablet on the low end of those tablets and again, they can vary greatly to 700,000 tablets or on the very high-end, high potency of 2,745 tablets and then, for trafficking for those 28 grams, it gets into even more tablets. Colorado, they lowered their thresholds for fentanyl and then even again, looking at those ranges for those specific M30 pills, even under one gram that can go from 196 tablets up to 50,000 tablets because of the variation of those tablets and keeping in mind, if we had that number of tablets, depending on how the law is written, we would have to pulverize and test each of those tablets separately. And then, on the four grams of quantitative thresholds under Colorado's new law, that'd be anywhere from 7,800 to 200,000 pills.

So, in conclusion, qualitative analysis is what all the labs currently do. Quantitative analysis of seized drugs including fentanyl is not an industry standard. So, this is kind of uncharted territory. There are no standards, no protocols, no guidelines, no training, no one to assist to really answer questions as we develop these methods. The current NRS does allow for mixture, so that quantitation is not needed. Sentences for possession and trafficking are not mandatory sentences in the State of Nevada, so it's really at the discretion of the court. So, if exigent circumstances do exist, such as a victim not knowing that the pills or the powder that they had contained fentanyl, that can be worked out in the courtroom. Quantitative analysis does pose unknown risk to scientists, other laboratory personnel in the same building evidence custodians, building maintenance, and possibly the surrounding neighborhood.

So, under Colorado's new bill, all of the testing is to funnel through the CBI, which is their state lab, the Colorado Bureau of Investigation. Trafficking thresholds changed and now they're only concerned with cases from one to four grams of fentanyl at purity levels of 60% or higher. During the January 19th presentation of the Joint Interim Standing Committee, there was a presentation that a proposed Nevada State Crime Lab is being proposed for 2027 and they have indicated that they would be able to perform qualitative analysis. If all three labs currently in the state are proposed with changing testing protocol, all three of us could have to develop different methods. That's three times the cost to retrofit or equip each of the laboratories properly. The Henderson crime lab recommends -- because we are the smallest lab -- that if

this laboratory for Nevada State Laboratory is developed, that we follow what Colorado is doing and then one centralized state testing facility.

Just like the other two laboratories, I would like to extend invitation for a tour of our current facility or later in the year when we actually move into our new facility, and if you have any questions my contact information has been provided.

Chair Stiglich: All right, thank you. I'm sure there are questions, I know I have some questions. Can we invite Clark County then, I'm sorry, Metro to come on back, but you can all share the area. And because I've discovered some things are easier on Zoom, and this is probably one of them, but I'm going to turn it over to Carson right now to Vice Chair Brady. Are you there?

Vice Chair Christine Jones Brady: Yes, Chair Stiglich. I'm here.

Chair Stiglich: Thank you, ma'am. We'll take questions from Carson City first, and if you can kind of direct traffic up there, Ms. Jones Brady, because I can't see.

Vice Chair Brady: Yes. Are there any questions up here? I do have one question from Ms. Erica Roth.

Ms. Erica Roth: Thank you. This question is for the Washoe County Crime Lab, I appreciate your presentation this morning and I appreciate you bringing up the Colorado law. That's actually something I brought up last session. In your analysis, your comparison, did you determine what sentences were probation eligible?

Mr. Taylor: Is that, what sentences for Nevada or Colorado?

Ms. Roth: For Colorado, so my understanding is that in my analysis of the Colorado bill, is that there's a few things that are important to point out. Number one; for much of the drug offenses in Colorado, probation is not only allowed but required. There is also a very large funding mechanism put in place to ensure that anyone who was arrested had an option for treatment and so, I just want to make sure when we're making this comparison between the State of Nevada's laws and Colorado that it is apples and oranges. I'll also note that the felony threshold or what's considered a felony in the State of Colorado is much lower. So, they call what we would call a gross misdemeanor, they call a felony and so, I was curious if that was taken into consideration when you're making that analysis.

Mr. Taylor: When we prepared this, I actually listed on the table the years, the sentence years, that were associated with that. So, it does show some differences there. I wasn't able to dig, because I don't have as much connections in Colorado's for probationary, but note for everyone who doesn't know the difference in the trafficking change of fentanyl the 28 to 42, removed the probation option, if I am correct, from Nevada at those levels.

Ms. Roth: Correct.

Mr. Taylor: Yeah, so I don't know. Steve can say whether or not he's found out anything but for our side, just our relationship to those and then, the years of penalty that I found associated were listed for both Nevada's and ours for comparison.

Mr. Johnson: When we were doing the research, we were really looking at the amount that the Colorado bill listed for quantitative analysis. You are right, it's apples and oranges when you compare the two, but we thought it was important to present this material since, at least from my understanding, the origin of the bill or the conversation around this really came from the Colorado bill. So, what we focused on were sizes, controlled substance sizes, weight sizes, and how that would impact the laboratory. So, I don't have any information on the probation side and that really is outside of our area of expertise as well.

Vice Chair Brady: Are there any other questions, in Carson? DA Jackson.

DA Mark Jackson: Thank you. During the presentation by Director Johnson and Supervising Criminalist Brad Taylor, they stated that Washoe County Sheriff's Office Forensic Science Division performs currently the qualitative analysis for not only Washoe County but 12 other counties. If I could request that Las Vegas Metro as well as Henderson, if they could put on the record the number of other counties, or cities, or outside agencies that they perform currently qualitative analysis for. Thank you.

Ms. Murga: Good morning. The Las Vegas Metropolitan Police Department performs forensic analysis for Clark County, Lincoln, Esmeralda, and Nye.

Ms. Hiner: Our qualitative analysis for seized drugs, we test for Henderson, Boulder City, North Las Vegas, and Mesquite.

Vice Chair Brady: I have a question. That includes also the State of Nevada, correct? I know you mentioned the other counties, but you all also test for Nevada Highway Patrol, etc. Just to clarify for the record for all of you.

Mr. Johnson: Yes. So, we will perform analysis for any of the state agencies within those 13 counties that we provide service for and occasionally, when it comes to crime scene response, we will occasionally extend out to other counties as well.

Ms. Murga: Good morning. Yes. We do have a contract with the State Police, but I would just like to point out most of our requests for service come from our own Las Vegas Metropolitan Police Department and in 2023, about 5,000, just about 6,000 cases were completed for outside jurisdiction. So, those are on a request for basis purpose. So, it's not that we would perform qualitative testing automatically, those would have to be requested by the outside agencies to be completed. So, 6,000 cases is roughly about 22% of our workload is for outside jurisdictions.

Ms. Hiner: Henderson does not do any testing for Nevada Highway Patrol.

Vice Chair Brady: Thank you. Are there any other questions up in Carson City? I have one more question. You have talked about the caseloads that you all have a little bit, but is there a backlog would you call it or how long for each of the respective labs is the waiting list to get some of these tests completed?

Mr. Taylor: For our section, for the controlled substance section, there's a backlog. That's normal. In 2023, we had listed about 65 days on average and there was a big range, but we do prioritize our testing based on court needs. So, the majority, more than 50% of what we do, already have a court date when it comes to our labs. So, agencies don't automatically just submit right when they get it. They wait 'til it moves through the justice process and then, there is a need either preliminary stages or before sometimes for that to be submitted. So, therefore those cases are rushed as needed. They can be done, as mentioned, in two days if needed but we prefer two weeks.

Vice Chair Brady: Thank you.

Ms. Murga: Good morning. So, the forensic lab with the Las Vegas Metropolitan Police Department does have backlogs in the different sections. Depending upon the section, will dictate how long that backlog is. It can vary from a few weeks to a few months and right now, in our seized drug unit, typical cases are turned around in several weeks, but if the cases are very extensive with a lot of pills or things that we have to look at, that analysis time could be longer.

Ms. Hiner: The Henderson Forensic Laboratory, again we only have one and half people in our seized drug section. In 2023, we had an average backlog of 44 cases and again, that varies from whether it's one pill to several different samples that need to be tested. Our average 2023 turnaround time, we define turnaround time from the date that we received the request, to the date that report is released. So, that includes not just testing, but Quality Control reviews, technical reviews, and administrative reviews until that report can go out

and that turnaround time from again, date of receipt of request, to the date that report is released was approximately 45 days.

Vice Chair Brady: Thank you. Are there any other questions? DA Hicks.

DA Chris Hicks: Thank you. First off, I believe everybody on this Commission knows why we're discussing quantitative versus qualitative testing of drugs, but I thought I wanted to put out there that it is section 14 of SB35, that is really spurring at least part of this discussion and what that provides, just so it's on the record, is it created the Interim Standing Committee on the Judiciary to conduct a study in the interim 2023 to 2024, concerning the possible upgrading of forensic laboratories in this state to enable such laboratories to perform quantitative testing involving controlled substances. The study which I know they've begun to do, or conduct, must include an analysis of A: the costs and benefits of performing such upgrades and B: the impact of such upgrades on this state. I first off want to commend all the speakers today, that is remarkable information you're sharing with us. In regard to section 14 of SB35 and some of the costs and impacts of such a change. I just want to touch on a couple of those. First off and correct me if I am wrong, but what I'm gathering from hearing all of your testimony is just a cost alone -- which is one of the requirements of the study -- would be tens of millions of dollars cumulatively to all your different labs and also, it appears to me that there would be millions of dollars of recurring costs in the form of new employees in order to keep up with this new style of testing. I do have a question in regards to the new staffing you guys all have indicated you would have to hire more people, is there in the realm of potential quantitative testing of fentanyl and the obvious dangers that come with it, is there a recruitment problem for scientists that you're aware of?

Mr. Johnson: Kim, go ahead. I will wait.

Ms. Murga: We are very lucky that we don't really have recruitment problem, we typically have several recruitments per year. We have a lot of folks that are qualified that do test, and end up being employed with us, and many of those folks stay until they retire. So, it's very infrequent that we do lose folks. When folks do leave, they may go back to a location where they are from, or where their family is from, or move onto different areas for family types of reasons, but we don't have a challenge associated with recruiting people.

Mr. Johnson: So, I would echo that with our current setup right now and this is actually something Brad and I have talked about because there is an unknown here if we do have to risk exposure to people to drugs that could potentially be life-threatening to them, there is a risk that those individuals, new employees who come on, they're trained, when other job listings are posted for other states, there is a risk that they would leave because they would be taking on a risk to themselves and our laboratory that they may not have in another laboratory in a different state. So, we could run into a change in retention. It may look different for us moving forward, but it's really an unknown because it's not something that, nationally we haven't seen this in public laboratories yet.

DA Hicks: Thank you and that's what I was getting at, is if there were a change such as this, you know, I mean conceivably are putting their lives on the line to test the fentanyl in this new format and I could naturally imagine that would result in some people maybe not wanting to pursue that particular field of work. The next thing I just wanted to quickly touch on again, in regards to section 14 of SB35, is speedy trial. You touched on that in your presentation and of course, that is a big concern for members of this Commission. I believe I heard Henderson correctly, when you said if this were embraced and taken on in your lab, that your delay could be as much as eight months before you could even come up with or you could even provide the results of the quantitative testing of fentanyl for example, due to backlog.

Ms. Hiner: Under our current capacity and our staffing depending on again, the size of that case, if that case has multiple, multiple exhibits that need to be tested and multiple samples with quantitative, we are just kind of comparing that to our current turnaround time and backlog in the only other section which is toxicology, and you are correct. If that's a larger case and depending on how much has to be tested, if each pill has to be individually quantitated, one case could take upward to a year.

DA Hicks: Thank you and so that would be -- as Washoe County Crime Lab laid out -- because of the nature of our current statutes, we could as prosecutors or law enforcement, could not even charge somebody until we had those results. Washoe County, you indicated that it would take four to six times longer unless you added new employees and so, assuming you weren't able to add new employees – with the county I know what their budget situation looks like – what would the time frame look like for that in terms of getting results?

Mr. Johnson: So, the four to six times. Going from a qualitative system to a quantitative system, we're projecting four to six times longer per sample regardless of increase in personnel and that's just because the additional processes that have to occur in order to quantitate. If in addition to that, the additional analysts, we are projecting that need based off the length of time that's going to be added to the sample. So, if those bodies were not there, if we did not have analysts to conduct that testing our backlogs would drastically increase as well because there's only so much. We can only analyze so many drugs given the capacity of our employees and our instrumentation, and I think Brad can add little bit to this as well.

Mr. Taylor: Yeah, the additional time and problem, especially without people for controlled substance analysis, adding quants on, is that you don't do the this on the same instrument you're doing the other analysis on. You need a dedicated instrument for that and as Henderson pointed out, two dedicated instruments for redundancy in case one goes down. So, we have to be able to still move forward with the other analysis while still being able to provide the quant analysis. Which means one person can't be doing both at the same time and one instrument can't be taking up the time for the other one. So, the time period without increased people would be that person would be taking time to do a quantitative analysis and then, not doing any qualitative analysis while that's happening. Therefore, driving the backlog, both from not doing the normal casework to also the increased time for the quant casework.

DA Hicks: And you also indicated that you would expect toxicology requests to maybe go up as high as 100%. Right now, they're at 30%.

Mr. Taylor: That's seized drugs. So, yeah because of the way we analyze and the way the show of the cases 30% only have been tested by us that go through the system currently. With the unknown factor of quant needed at least, I mean, again, based on how things are written that's going to at least double I would guess, if not, we need 100% of everything tested, based on how everything's written. There's a lot of unknowns in the possibilities but it could definitely increase at least 100% if not, multiple hundreds of percents.

DA Hicks: So, based on what you've just testified to, would it be reasonable to say in terms of the Washoe County Crime Lab, also we could be looking at eight months to a year to get test results on drugs, like in Henderson?

Mr. Taylor: Yeah, I think that is a possibility. Depending on the case as Henderosn mentioned, the fentanyl cases that we see, we see more powders than the south does, but it's hundreds and thousands of tablets, and the forensic way to have to sample and test those is time intensive. And as I mentioned, you have to do a regular analysis on all that first, before you can even move to a quantitative analysis. So, you have to do the base work where we would have been done and then add on the hours afterwards.

DA Hicks: Thank you and so you know, I'd put out there for the group in terms of as prosecutors, and defense attorneys, and judges on this Council would know, is law enforcement may make a stop of an individual who's trafficking in significant drugs and significantly dangerous drugs, seize those drugs, arrest that individual, and prosecutors would not be in a position to formally charge that person for upwards of a year, under this system and so, I think that's a very important point to get out there for this discussion. So, getting to my last question, as I said, I read at the start what section 14 says, I think in terms of the costs of such an upgrade -- and I disagree with the word, used of upgrade in the statute -- but in regards of the cost you've clearly laid out, that in your presentations in terms of the dangers, you've clearly laid that out, and in terms of the impact on the criminal justice system, you've clearly laid that out as we just discussed. The one thing I've noticed that was missing from all of your presentations that is directly in this statute, is the benefit

of such an upgrade and so, my question I guess to you is, I'll start with Director Johnson, what would be the benefit of doing something that is proposed in section 14 of SB35?

Mr. Johnson: So, this was something that we discussed and presented during the January 19th meeting, and you know, I think it depends on the lens you're looking at quantitative analysis through. From a laboratory perspective, currently the way our state laws are written, there's no benefit because we are analyzing to meet the current statutory requirements which is a qualitative type of system. I do know that there was concern with some of the policy makers when fentanyl, the amounts dropped from 100 grams - 400 grams to 24 - 48 or excuse me 14 - 28 and 42. There were some concerns with an individual user being charged with a higher amount or a higher level of possession or trafficking and so, the evaluation of a benefit there is, is quantitative analysis with our current weight thresholds going to eliminate that? And that's a really a question that I think goes beyond a forensic laboratory to answer, but that is something that was considered or what was brought up in that meeting. So, for that perspective I think the benefit there, that's a bigger discussion outside of just looking at the laboratory.

DA Hicks: Thank you. If I could have one, follow up. Thank you. Just one follow-up question off of that, is – and correct me if I'm not hitting this right – but we're talking about purity right? With what you just said. I mean in your experience in the drugs that come to the Washoe County Crime Lab, isn't it almost routine that those drugs are cut? Meaning they're not pure methamphetamine or pure fentanyl, that's very rare, I believe, is that fair to say?

Mr. Taylor: In general, most drugs are cut. I would say maybe unique to the west, not necessarily Nevada, that our methamphetamine is pretty nice. As far as purity but that can still be cut. Maybe not as obvious but the other drugs that we see and drugs in general -- I've been doing this job for over 25 years – it's normal to have drugs cut with other fillers.

DA Hicks: Rather dubious distinction unfortunately for Nevada, but other drugs, I mean I guess using the examples of the baggies you have in front of you, if somebody is using and carrying around the 14 grams that you had, typically that's not going to be a pure amount of drugs and that's generally accepted within the drug community, wouldn't you agree?

Mr. Taylor: Yes. That's most likely going to be the case. It would be very rare to see a pure version get to us at the lab from the streets. Just way the business of drugs work.

DA Hicks: And how does that apply to fentanyl? Is fentanyl, I mean it's rare, I'd probably say is it more rare to see pure fentanyl? In terms of drugs seized by law enforcement off of the streets?

Mr. Taylor: From my experience and analyzing in the lab I have not seen what I would have considered pure fentanyl because we see other agents within the substances, within the tablets, within the powders. Often, we will identify initially the binding agent first, and then, a full analysis to determine the controlled substances that's in it.

DA Hicks: So, would it be fair to say that if we were under quantitative analysis, in order to get somebody to a trafficking level of 28 grams of fentanyl, there in fact could be hundreds of grams actually seized and we're just isolating that small amount that is in there. Does that make sense and does that seem like a fair representation to you?

Mr. Johnson: And I think to answer your question, it depends on how the law would be written. So, if you were looking at a straight weight amount where we would have to analyze the purity and then, figure out what that weight was and continue to add. Yes, your question, that's a fair assessment to make. If it's written like the Colorado bill, where it's between this weight amount, it's a certain percentage or more, then that's a different type, then the answer is no to that or possibly no. Just because that's a different type of requirement we'd be looking at and that's one of the things that in really evaluating this qualitative to quantitative system, there is a lot of unknowns about how that law would be written, what those weight

amounts or those purity amounts would be. Because a lot of that information would also impact a lot of what we do in laboratory and then, impact the criminal justice system as a whole. So, hopefully that makes sense.

DA Hicks: It does, and I appreciate your point, and I guess that is a good point to make, if there were such a shift to quantitative analysis, our laws would have to be rewritten. Is that correct? Is that what you're getting at?

Mr. Johnson: Yes. I think the laws would have to be at a minimum re-evaluated to see if they make sense for the quantitative system and then likely rewritten to support a quantitative analysis system.

DA Hicks: Thank you for the time. Vice Chair?

Vice Chair Brady: Thank you. Anybody else up in Carson City? Chair Stiglich, I do not see any more people in Carson City with questions and so, I turn it back over to you in Las Vegas.

Chair Stiglich: All right. Thank you, Vice Chair. We will take questions now from Las Vegas.

Assemblyman Brian Hibbetts: Thank you Chair. My question is for anybody from the labs that can answer it, but it's specifically directed in reference to the Henderson presentation and it's a two-part question. You referenced here the analysis for quantitative purposes would have to be done wearing a SCBA and a level A protective suit. Can you tell me, one, how long can the scientist wear that equipment at one given time and then, the second part of that question is, has there been any studies or research done into the prolonged effects of that on the employees' physical and mental health?

Ms. Hiner: Excuse me. Currently, the only experience I have with employees wearing the SCBA's are crime scene investigators who have to go into an arson scene and those exposures in that suit, they can only be in that suit for up to 10-15 minutes. Then, they have to go out, undergo a full medical evaluation before they can go in. And the other thing with these suits is that it requires constant movement because obviously, these suits are designed so that if you go down, that they alert, they have an audible alert. So, crime scene people, when they wear these suits, they have to be constantly moving. If they are stagnant or still, it produces an audible alarm. Well, this is contraindication to working in the lab with powders, where if you're even under a hood, that movement outside of the hood changes that air flow within the hood and can actually create more exposure. So, I don't know of any studies on long-term effects, but I don't think these suits are really designed for long-term use.

Assemblyman Hibbetts: Thank you and thank you, Chair.

Chair Stiglich: All right. Thank you. Assemblywoman?

Assemblywoman Venicia Considine: Thank you. I have a few questions and some of them are just kind of as you presented, I wanted to go back and ask. One of them was in the original presentation, it was mentioned that there are federal labs that do testing and there was a quote of 900 dollars a sample, but I'm not sure if that means if you send it to a federal lab and they do a quantitative analysis for 900 dollars?

Ms. Murga: So, there are two federal laboratories that perform quantitative analysis, however, not for criminal justice purposes. They do it more to find out the origination of the sample. So, those two laboratories indicated were the DEA and the Customs Border Patrol, but no laboratory we found federal, state, local, county currently quantitates fentanyl or fentanyl derivatives. We did find one private laboratory, National Medical Services, which is located in Pennsylvania, they do charge about 900 dollars per sample, per drug. And so, we've had extensive discussions up and down our chain of command in our agency and our stance would be, we would prefer to outsource any sort of quantitative analysis cases for fentanyl, and we will utilize that National Medical Services laboratory.

Assemblywoman Considine: Thank you and then, since there is a laboratory that's already doing this, and I guess this is to everybody, and potentially if there's a future Nevada State crime lab, for the basis for the

annex for the Henderson crime lab, or the additional labs that are potentially under consideration, is it based on how this National lab is doing the testing or was this sort of created within Nevada without referring to that lab?

Ms. Hiner: In our communications with the National Medical Services, NMS lab, they are just starting quantitation of fentanyl and it's in very small size samples currently. In our discussions, if some of the quantities that we get into our laboratory, they are currently inequipped to handle that.

Assemblywoman Considine: Thank you, but the way they are doing it, I know you went into the detail for the necessity of the safety of lab techs, but how are they doing it there? Is that something that could be potentially done to scale if it was a Nevada State crime lab, or was that considered when you were – I'm maybe not sure that this is the right question to ask you because I know you're not the architect – but if that was considered in putting that in the plan we saw today together?

Ms. Hiner: It was not considered. We actually found out that they were just starting quantitation of fentanyl after kind of our architects designed this and built out this plan and again, they are doing it in very small samples. So, one pill at a time or one small bag of powder and the quantities that we get in, such as that kilo brick, they are not equipped to handle that size or quantity of sampling at this time.

Assemblywoman Considine: Thank you and then, you mentioned the brick and I was just very curious about such a large amount, considering all the safety issues we've been talking about, and you also mentioned for incineration that you couldn't use plastic. So, if whoever wants to explain, how we are currently disposing of fentanyl, and what is that safety process, and has that changed over time since fentanyl is not slowing down, it's accelerating.

Ms. Hiner: So, that 2.2-pound brick that we got again, those M30 pills that I talked about, that range in quantity of fentanyl from 0.02 to 5.1 are made from those bricks. So, that brick is not homogeneous. Those pills are taken from that brick, which is why brick would need to be pulverized and homogenized because of the wide range. One sample on this side to this side would not contain necessarily the same amount of fentanyl. And currently, in compressed powdered form these bricks, these pills, as long as you have proper PPE, they're pretty safe to handle. It's when it's actually aerosolized into a powder that, that risk becomes exasperated. So, currently we have a disposal contract to incinerate these and again, just handling it with gloves and proper PPE is not as dangerous as when it's aerosolized in a powder form.

Assemblywoman Considine: Thank you. So, when it's incinerated, it is safer than when it is aerosolized?

Ms. Hiner: I'm not too sure as far as the safety, but I mean we do have to still dispose of them. We have enclosed incinerators that we put them in and we're not actually aerosolizing that powder at that time.

Ms. Murga: So, our agency has a contract to do a drug burn that's located in California. There's no place in Nevada that will allow us to burn or in Utah. So, we drive 10 hours up north. Usually, we are escorted by several SWAT trucks to make sure that our load is safe. It's a lot of planning. I will just tell you, we get way more pills than we do actual powder and so, those are already encapsulated and within our agency, our protocol is to triple bag anytime we identify fentanyl. So, it's in three layers and then, we label the outside of the box being fentanyl. So, when we are using forklifts to pile up things and move drugs and get ready for this drug burn, we handle those boxes as least as possible. I cannot comment if we have yet burned fentanyl because usually there's a longer statute of limitations with holding on to evidence. So, I can't say that we have actually have yet done that, but that is the current protocol. I will say when did start looking into bringing some of this testing in house -- Tonya touched on it earlier and I believe Steve Johnson did as well -- but you know, aerosolizing it and making it into a powder, so you're taking a pill and now you're making it into a powder so, it's very difficult and some of the challenges also are, not only what is venting out of your laboratory into a neighborhood, but also if you have self-contained hoods with the filters in the top, what company is going to come and take those filters that's full of fentanyl and how are they going to destroy it? So, one of the very specific concerns associated with running a forensic laboratory, anything that involves the testing of dangerous materials is hazardous material waste and one of the things that labs are

responsible is for, cradle to grave. Which means that if we generate waste, it is taken by a you know, a hazardous waste pickup provider. Those records are kept meticulously, and we have to ensure that from where we dispose of it all the way into the final end state is tracked and regulated. So, it's something that's really uncharted territory and hasn't really been laid out in common practice for us to emulate.

Assemblywoman Considine: Thank you. I appreciate that because with the safety issue, I'm just wondering if jurisdictions do it separately? What the safety protocols are? If we've improved our safety protocols as we learn things? Because one of the things that I'm worried about is, fentanyl is not the end. There are derivatives, there are synthetics, I think – this sounds bad – but the future of drugs is going to be this and it's not the same as weighing you know, marijuana or any of the other drugs you know, that previously were the big drugs of the time. I'm wondering if as these drugs change and morph into different ways and if there is a move towards a quantitative analysis for the reasons -- I think that the bill originally was brought up -- is this the future of where we're going is having to decide whether or not we want to do quantitative analysis in-state? Do we want to have a state lab? How do we want to do this, so that our technologies become faster and more easier to do, as opposed to where we're trying to start right now, which is sort of in the Stone Age of doing this quantitative analysis issue. So, I don't know if you have any opinions on that. Thank you.

Ms. Murga: Just to kind of comment on your question or you know, your thoughts. You know, when we first started discussing doing quantitation of fentanyl, fentanyl derivatives, and possibly all drugs as the way the law is written. We thought it was very simple. We oversimplified it, you know mentally, thinking that we could just buy a hood and an instrument, and we would be done, and it really wasn't until we started really looking into this after the law was passed, in order to get ready for the research portion of this, that we realized how difficult this is. Really, it's associated with not just doing the testing, which is the easy part, but everything leading up to that and after that, right? So, it's the safety concerns, the hazardous concerns, it's the concerns about safety to human life, it's a concern of what we are doing with everything that's been generated. How are we transporting this back and forth to court and just the fact for us in the forensic community, one of the things that when something new is brought online, what we do is we beg, borrow, and steal from each other, and look to other laboratories that already have this in-house. What was really shocking and eye opening for me was when I started looking around and not one other local, state, federal, county lab is quantitating fentanyl or fentanyl derivatives and we're talking over 400 laboratories in the United States. And so, there really is nobody else to emulate and so, there is just a whole host of concerns and one of our concerns also, is the evolution of these drugs, the more and more dangerous drugs. And you know, I don't know what the answer is -- I'm kind of on the down end of my career -- but you know, I will say, I mean, you know perhaps there just might have to be a drawn line in the sand where some things are just too dangerous to evaluate. We can tell you if it's there and we know if it's there, it's deadly. You know, probably over 100 doses, 200 doses and so, I don't know some of it is, do we have to tell you how much is there versus the fact that it's there and we know it's deadly, it's more than a deadly dose. So, those are some of the things that we contend with always.

Chair Stiglich: Sorry, go ahead.

Mr. Taylor: Thanks. I just wanted to address the end of the statement that was made, not by Kim but by the question asker. The process that we're trying to implement is not Stone Age and it's not slow because of its annuity, it's for us, the time is slow. The process is slower because it's a forensic world and we have to do things in a way that meets the rigor of courts. You know, so we can do the work and the work can be done as fast as it can, but an instrumentation won't change that, it'll allow us to do it, but there's a process that we can't implement today or tomorrow because of why we do our work and what realm it's in. So, I just wanted to note that because I don't want the misconception being that the labs and the technology is not there, it's all there. Obviously, it costs money and there's resources involved, but there is a certain slowness to our process because we are forensic labs, and our work goes to court for a purpose.

Assemblywoman Considine: Thank you for mentioning that. Those were just the words that came to my mind not due to the process, or because of your work, or because of how you work. It was more of what we're facing for the future of drugs and how you know, each time a step is made on one side, we have to

make steps on the other and how where we are in that. I was thinking of it in terms of errors, so I'm sorry if that was taken in a different way.

Chair Stiglich: All right. Are there any other questions in Las Vegas? All right. I had just a couple questions and comments. One, just in terms of understanding the process, when it's pulverized is that a physical, like a human physical process, or is that a mechanical process? Like does it go in a machine, or is this some mortar and pestle? Anyone?

Mr. Johnson: We are looking into both mechanical engineering controls that may be able to help reduce that exposure and keep it confined, but depending on the size of the sample, it could be a mortar and pestle and it could be cleaning that afterwards as well. So, we are looking at all avenues to how we would approach homogenizing these samples from a small scale to a large scale and what we would use may vary depending on what we're actually analyzing.

Chair Stiglich: All right. Thank you, because once it's pulverized then once it's properly disseminated and homogenized you test a small sample of that and then, that gives you a representative number for your quantitative analysis, is that right? I mean the point of pulverizing it is so, you don't have one pill that has a whole bunch and then, some pills that have a little. It gets pulverized all together so, you should have a sample that's representative, if you take from this piece of it or if you take from that piece of it.

Mr. Taylor: You're correct on that. The homogenization's needed to ensure that you have a representative sample and that is, I will remind, after the qualitative analysis if we are talking about pills, multiple pills to ensure that we actually have what we think we have in the pills. So, but yeah, you are correct the homogenization is then for a small amount of sample that we can then make a statement about and again, from the forensic world that adds a level of uncertainty that has to be reported in the scientific forensic world that isn't currently in the qualitative analysis system.

Mr. Johnson: One piece because I think part of your question at the end there was, if you had a bunch of pills can you just homogenize them together and then, figure out what that amount is. So, from an accreditation perspective this is actually one thing that our laboratory is currently researching to see if we can approach it in that manner or if we have to look at these pills individually and then, use a sampling plan that involves statistics to talk about what the certainty or uncertainty of that entire bag would be with a certain purity level. So, that's an area at this point and time, I'm not sure what that process would look like because we have to consider our accreditation, and we have to consider some of these national standards, and that's part of the studies being conducted. This is one of the steps we are looking at right now.

Chair Stiglich: All right. Thank you and I think with any of these -- I think Mr. Hicks had remarked like -- we all know what we are talking about you know? I'll confess I didn't quite know what we were talking about because I'm very removed from the legislative process. We usually get these things at the end. And so, you know as I was listening it's what is the problem to be resolved? You know, it would seem that this is something that makes sense if we had a sentencing structure that is based on quantitative analysis, much like the federal system, which is very different from what we have here. So, the issue as I understood, that was at least reported here, is to distinguish between users who may be impacted by a small amount of fentanyl in a drug? Okay and then, disposal is a problem because it's a problem not just for crime labs, but for CVS, like for pills, like people -- we've had this discussion before -- people who are even trying to get rid of unwanted or unneeded medication don't necessarily have a safe way to dispose of it or it takes travel. That correct? Yeah.

Ms. Murga: One thing is you know, just the washing of glass we associated with, is where is that water going? Is the fentanyl water going into our lakes and I mean, it just goes on and on when you really think about the impact.

Chair Stiglich: All right. Please.

Ms. Julia Murray: In the medical field, how is fentanyl disposed of?

Ms. Murga: I don't know.

Ms. Murray: But I think we can all agree its prevalence in the community is because it is a highly utilized narcotic, anesthetic in the medical field. I mean, its utilized in propofol, fentanyl, all the various derivatives. It's a giant class of medical grade drugs, something happens to it. So, perhaps it's something we need to think about.

Chair Stiglich: All right. Thank you and thank you Ms. Murray for that follow-up. So, I want to thank -- unless there's other questions – I want to thank the panelist for what I found to be an informative, impactful, and sobering presentation. I do love your collaboration because it was very helpful, and I think it would be malpractice to give this presentation without the visual that we had with the pills because I think there's a common misunderstanding. What is a gram? What is 14 grams? Like, how much is that and so I can tell you, for me, seeing actually a visual of what we're talking about is very helpful to put into perspective what we're talking about when we talk about trafficking amounts versus non-trafficking amounts, or how they are in different states. So, thank you for your thoughtfulness, your presentation here, and coming before the Commission. So, thank you.

Then, we will close this agenda item and before we turn to item five presentation, just take a five-minute break. So, people who need the restroom or get their wiggles out. My watch has been telling me to stand up and we will reconvene about 11:15 adjacent. Thank you.

5. **Presentation from Hope for Prisoners**

Chair Stiglich: We could come back together. So, in Carson? Can you hear me in Carson? I don't think they can. Really?

Are we ready in Carson? And can you hear me? Here we go.

Vice Chair Brady: Yes. We are ready, Chair Stiglich. Thank you.

Chair Stiglich: Excellent. I'll now open agenda number five, Hope for Prisoners. Our own Commissioner, Jon Ponder, is the founder for Hope for Prisoners program. The program offers a range of services, designed to address the needs of individuals transitioning from incarceration back into our communities. I looked forward to your message, Mr. Ponder.

Mr. Jon Ponder: Thank you very much. Counted this as an honor and privilege to be here. Let me apologize upfront for not having a handout. I had a conversation with Director Powers, so everything we're going to be talking about today, I'm hoping we can paint a picture in your minds, but I'll make sure I get that information over to her so, she can disseminate it out to the Commission. So, for the record, my name is Jon Ponder, founder and CEO of Hope for Prisoners, and our organization works with men, women, and young adults that are exiting different arenas of our judicial system. I've been operating in this space since 2009 and what we do in a nutshell is to provide the supportive services to help the men and women that are returning back to our community, after paying their debt to society, to successfully reintegrate back into their home, back into their workplace, and ultimately, to help them to be stand up leaders out in the community. We've developed this fantastic partnership with Nevada Department of Corrections, and I want to tell you a little about what that partnership is now. We've moved into Southern Desert Correctional Facility, and we've signed the contract with NDOC. There is a 120-bed unit inside the Nevada Department of Corrections, unit 12A, where we're going to have the great privilege to work with those 120 men up to, I'm sorry, up to 18 months prior to them being released. So, all those supportive services that we have kind of mastered over the last decade, we're going to be working with them before they get released. So, within a 12 month period of time, we're going to be going in and addressing things like, you know, leadership development, substance abuse counseling, you know cognitive training, MRT training, and bringing in a whole gamut of services. At the last six months of their time in incarceration we're going to enroll them into what we've built out, which is a vocational village, where we have stood up inside the prison an HVAC, electrical, welding, plumbing, warehouse logistics, a masonry program, and we've built a full-service commercial driver's license school

inside the prison. And what that's going to give us, is an opportunity to able to do after we've trained them and all those other things, we're go to be able to get them certified and get them plugged in with employment partners that we have where they're going to be able to earn sustainable wages, where they're going to be able to take care of themselves, and be able to take care of their families. And once they get released, we're going to be working with them up to 18 months pre-release, but they're going to go into our 18-month mechanism post release, where we are going to continue creating this continuum of care to where they are going to be case managed, they're going to be mentored, and continue training, and get them plugged in with the family reunification. This is something that we are very, very excited about, we know that this is going to be a bright light for the State of Nevada. It's going to be a bright light for the Department of Corrections, but it's going to be an even more brighter light for the men and the women -- because we are also working out at the Jean Conservation Camp -- for the people that we have the great privilege to serve. So, I am sitting here with my colleague, Dr. Carolyn Willis, and she has been on board, she's collecting all the data, she's collected past data, so if anybody has any questions centered around the success of our organization and what it is going to look like moving forward, I'm going to yield the mic over to her. And I think that Director Dzurenda last time we met, he was talking about the importance of that vocational training and how that is going to be reducing recidivism. So, again that's the exciting part about what it is we are going here. We know that we're going to reduce recidivism, when we reduce recidivism, we're reducing future victimization out in the community, and what we're doing is we're taking men that are currently wards of the state, helping them get up on their feet, out in the community, earning sustainable wage jobs, and when we get them in those places of employment, earning really good money, then that's going to help them to be the fuel in the economic engine of our community. Dr. Willis?

Dr. Carolyn Willis: Good morning. My name is Dr. Carolyn Willis, and I am the Director of Programs at Hope for Prisoners. So, I'm just going to go over a couple of the research projects that we've done within the organization, as we find it very important to be able to not only tell the stories of success but have the numbers as well to associate with those stories. So, we've done several researches within Hope for Prisoners. In 2015, we did a research with UNLV, where we looked at individuals that were coming through the program. For that cohort there were 522 individuals that were enrolled in the program for 18 months and what we found was that only 6.3% of those individuals were re-offending while they were in the program. What I found interesting was, to really look and see after the program what individuals actually went back to prison. So, in 2020 I did look at the original cohort of 522 individuals to see if they were going back to NDOC facilities within a 5-year recidivism window and what we found was that 11.9% of those individuals did go back to prison for various reasons; some were technical violations, some were new charges. Fast forward we received a grant from the Department of Justice, and we decided to delve a little bit deeper with the population that we were serving. The individuals for that grant were medium to high-risk individuals, so they had a medium to high-risk tendency to reoffend. What we found within the project that we did, we did a one-year review of the first cohort that we had, which was 140 individuals and from that we found that the recidivism rate was actually 18%. Sorry, it was actually 12.9%. So, 12.9% of the individuals that were in that cohort went back to prison, and they went back for various reasons. One of the things that we've done within our organization, simply because on the federal level they define recidivism as arrest, conviction, reincarceration within a three year or five-year window. We looked at the data and we collected data within the organization to capture all those recidivism events. So, we capture when if one of our clients gets arrested, if they get convicted, or reincarcerated. So, the return to a facility was 12.9%, as I mentioned, and we teased out that 12.9% to see what was going on with those individuals that were going back to prison. What we found was two of the individuals were rearrested on a new charge which was 11% compared to the population size, and six of them were going back for technical violation, and we also found that 10 individuals went back for loss of community status. Those were the individuals that were in Casa Grande, and they went back for various reasons based on the institutional requirements and expectations of that transitional housing. What we also did two years after we had the entire cohort, which was 245 individuals, and we looked at what the recidivism rates look like and we found that for that cohort it was 23.7% that went back, but however, more than half of those individuals were going back for technical violations or because they were at Casa Grande. So, we kind of termed that as institutional barriers, just to let the organization know that there's a substantial difference between someone actually reoffending and committing a new crime or going back to prison for technical violations. We also found that 11 of the individuals from the

second-year cohort were rearrested and one person was convicted. 13 individuals had new charges but have not necessarily convicted yet. So, in looking at our data and basing it off what the state defines recidivism as, which is new charges resulting in a conviction and going to prison, we found that only 5.7% of our clients actually had charges with convictions. 4.5% of them were rearrested, 13% of them were going back with no new charges, but because of institutional challenges that they were having either at parole and probation or at Casa Grande. Some of the key findings that we found from the research that we did, we found that having re-entry support and re-entry resources for clients was instrumental, it's actually crucial for their success. When individuals have the support that they need within the community, they're less likely to reoffend. We also found that the fact they are less likely to reoffend will reduce recidivism and increase public safety as well. We also found that it was important to remove barriers that most of our clients had. Most of them had issues with finding housing, finding employment, they had huge skill gaps which prevented them from getting into the workforce, so as an organization we worked on addressing all those barriers. Majority of our clients had what is considered to be barriers with re-acclimating back into the community, not just getting a job but coming back, and finding what their role really is, and playing that part within the community. For our organization that's one of the key things that we focus on, giving the clients a space to feel like they belong, and accepted, and knowing that their background does not necessarily define who they are, but it lends to a unique experience that they have to traverse, but they had the support within the community. We also found that having a criminal conviction has so many collateral consequences and they're often times insurmountable, but as we navigate through the re-entry space with the individual it makes it easier. They remain motivated, they know that they have support, and it's not always punitive. They can see that we're attempting to try to assist them to rehabilitate, come back into the community, and be part of the community that we are in as well. We also found that mentoring was important. Our clients told us that the reason that they participated and enjoyed working with our team is because they had support. One of the things that we also did within the DOJ research, we actually looked at what success was. So, that was one of the premises of the research. We looked at our program evaluation as well, because we wanted to know how we're doing. And in doing the qualitative parts of the research, we interviewed individuals that were in the program that were successful and those that were going back to see what challenges were, and from those interviews they actually told us that, having a mentor made a huge difference. They also mentioned that having someone with lived experience, knowing someone on the other side of the desk had to navigate and traverse this re-entry space and they're now successful was a key factor in keeping them motivated while they were in the 18-month program. They also mentioned to us that being able to come to the organization and know that they will receive the services, or education, or employment, and having the support of our partnering employers was actually a huge benefit for them because they're no longer knocking on doors hearing no's, right? We've heard all the no's and we convince them not to be no's. So, they're less likely to give up when they are not faced with all those barriers of no you can't. We also looked at how having a background restricts them from holding certain licenses like as a barber for instance, you know it creates a challenge and we've been working with the Barber Board and you know, our clients have been participating in our program. So, we can lend support when they have to go in front of the Barber Board. From all the research that we've done, we have actually published several journal articles from the findings from this research and textbook chapters as well. So, we've done a lot of research within the organization, mainly to come up with best practices as to what constitutes successful re-entry. For some clients from the research that we did, some of our clients said being sober one day, one more day was successful for them. Getting housing was successful, getting that family reunification piece. We had a client that mentioned being able to rebuild a relationship with his son and being able to have his grandson in his life was huge. So, for our organization we do a lot of research just to ensure that people know what re-entry really is. You know, it's novel. We know more about corrections than we know about re-entry and there's a what works approach. It's not cookie cutter, but if we can find the thing that assists an individual to be successful, that's one person that we've helped.

Mr. Ponder: And I'm going to yield to any questions.

Chair Stiglich: Thank you for that presentation. Are there any questions for Mr. Ponder and the Doctor? And Doctor, I didn't catch your last name? Willis? And Dr. Willis. Do we have any questions in Carson City?

Vice Chair Brady: No, Chair Stiglich, there doesn't appear to be.

Chair Stiglich: All right. Thank you. In Las Vegas? Dr. Bradley?

Dr. Shera Bradley: Hello. I was wondering if you did any tracking of mental health and people that may have mental health disorders? Any treatment that they were getting while they were participating in your program?

Dr. Willis: So, based on the programmatic pieces, we did look at mental health, but we did not delve deeply into that. Most of our clients that are in our program, we do assessments with them, so we can identify what their challenges are and then, we provide the services that they need to address those challenges.

Mr. Ponder: And if I may. When we find people that are dealing with the mental health issues, if it's something that we can handle we kind of keep that in house, but then again, it's important for us because sometimes we come across people that need things that we cannot provide for them, but it's important to make sure that we can do the warm handoff to a community partner to get that need met.

Assemblywoman Considine: Thank you for the presentation, Dr. Willis and Mr. Ponder. My question is early on you mentioned that you were working with the Desert Correction Facility and that you'll have the trades there, which, I think is incredibly important to have a skill before they leave and honestly, I haven't understood why you can train as a firefighter, but then, you can't do it once you get out of prison. So, my question is a little bit along those lines on these trades, who are you working with to ensure that the certification for what they're learning as far as trades will be seamless for getting that certification and that employment?

Mr. Ponder: And that is a great question. All of our vocational trainers that we are working with are post-secondary certified, right? They've gone through the Commission of Post-Secondary, and we want to make sure that those trainings that they're going to be able to have, are going to lead to industry-recognized certifications. The beauty about it is, over that last decade, while trying to get formally incarcerated people employment, we have built up a bank of employers, right? So, right now the organization is sitting on more jobs right now than we can fill and again, as we're putting people through that training, number one, we're going to determine if they have the aptitude to go through that particular trade and then, once they get trained, they get certified, there's going to be employers waiting for them on the outside, to be able to tie that in with employment. But we're not just going to stop there. Once they get plugged in with their employment and then, we're going to usher them into being part of an apprenticeship program, right? So, working during the daytime, going to an apprenticeship program at nighttime, so that we can put them on the road to becoming a journeyman. As I like to say, on the road to the middle class.

Ms. Murray: Thank you for today. I actually was one of the people that requested that you come in and speak, because we have so many debates on this Commission regarding what recidivism is first of all, and also, what does it take to successfully re-enter? And given the way that this Commission came about; both of those questions are so very important to the decisions that get made by this body. So, thank you for today. And I know you guys know that I've worked very closely with Mr. Ponder for nearly 20 years now, since way before he was doing this as successfully as he is nationwide today. But for everyone else on the Commission, it might sound like small numbers or small impact, but what I have seen this organization do and I could name names of former clients of mine who have connected with Hope for Prisoners, who have gone on to do things like, manage a Jiffy Lube oil shop and then, be able to get an apartment, and I have, I think four or five former clients, who have achieved their CDL licenses and now are employed and supporting their families, and they were thus were able to also, do other things that a number of our Commissioners care deeply about. Things like, pay their restitution during their parole terms, which they never would have been able to do. Pay their supervision fees, which we would have written off as a state otherwise. It's extremely important and while some of it looks like small numbers, it's exactly where things start and this movement into NDOC is a tremendous, tremendous step forward. And I'm always complaining that there's nothing for women in the prison system, so they know my gripes on that, I would love to see it continue to expand. But this is a very, very important thing and we should be supporting and looking for more organizations that are doing this type of work because it's just critically important to every other issue we're addressing on this Commission, every time we look at things. And then, whoever is doing that parole

study, who was talking to parolees should link up and get these numbers, because you have a ton of crossover it seems. So, just an information reminder.

Chair Stiglich: Thank you. Any further questions or comments?

Mr. Ponder: I would like to make a comment. The goal right now is to you know, we have it out in Southern Desert, but we're also, physically inside Casa Grande transitional facility, physically inside Three Lakes Conservation Camp, and physically inside Jean Conservation Camp. So, as those other facilities are going to be transitioning, folks are going to be transitioning into Casa Grande, we're going to be able to be there to meet with them as well. So, it's creating like a bit of a pipeline to you know, help them to be successful. And with something else you said, with some of the clients that you had referred over and they're just doing phenomenally successful today. That's a testament to one of the things that we have discovered, is that the vast majority of people from this segment of the population, they really do want to change; they have no idea how to do it. So, for so long there's been this expectation of people you know, going to prison, and coming home, and being a productive member of society, and they have no idea how to do it. Again, the benefit of us being there early on because there's this cliché that re-entry needs to begin day one, but at an 18-month period of time and we have them in this process, right? Where we can do some character, leadership development. A friend of mine once said to me, that once a person's character changes then, his characteristics has to follow. We want to get them to a place where they're going to be excited about paying restitution or paying child support. Not because there's a judge at the bench saying that you have to do it, but because it's the right thing to do, right? So again, I think that this is something I'm really super excited about. When we finish up here down south, we're going to go up to northern Nevada, we're looking at Warm Springs Correctional Facility, take this model up north. Once we do that, we're going to take it and we're going to export it across the Untied States of America. Thank you.

Chair Stiglich: All right. Thank you. Is there anything further? All right. Thank you for that presentation and thank you for all that you do. With that we'll close agenda item number five.

6. Discussion of Potential Topics and Dates for Future Meetings

Chair Stiglich: Agenda item number six, the dates for the rest of the meeting for this year are in the agenda. We have a meeting April 5th and May 17th those will be virtual meetings. June 21st will be an in-person meeting. Staff is already compiling topics and items for discussion for those meetings. Is there anything at this time that someone would like added to the agenda?

Assemblywoman Considine: Thank you. I don't know if it's already on the list, but I wanted to add the Second Look Act for Nevada.

Director Powers: I did get your email and it is on the list. I do know that at the Interim Judiciary Committee today, they are talking about it. Two outside organizations reached out to the Department last week and asked for numbers regarding Second Look and Prosecutor-Initiated Resentencing. So, it is on our list, and we will talk about it.

Chair Stiglich: Great. Any other items? Right. Then, if you think of anything you'd like to be considered after this meeting, please reach out to myself or Director Powers.

7. Public Comment

Chair Stiglich: I'll now open the second and final period of public comment. Is there anyone in Carson City or Las Vegas who wishes to make public comment at this time? Seeing none in Las Vegas, is there any in Carson City? Seeing none in Carson City. Do we have any callers for public comment at this time?

BPS: Chair, the public line is open and working, but we have no callers at this time.

Chair Stiglich: All right. Thank you kindly. Then, we'll close this second period of public comment.

8. Adjournment

Chair Stiglich: And that's it. Thank you very much. Great work everyone. Thank you to the staff, the members of the Commission, and our presenters for their time here today. I look forward to seeing you all in April and just, you know, keep up the good work, and bring us your thoughts, and let's do good things. We'll stand adjourned.