



**STATE OF NEVADA**  
**DEPARTMENT OF SENTENCING POLICY**

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**NSC Misdemeanor Subcommittee**  
**MINUTES DRAFT**

**Date and Time:** July 24, 2024

**Location:** VIRTUAL ONLY

**MEMBERS PRESENT**

John Arrascada  
Judge Steve Bishop  
Christine Jones-Brady  
Chief Judge Cynthia Cruz  
Wes Duncan  
Nick Graham  
Eve Hanah  
Chief Judge Kevin Higgins  
Dr. Jennifer Lanterman  
John Piro  
Marcie Ryba  
Leisa Moseley Sayles  
Executive Director Holly Welborn  
Chair John McCormick

**MEMBERS EXCUSED**

James Conway  
Jack Eslinger  
Evelyn Grosenick  
Kristina Mortenson  
Lt. Michael O'Brian  
Alisa Shoults

**STAFF**

Executive Director, Jorja Powers  
Management Analyst III, Marie Bledsoe  
Management Analyst II, Erasmo Cosio  
Administrative Assistant III, Hunter Jones

## 1. Call to Order / Roll Call

[Meeting called to order at 9:00 a.m.]

**Chair John McCormick:** All right. I will call to order the July 24, 2024, meeting of the Sentencing Commission's Misdemeanor Subcommittee. Good afternoon. Nice to see everyone this afternoon. And welcome to those viewing the meeting via the Department of Sentencing Policy's YouTube channel. This will be the third meeting of the 23-25 meeting cycle. I will now ask Director Powers to take the roll, please.

**Director Jorja Powers:** Thank you, Chair.

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

**Chair McCormick:** Thank you, Jorja.

## 2. Public Comment

**Chair McCormick:** The next item on our agenda is item two, which is 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 their email address. Public comment received in writing will be provided to the Commission and included by reference in the meeting, the minutes rather of the meeting. Members of the public who wish to testify may also do so by telephone. Due to time constraints rather, comment will be limited to two minutes. Any member of the public that exceeds two minutes may submit their comments in writing to the Department of the Sentencing Policy. At this time, I will ask Ms. Jones to manage and direct those who wish to testify by telephone.

**Ms. Hunter Jones:** Thank you, Chair. Members of the public who would like to testify by phone, press star nine to raise your hand. When it's your turn to speak, please slowly state and spell your first and last name. And it looks like we have no callers who would like to participate.

**Chair McCormick:** Thank you, Ms. Jones. I would note that we did receive a written public comment from, I believe, Tonja Brown submitted it on behalf of Mr. Michael Adkisson. So, the Commission has received that and had an opportunity to review it or the Subcommittee rather.

## 3. Approval of the Minutes of the Meeting of the NSC Misdemeanor Subcommittee held on May 8, 2024.

**Chair McCormick:** All right, with that, we will move onto our next agenda item, which is approval of the minutes from the last meeting we had on May 8th. Are there any comments, corrections, or edits to the minutes? Hearing none, I will entertain a motion to approve the minutes of the May 8th meeting.

CHIEF JUDGE KEVIN HIGGINS MOVED TO APPROVE THE MINUTES OF THE MAY 8, 2024, MEETING.

JUDGE CYNTHIA CRUZ SECONDED THE MOTION.

MOTION PASSED.

## 4. Working Group Reports

**Chair McCormick:** And now we will come to item – and Jorja, I would note, that John Piro just joined us – I will move onto item four, which is the sole agenda item we have today and that is, "Working Group Reports". As you recall at the last meeting, we decided to break into a few working groups and then, each group would do a homework assignment of identifying statutes or misdemeanors they think it may be meritorious to repeal those – excuse me – and then, also, identify the issues that they wanted to study and the data points that we're going to need to ask NDSP to collect. And we did have some submissions before the

meeting, I believe Judge Higgins submitted some documents and Jack Eslinger, knowing he wouldn't be here also, sent me an email with his thoughts and I believe that's been provided to everybody. I'm hoping this will be a good discussion here, I didn't have a particular agenda in the way to move this forward. Because he was on task and did his homework, I might lean on Judge Higgins to make a few comments about what he supplied to get us started.

**Chief Judge Kevin Higgins:** Well, Judge Cruz and I spent -- was it, several hours Judge, on the phone going through the entire list of misdemeanors -- it just seemed like several hours. And there's a lot of stuff in there that could be fixed, and I think there's a lot of stuff in there, there was a political or you know, some legislator had something happen to them in 1953 and that's the reason there's a statute about it. But I think we have got to take priorities, I suppose. But I'll just buzz through the list real quick, there's several in the -- of course, you know, and this is purely self-serving, I suppose -- there are several statutes in chapter four that makes it a misdemeanor if we don't have open books at the courthouse, if I charge excess fees, if I purchase a judgement -- I'm not even sure how I would go about purchasing a judgment, I guess that used to happen -- so, there's several there. Selling liquor at a religious meeting, there's several statutes on the sheriff failing to regulate houses of ill fame. I think there's several -- there's a statute on advertising products to produce a miscarriage -- I'm sure that was left over in 1817, say 18<sup>th</sup> century anti-abortion stuff. Advertising cures of sexual disorders, reckless driving of a horse, -- Judge Cruz's favorite -- failing to bail an animal appropriately. There are statutes on if you're on the public pay phone, and somebody comes up to you, and says, it's an emergency, and you don't let them use the phone, it's a misdemeanor and it's also a misdemeanor. If the phone company doesn't put a notice of that in the telephone directory. And I couldn't even tell you where a pay phone in Nevada is, and when the last time I saw a phone directory. I must tell you sadly, that I was in the long committee meeting that decided that the unsolicited transmission of fax advertising should be a misdemeanor, I was working at the AG's office at the time, and listened to several hours, that was when you have to pay 20 cents a fax, and somebody had come back, some insurance guy had come back, and there's 300 pages of advertising, and it irritated people. Of course, my real favorite, is it's a misdemeanor, if I fail to appear with a sheriff and disperse riots, it says, the Justice of the Peace shall appear at a riot with the Sheriff, and disperse the riot, and if I fail to do so, it's a misdemeanor. So, not that it's happened lately, I suppose. Although, when we were having those little riots downtown, we had a little something across the street. And one I think gets violated frequently, is the sale gift or disposal of liquor within the Capitol building is a misdemeanor. So, those were just some of the things that stuck out to me, you know, some of them are silly. I think most of those should be easily changed without much consternation. I'm sure other people have fuller lists and more thorough analysis. Thank you.

**Judge Cynthia Cruz:** And there's another one we also had, I think that we talked about that it's worth taking a peek at, is unlawful assembly underneath 203.060. That's the one that if you gather to talk about the crime, and then you disperse without committing the crime, that's a misdemeanor.

**Chief Judge Higgins:** Okay.

**Judge Cruz:** And then, we also talked about bringing non-resident indigent into the county, because we're not really sure if they're going to start, how that's even policed, but it's a misdemeanor, that's 428.110. Those were just ones that we just said were worth a look.

**Chair McCormick:** I think a few of those were also on the list I sort of tried to inflict on everyone at the last meeting as well. So, which I am trying to find now.

**Chief Judge Higgins:** Yours is the one that is about two and a half pages long?

**Chair McCormick:** Yeah, mine was the 50 some odd item one. Yeah, misdemeanor to repeal that list was in the meeting packet from last time and included not only, like, if the group is amenable to suggesting that we repeal the misdemeanors for Justices of Peace who purchase judgments, however that works, or failure to keep their books open to public inspection. I would think we may want to also look at, there's one in the supreme court that makes it a misdemeanor if Elizabeth charges non-authorized fees. Now that we're electronic I don't know, you know that one may be unnecessary. And then, a district judge cannot accept a

gratuity for performing a marriage. So, again, we have a number of those. But I would really be interested in hearing from other folks, other groups' perspectives on that. Or I can just talk, I mean you know. Ms. Jones Brady raised her hand.

**Ms. Christine Jones Brady:** I hate to be the Debbie Downer. So, I'd like at least a conversation about the justices of peace throughout Nevada, where there are many counties within Nevada where you don't have to be an attorney, dependent upon the population, and our office receives a lot of miscellaneous complaints coming from the rurals. So, I'm not sure how some of the justices of the peace, if they're not an attorney, there's still some accountability for them, but it's not in the same way as like a Judge Higgins, you know where he's an attorney, and if he does something wrong, he's subject to you know, the bar review, and the whole nine yards. So, I'd like a conversation about that because at the AG's office, we get a lot of complaints coming in from rural and frontier areas of Nevada.

**Chair McCormick:** I would on that, my thought is that once – regardless of whether or not they're attorney or non-attorney – once the judge assumes the judgeship, they're subject to the preview or the oversight of the Judicial Discipline Commission. I mean in the event that say – I'll pick on Judge Bishop instead of Judge Higgins this time – in the event that Judge Bishop did something horrible, he could be subject to discipline from obviously, the Judicial Discipline Commission, and then additionally the bar with relation to his license. So, I'll throw that out there. And also, I mean, I think at this point and maybe this is just my opinion, that you know, if there are those concerns, do we spend the time now and hash it out, do we return to it later, how does the group want to proceed? Because I think if my supposition may be or is slightly correct, that you know, everybody can have their list, we can pars them out, find the same ones, and make that easy as far as making that recommendation to the Sentencing Commission, but I'm thinking the group probably wants to talk a little bit more about the sort of the ones that they're puzzled by, confused by, want us to study more, and/or the data that we should be trying to figure out if we can collect. Judge Bishop, you have your hand up?

**Judge Stephen Bishop:** Has the bar ever disciplined the sitting judge that anybody's aware of?

**Chair McCormick:** I don't believe so. When we were working on the judicial discipline bill last session, that was a conversation because there's kind of a gray area on when attorneys are running for office and judicial discipline contends, they don't really want to deal with it, the bar contends they don't really want to deal with it, so, there's some gray area there. I've been involved in this system for 18 or so years and I don't recall bar discipline for a judge outside of judicial discipline. Judge Higgins?

**Chief Judge Higgins:** I just want to point out that this predated all the audits we're all required to do. So, the AOC audits us once or twice a year and the books have to cash out. The county audits us once or twice a year, they count out every nickel. We've got mandatory accounting standards which is a binder, it's about eight inches thick – thank you, Mr. McCormick – that every nickel has to go into every category. I think all this was like, pre any kind of financial accountability, some of them from the 1880's and 1860's. I want everybody to be fully responsible for everything, but I think it's covered a different way now, with all the audits we have to go through and every time we have a new auditor, there's always questions why this is the way we've done it for 20 years, okay, we'll change it and so, it's on going supervision. This is not a hill for me to die on, I just thought it was something that could be cleaned out, but if there's an issue for somebody, I don't mind taking it off the list.

**Ms. Jones Brady:** If I may respond? That actually alleviates some of my concerns if there is this other process by which, you know, judges are held accountable. And so if there's safeguards in there, then that alleviates that concern. And for the record, we have never gotten that specific complaint.

**Chair McCormick:** Thank you. Any of the other groups want to voice some thoughts on what we should repeal? Do we decide as a group to everybody put their list in writing and aggregate them, and see where we meet on that? You know, again, I don't want to sort of steam roll this, but you know, do think we need to talk about the data points as well. So, for fear of you know, going Socratic and calling on somebody, Marcie, what did your group have to say about repeal or anything else?

**Ms. Marcie Ryba:** Well, I see that Professor Hanan has her hand raised.

**Chair McCormick:** I missed it. I'm sorry. Okay, well Professor? Sorry, I missed your hand.

**Professor Eve Hanan:** It's fine. I would defer to Marcie too if she wanted to speak first, but since she was just called upon. I'll go ahead. So, our group, we're almost completed with our memo here to the group, but we just didn't get it quite finalized before the meeting. We met and I think as the advocacy defense and academic group, we have a slightly different order of priorities because we're less worried about misdemeanors that are never used, and more worried about misdemeanors that have a high impact, and might impact working class people in ways that don't improve public safety, and at the same time, may actually harm public safety by interfering with their ability to get jobs, get housing, you know, take care of their families, and so forth. So, we were more interested in a framework and honestly concerned that, what would come out of this would just be a list of unused, kind of like a cleaning out the junk drawer approach, where we get rid of statutes, but it doesn't really change the meter for anybody because they're not used anyway. And so, in that we began to talk and again, I think we can circulate this by the end of the day, but whether we might need a couple more categories in misdemeanors, and we wonder if the group could consider that. So, I looked at Colorado -- actually I looked at all 50 states -- Colorado wasn't necessarily the best, but it was the one that had changed their system more recently, had some reforms, but the idea would be that, if there was at least one other category, like petty offenses carrying no more than ten days or up to \$300 in jail, that's Colorado and a few others. Then, some misdemeanors which might have a high impact could be separated out from those that carry up to six months, their high impact on people's lives, but maybe we don't consider them to be as serious. An example of that might be something like -- and again, if we establish categories and then, we'd have to go through, and look at the misdemeanors, and see where it took, Colorado as I understand it you know, more than a year to do -- but so say like, first offense trespassing maybe that's a petty offense, it's not the same level as a first assault on someone, which we might think of as more of a six-month you know, standard misdemeanor. So, then, the second step, if we agreed on categories that we could recommend would be to identify some of those issues that are of concern for us. You know, whether it's fines or fees, or the disruption of jail terms, or unevenness among jurisdictions, where maybe a rural jurisdiction, or a municipal court tends to sentence people much more harshly than another, what should it be, and is there a role for the legislature in putting any guard rails in areas where there's high variability, and therefore, a perception of unfairness or actual unfairness. That's just an example. And of course, in that process, there might be some things that are ratcheted up too, something might be, well, I don't know why this is considered to be such a low-level crime, it might be considered if you look at them all together to be more serious. And so, part of this process then, and I'll let my group -- I'm looking at my memo, but I'm also looking at the notes on my memo -- would be to also to understand some data around how these misdemeanors are having different impact on different communities by ZIP code, or different by county, or municipality to understand where there might be problems or impact that is unintentional, or impact that could, you know, so where's there's narrow tailoring to public safety. However, this Committee ends up coming out thinking about public safety without any of those byproducts, which can be so harmful to people, like, when they're saddled with fines that prevent them from being able to enroll kids in summer camps or get apartments and so forth, for you know, no reason that would really help public safety. So, I know that's quite ambitious, but I think our memo could propose one or two levels of categories, like a lower-level misdemeanor and a petty offense, and I would love it, if we could talk about that either now or maybe make sense at the next meeting and so, perhaps then, what happens before this legislative session would be more of a proposal of that with a longer runway to think about the categories for offenses. And that would put us more line with reform -- not only reform movements -- but many other states who fine grain a little bit more among misdemeanors.

**Chair McCormick:** And if I may, I love the idea of categories. I think that you know, the fact that the max penalty for you know, first or second -- I mean aside from the statutory specific penalties -- theoretically the max penalty for you know, first or second DV is six months and \$1,000, as is when you know, when Judge Higgins fails to disperse the riot to assembly. So, you know, to me that's always been troubling, is that we've got misdemeanors, gross misdemeanors, and felonies. Felonies are categorized, that makes sense. Is that the approach we want to take to misdemeanors? And then, obviously, we can talk about how many categories, what the categories should be, and the penalties, and all those specifics. But I mean, I'd really

love to hear from the group, if people are on board with the idea of taking a look at doing a categorization, doing those petty offenses, a thought I have is that lends itself to a sort of arrest-ability as well – if that's term, if that's a word, I don't know if that's a word – but you know, are some of those petty offenses citation only, that kind of discussion. So, I'd love to hear from the group, particularly, maybe our prosecutorial folks on thoughts on that categorization or anything there.

**Professor Hanan:** May I just add, just one more footnote on that, which is that Colorado did reduce the number of categories of misdemeanors, so better isn't always more. I'm more suggesting like one, or two, or some serious consideration about moving some things to civil infraction. So, you know, like as we did with some traffic in the last session or two sessions ago.

**Judge Cruz:** I just want to chime in really quickly and say, that is a debacle that I cannot even begin to tell you know bad that is. So, I have PTSD still about trying to get the civil infraction traffic functional with people trying to negotiate criminal to civil infractions.

**Chair McCormick:** And that anecdotally, I've heard that as well. That people want to come into criminal, but I mean you can't just magic a criminal offense into a civil infraction, so.

**Professor Hanan:** Yeah, the infrastructure wasn't there. I think in some other jurisdictions where they did that, there was a whole plan for you know, with unified court systems it can be easier to roll that out, but without the resources, I think it's been really difficult and often times, there's some civil and some criminal in the same ticket, you know which really confuses things too.

**Chair McCormick:** Right. And that's actually a statutory option if I recall that the officer can choose to file on one citation or do multiple citations, so. Sorry, we got things on the chat, I'm not paying attention to.

**Judge Bishop:** I was just noting that even a year later, civil infractions are still a total mess.

**Chair McCormick:** Okay. And yeah, Ms. Jones Brady also put in the chat about the special grand jury thing in Douglas County that I think was problematic, it was during sort of the height of the protests regarding the murder of George Floyd. So, again, that another one, but like, I guess my concern is, I don't want to just make everybody meet, so we sit here and look at each other, but at the same time, I also have no desire to enforce this is what we're going to do, but I do like the professor's idea and her group's idea of creating those categories whatever the categories may be. And I think that's the discussion we have, and then, attempting to sort of parse some of the offenses in there. And I think that also lends itself to are there misdemeanors that were misdemeanors when the statute was passed, that now as a society I think we find to be more sort of offensive or repugnant and should those be increased as well. And then, I think to me, you know fines and fees is such a big thing, you know kind of like this whole thing, like to take that on, is that a way to then begin addressing that by having you know, more specific or statutory options for the sentence when someone is convicted of a misdemeanor. And you know, like the professor said, less than ten days and \$300 fine, you know and how do we look at those jail time issues and all that. So, you know, again, I see people shaking their heads. Like, do we want to look at creating those categories, do we want to take a serious look as this group at creating categories of misdemeanors, is that one thing we start? And then, you know, I think we can do that in a parallel track with looking at some of the data because I think if we come up with a framework for saying you know, whatever they are ABC misdemeanor -- I'll just use that because it's easier to talk about -- you know, if we come up with a framework that we want that as a group, we think we should recommend having class A misdo, class B misdo, class C misdo, a class C misdemeanor you know, is one of those petty offenses is there a civil option under it, but is that framework that this group wants to work on to maybe bring a little bit more order or that. And then, in recommending that you know, that then hopefully would engage the legislature in an idea on some of that, and some of those punishments, and everything like that. I think we could begin to, and if we want to have a subcommittee, or working group, or whatever -- I think they're called working groups in SB 123, Leisa would know what they're actually called, but I'm pretty sure they're working groups in the statutes .

**Director Powers:** Working groups.

**Chair McCormick:** Okay. See? Jorja. Okay, good. I didn't make it up. I always feel better when I don't make it up. So, I mean we could certainly do that if we want to start looking at that framework if we want to like, look at the Colorado structure in that. And then, the question I suppose becomes if we come up with a framework and want to recommend it, does this group go through the list, and recommend categorization -- and I see Dr. Lanterman kind of giving me a head nod -- so you know, that maybe it. But is that sort of one of the outcomes of this, is that we as a group decide to take a hard look at creating a multi-tiered for lack of a better term classification structure. Leisa?

**Ms. Leisa Moseley-Sayles:** I support the idea of creating the framework as you mentioned parallel with collecting the data. I think once we have the framework in place and we all agree upon that, that'll just make it a little bit easier and a great place for us to start. And also, I know you mentioned some of the data points, I have some suggestions for data points that we had come up with and I can share them with the group, I can share here, I can send them in an email. They're certainly not comprehensive or exhaustive, and I think there are as we go through, and collect data, we're probably going to find other data points that we should be collecting also. But first of all, I think we're going to need three different types of data, this is just some of the notes I had from previous discussions; court data by jurisdiction, prosecutorial data, you know, jail data, and then again, law enforcement data. And I think I mentioned that at one of our Subcommittee meetings before. You know, jail data, you know, what's charged, adjudicated, you know fines and fees assess, I think that's pretty standard. For jail data, things like, when they came in, when they were released, you know court dates, conditions of release, if they're on supervision, or any programs, or anything like that. You know, law enforcement data, when they might have been arrested, how many arrests they had, you know, neighborhood, zip codes, some of those things. And again, that's not exhaustive list, I think it's just a good place for us to start thinking about the kinds of data that we need, and I can certainly send that out to the group as well. So, that we all have something to look at and can add notes, or add data, or add other ideas to that.

**Chair McCormick:** Marcie?

**Ms. Ryba:** Thank you. And just to add to what Leisa said, I would ask if we could also kind of notify or mark whether there's a Department of Alternative Sentencing in the jurisdiction where this data is being collected because I think it would be interesting to see if we're seeing differences or disparities in sentences based on whether there's an Alternative Sentencing Department and also, tracking the number of contempt convictions in areas where there is an alternative sentencing versus areas where there's not. Again, just my limited experience in the rurals, is if there's not an alternative sentencing and you violate the conditions of your probation, you're found guilty of contempt. If there is an alternative sentencing then they just generally modify your sentence or have you serve part of it. So, I think it would be interesting to also track the number of contempt convictions in some of these areas to see if that's the process for imposing conditions of suspended sentences.

**Chair McCormick:** Thanks. Now being that the Nevada Department of Sentencing Policy -- I'm looking in your direction -- you guys are going to be the ones who are the boots on the ground trying to collect the data. You know, I'm thinking on some of that, do we -- you know, maybe I'm getting ahead of myself -- do we need to do a snapshot you know, a snapshot in time that this is what happened rather than a longitudinal tracking or any of that, but I think you know, once we kind of established some of that data, you know, and perhaps there are charges that we're more interested in than other charges? And again, I don't know, but yeah, I think you know -- I was talking to one of our marshals earlier and he said, "Oh yeah, best way to eat an elephant you know, bite by bite" -- and I think that's the situation we're sort of in with misdemeanors because it's such a monolith and hasn't been looked at for you know -- I mean we got a lot of stuff from -- here's one from 1883 -- so you know, like, we've got more than a 100 years' worth of stuff to go through here. You know, which makes it difficult. And everybody else actually has you know; I think most people on here probably have another job that they're supposed to do on occasion. So, but like, again, I just would like us sort of as a group you know, and if we need to take a vote or whatever to come up with the idea, do we want to you know, if we want to do a let's figure out the framework for multi-level classification, that's one action item for us to move forward with. And then refining the data and getting those points to NDSP, so they can do a review and say, "Yes, we can do this now. No, we need extra help later to do this.". How that

all works, you know, are those two parallel tracks that you know, we want to be on right now, I think. And then, you know as far as the list of what to repeal and all of that stuff, I think we can circulate that, and see what matches, and everything here. But I'd be interested in hearing from Wes and Nick as far as like, public safety redline misdemeanors if that makes sense? Like, some of those that are really maybe crucial from that viewpoint as far as public safety. Like is that something we set those to the side and deal with this? Like again, I really don't have a preconceived notion about how we should do this, and we aren't sort of trying to eat an elephant. So, that would be my suggestion at least for discussion as we determine, okay, we're going to work on data, get that list, work with NDSP to make sure the data is collectible, what we can do, how we can do it, how we can review it. And then also, at the same time, if everybody's on board with it looking at you know, a tiered structure of misdemeanors. So, anyway. So, I mean I certainly support the idea of creating a framework, perhaps I'll ask it this way, does anybody think that that is a bad idea?

**Mr. John Piro:** No. I think it's a good idea, John.

**Chair McCormick:** Good. Thanks. Well, if nobody, Judge Cruz?

**Judge Cruz:** So, I like a lot of the forward thinking that we are all talking about, and I think this was the first bite of the elephant that some of our lists were. And I like the discussion about getting the data points looking, but my only concern -- and I'm sure Judge Higgins would chime in on it because we do sit on some of these legislative committees -- is that we could -- being judges -- we could end up in a little bit of a difficult situation as sitting on a committee that's promoting things that historically judges are not taking positions on, we might have concerns, but we don't take positions on regarding you know, re-classifying, de-classifying, increasing penalties, decreasing penalties, like, historically on a lot of these bills the bench as a whole has not taken a position and I just want to throw that out there that you could have three judges that were kind of being put in a very difficult position. Especially with -- not that I'm saying that I don't think this is something that shouldn't be looked at -- but there are things that are kind of being advanced that could put us in an unfortunate situation that we're kind of quasi going back, and relooking, and kind of passing judgement as to what other judges may have done, and I'm just a little worried about that. I still think that this is definitely, I'd like to see the data points, I'd like to see where it goes, and I think this Committee could end having some of these recommendations. You just might end up in a situation depending on where it's going, that some of the judges might have to bow out, just to try and stay where, legislatively, we've always kind of been, if that makes sense? I know you've been involved with a lot of these discussions John, and you know kind of where -- statewide -- where the judiciary has been on some of these types of issues.

**Chair McCormick:** Yeah. And I certainly understand that, and I get it puts you in a weird position as being the finder of fact to then, go back and mess with the facts your finding -- for lack of a better term -- so, certainly, I mean that's a very valid concern. If we, you know, end up getting to the point where we're making recommendations, and voting, and those kinds of things, clearly and this, you know, judicial officers could abstain from that vote in order to maintain that you know? But I don't think that we can do the process necessarily without getting your input. And I understand it's a very fine line to walk, but I think being cognizant of it, we can all try to make sure that we don't get sideways anyway there, but so. And that's what Dr. Lanterman just put in the chat, more succinctly than my rambling, but so you know, on that, but I think it would be -- and in my mind -- I think the difference is, you know, the judges, we don't want to put the judges in the position of saying that this misdemeanor is a CAT A, this misdemeanor is a CAT B, and this one is a C, but I think it's very important to get the judicial perspective on what that framework is. Like, A, B, and C, petty, like how we do that, because they're the ones that are obviously going to be encountering that, and processing cases, and handling those different levels. So, to me, that's kind of where I see the dividing line there, is that they don't have to vote to make 199.27, "the refusal to assist an officer in making an arrest", they don't have to say that is a category A misdemeanor, but we still get their input on CAT A, CAT B, CAT C, however we do it. Again, I'm just doing that because we're familiar with that because that's Nevada's felony structure. But I think, hearing no objection, we want to come up with a classification framework that we can start talking about. You know, I don't know if we want to do that in a group here today? Do we want to appoint a working group? Do we want to multiple working groups? How do we want to begin looking at that sort of structure then? Then at the same time, we're refining the data points you know, so Jorja and her team can collect, and we can also you know, talk about who to talk to here for this data and that kind of stuff



because this group has a ton of experience and connections that may make it actually easier to try and find that data or yeah, to try to find that data. So, I mean if the group is comfortable with those two things, being what we're working on now, that's pretty terrific. And I'd love to hear, do we want like a working group to come up with a proposed structure or to piggyback off the Professor's 50 states survey? Like again, everybody has a lot to do, and I don't want to volunteer people to do stuff.

**Professor Hanan:** I'm not raising my hand to volunteer. I'm sorry, Judge Bishop, I didn't see you there.

**Judge Bishop:** It's okay, Professor.

**Professor Hanan:** I just wanted to say, I don't have a written up 50 state doc, I did look, I did the research, but I could you know, I think our working group has about a two-pager on this.

**Chair McCormick:** Awesome.

**Professor Hanan:** That we could share and then, perhaps at our next meeting we can decide where to go from there. And I guess one thing the Subcommittee could decide is, we'd like more research into all the different possible structures, or we could say, intuitively, it seems right to have one more level or two more levels, we'll leave it at that, but you know, so we can classify things a little bit more precisely. So, we could do that, and I think we could have that by the end of the week for the Subcommittee.

**Chair McCormick:** Judge Bishop?

**Judge Bishop:** I was just going to note that I like the idea of the working groups because it kind of leaves Judge Higgins, and Judge Cruz, and myself out of some of the nuts and bolts thing, but then, it still brought back to us to say you know, what if you pull this thread, it's going to unravel over here on us and make a mess over here in something you might have not thought about because you don't see the interconnectedness. Especially in a little jurisdiction like mine, where everything's connected.

**Chair McCormick:** Sounds great. Do we have classification working group volunteers? Or do we want to wait for our advocacy public defense academia group to provide that memo to the group and then, have that discussion after, and nominate people? I mean I think if we're looking at like, coming up with a recommendation for a classification framework, I think necessarily we'll have to include sort of all the different perspectives represented on the Committee and yeah. So, I mean, that would certainly be that. So, I mean is the will of the group to wait for that memo to appoint the working group now? You know, like again, I know this is a lot, it is eating that elephant, so again, I don't tend to want to push people to do things that they can't fit in, but I think and I don't know that we would need like an official motion or vote either, but if the group is comfortable with coming up with that framework for classification, then we start on that, and then, at the same time, we start the data collection. And Leisa, you had your hand up?

**Ms. Moseley-Sayles:** John, I was just going to say, I think a great place to start with this, is to let our group submit the memo that we've written and let everybody look at it, and whoever wants to serve on the subcommittee, the classification subcommittee, can look at it and say, "I think I can help with this" and then, we submit that to you, and then, at the next meeting we'll probably have some names of folks who said yes, and go from there.

**Chair McCormick:** That sounds like a great idea. If that works for everybody? I think we do that. And then, I know all the groups had the data requests if you want to perhaps articulate those in a written format – and Jorja, please yell at me if I am off base here – if we want to sort of articulate our data wish list from the various subcommittees and then, we get that to NDSP, Jorja, and her team can look at it -- and perhaps this is even another tiered you know – data we can get tomorrow, data that we'll have to reach out to people and ask them to get, other data you know. So, if that would be a good way to move forward in looking at the data requests is working on that, is getting all the wish list of data together to Jorja and her team. So, then they can evaluate it and say realistically what we can do because you know, if we do end up wanting to look at like, you know individual level case sentencing decisions. You know, that will take more work on the part of

the court to review some of that, than that aggregate stuff just for example, because you know, court data is something I am more familiar with. So, I think you know, if everybody is good with waiting for that memo? Everybody will review it for the next meeting. We'll have some more sort of concrete suggestions and things to look at. So, perhaps we have that come up, create the framework working group -- that's going to be a tough one to say -- create that working group at the next meeting, and then, also, you know, everybody get your data wish list to NDSP and they can start classifying while working on that, so we can get a better idea of the time, effort, etc. that will take to collect the data. So, we can get what we can get and then work on getting what's going to take more in that fashion. If those are both reasonable proposals, I think that's a good way to go. Again, we can wait to get the memo. I can probably leverage some resources around here to have people look at misdemeanor structures in some other states as well. So, we can get that information for the next meeting, and then, appoint the working group, and then, at the same time, we'll be working on the data wish list. So, if our various working groups could get what data points you want to see to NDSP here in the next -- what would say -- two weeks, week, Jorja?

**Director Powers:** I would say, yeah, ten days to two weeks would be great for us.

**Chair McCormick:** Yeah, so if we could get our data wish list to NDSP, let's say by August 7th or you want to say August 9th?

**Director Powers:** I would say -- let me look really quick -- the 9th would be fine.

**Chair McCormick:** All right. So, if everybody could have their data wish lists to NDSP by the 9th, that would be great, from those groups. Then, they can do that, work on that, and then, like I said -- I'll just keep repeating myself till I shut up -- but then, at the next meeting we'll come back, and really look at the classification structure, and look at the data, and then, that'll kind of push the group, you know push this group forward. Is that agreeable to everybody? Anybody disagree? Think that's the worse idea ever? All right. Well, if that's, you know I think that's a good way forward, particularly, trying to eat this elephant and you know. Everybody does need to tell Judge Higgins that he was volunteered to do all the work though because he had to go back to court. So, if the group is cool with those two being our path forward, I think that's a good idea and yeah, anybody have anything else that they would like to discuss, raise at this point, or if we're comfortable moving forward in that manner, we can certainly so it. And on the misdemeanors for possible deletion, if the groups have their list, I mean if you didn't make a list that's fine, but I'm going to go through and like, cross reference mine, and the judges, and Leisa, comment?

**Ms. Moseley-Sayles:** Of course, I have something, one more thing. One of the concerns that came up in our working group was what data points that we have access to and if there's a possibility that we may need some legislation to say to the agencies that we're recommending, we're requesting data from, that you have to get this data, or does the NDSP already have, have you been empowered to collect all of those things. So, I think when we get those data points to you, look at them and see if there's anything on there that we might need help from the legislature with getting or saying to legislature, you have to provide, telling the agencies you have to provide this data because I can tell you, asking for data, we run into some issues with getting data. And so, I'm wondering if just what we are empowered to actually collect through the NDSP and what we might need some support from the legislature on, if there is anything.

**Chair McCormick:** And I think also on that is, as we're discussing the data and do we need the legislature to help us, I think an important part and at least -- this is just purely my opinion -- sometimes the ability of the local agencies that possess the data is you know, resource wise, they don't have the resources to spend the time to do the data, so how do we begin, potentially to address that situation as well. And obviously, it's not a one meeting, one session kind of thing, but I think that if we're cognizant of that, we may have better success asking for additional data, if we try to take in account and help folks work with that, but again, that's just sort of my two cents there.

**Ms. Moseley-Sayles:** No. Totally agree. And I think at the end of this when we make our final recommendations, that may be one of them. We need an upgraded system, agencies need to be able to

collect this data, and resources need to be provided to those agencies, so that they are able to collect this data. So, that could be one of our final recommendations that comes out of the Subcommittee.

**Chair McCormick:** Thank you. Anybody else have final thoughts? We might actually keep this to an hour. Jorja? Sorry, had your hand up.

**Director Powers:** That's okay. I just wanted to thank Leisa for that. I mean, as the data collecting agency, we have struggled with this all along. We are not considered a criminal justice agency and so, there are some pieces of data we cannot get, and we haven't been able to get. The other struggle is what John was saying, is that a lot of agencies who we would collect data from, are working with antiquated systems that are 20 plus years old. And so, even though the data is there, it's very difficult to pull and then, to compile with somebody else's 25-year-old data. So, that's the struggle we've been having, and we have been looking to ask the legislature to help us with that situation, whether it be giving money so we can have more easily universal system for everybody or to make us a criminal justice agency, so that we have access to everything we need. So, I just appreciate you bringing that up.

**Chair McCormick:** And Jorja, let's you and I talk about making you guys a criminal justice agency offline. I had just fired up some ideas in my feeble brain. Anyway, unless anybody has anything else, we have a course of action, and I certainly appreciate you spending a Wednesday afternoon with us.

## **5. Discussion of Potential Topics and Dates for Future Meetings**

**Chair McCormick:** So, that brings us to agenda item five, which is future meetings, which is sort of what we've been talking about here, and I think we have our marching orders, and I'm certainly happy to serve as a hub for any of that or ask my team to assist. Our next meeting will be September 11th. So, that gives us a month and a half to get all this together, and then, we can proceed there. Does anybody have anything else that you think this group should be looking at that we haven't discussed looking at – that's what I'm trying to say – and obviously, you don't have to answer now, if you do come up with something, shoot me an email, or NDSP, or something on that. But I think you know that classification framework could help us move forward. So, if nobody has suggestions or ideas for future meetings, of course we can do that offline.

## **6. Public Comment**

**Chair McCormick:** We'll move to agenda item number six, which is our second period of public comment. And just as we did in the first period, those who wish to testify may do so by telephone. Due to time constraints, it may be limited to two minutes. Any member of the public that exceeds the two-minute limit may submit their testimony in writing to the Department of Sentencing Policy. At this time, I would ask Ms. Jones to let us know if we have anyone who wishes to provide public comment?

**Ms. Jones:** Looks like no one wants to provide public comment.

**Chair McCormick:** All right. Thank you. With that, I will close agenda item six.

## **7. Adjournment**

**Chair McCormick:** And we'll move onto agenda item seven, which is adjournment and have two minutes back, I was going to try to keep this to an hour and we made 58 minutes. So, thanks everybody, appreciate it, and I promise we'll have to start working a lot harder as a group after the next meeting. Thanks.