

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Eighty-Second Session
April 20, 2023**

The Committee on Legislative Operations and Elections was called to order by Chair Michelle Gorelow at 4:03 p.m. on Thursday, April 20, 2023, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Michelle Gorelow, Chair
Assemblywoman Brittney Miller, Vice Chair
Assemblyman Rich DeLong
Assemblywoman Jill Dickman
Assemblyman Reuben D'Silva
Assemblywoman Cecelia González
Assemblyman Brian Hibbetts
Assemblyman Richard McArthur
Assemblyman Cameron (C.H.) Miller
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Sabra Newby
Assemblyman Steve Yeager

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Shondra Summers-Armstrong, Assembly District No. 6

STAFF MEMBERS PRESENT:

Haley Proehl, Committee Policy Analyst
Shuruk Ismail, Committee Manager
Kristi Howard, Committee Secretary
Garrett Kingen, Committee Assistant

Minutes ID: 909



OTHERS PRESENT:

Athar Haseebullah, Executive Director, American Civil Liberties Union of Nevada
Michael Kelly, Chair, Nevada Democratic Veterans and Military Families Caucus
Liz Ortenburger, Chief Executive Officer, SafeNest, Las Vegas, Nevada
Serena Evans, Policy Director, Nevada Coalition to END Domestic and Sexual
Violence
Rick Beatty, Cofounder, The Alessandra Foundation, Las Vegas, Nevada

Chair Gorelow:

[Roll was called. Rules and protocol were reviewed.] We have two hearings on our agenda today. We will hear Assembly Concurrent Resolution 4 and Assembly Concurrent Resolution 6. Both will be presented by Assemblywoman Summers-Armstrong.

Assembly Concurrent Resolution 4: Directs the Joint Interim Standing Committee on Government Affairs to conduct a study of the use of polygraphic examinations on certain employees. (BDR R-1008)

Assemblywoman Shondra Summers-Armstrong, Assembly District No. 6:

I am very pleased and quite nervous, actually, to be here with you today to present to you Assembly Concurrent Resolution 4. I am happy to have a dear friend and community activist joining me on Zoom as copresenter today. Athar Haseebullah is the Executive Director of our statewide office of the American Civil Liberties Union of Nevada.

We know that private employers are already barred from using lie detector tests on their potential employees. We know that the polygraphic examination's accuracy and neutrality has long been called into question, but state and local government employers are currently exempt from this restriction. The purpose of this study is to determine whether state and local government employers should continue to utilize this pseudoscientific and possibly discriminatory technology to screen potential employees.

We will start by looking at the graphic that talks about what polygraphs do [page 2, [Exhibit C](#)]. How do they work? As you can see from the example, the candidate is placed in a chair and has a blood pressure cuff and other kinds of monitors placed on their body. A polygraph will collect physiological data from at least three systems in the body: respiratory activity, sweat gland activity, and cardiovascular activity. The test cannot actually test for honesty; instead, it relies on the polygraph operator's analysis of the tested person's responses, which can be inaccurate. As such, polygraphs are usually not admissible as evidence in courts in the United States.

My question and what I am hoping this study will be able to answer for me and for all of us is, is the polygraph examination a reliable tool to determine the suitability of a candidate for government employment [page 3]? I am sure you are all aware, especially those of you who sit on the Judiciary Committee, that polygraphs are used as a screening tool for our public

safety officers. It is important to me that we investigate this to ensure we are not excluding good candidates for these jobs based upon this examination.

That was an overarching question, and here is some more detailed questioning that I am hoping the study will answer: Does the polygraph examination ensure the recruitment of the best candidates? I am hoping that the study will examine applicants from public safety from the last five years [page 4, [Exhibit C](#)], see who got hired, check their employment history if they have made it three to five years of employment, and look at their career progress. A study of the career progress will include whether or not they were disciplined, whether they were retained, and what their mobility was within the department if there was mobility out of the department.

The other question that I am hoping the study will answer is whether or not the polygraph examination opens the door for bias in hiring practices [page 5, [Exhibit C](#)]. I believe that the study should also examine, for those clients or applicants who identified themselves as minorities who applied in the last five years, racial disparity on test failure and call back—I will go into that a little later—and again, the basic employment history of those who were hired if they stayed for three to five years and what their career progress was, to include discipline; retention; mobility within the department; and whether or not they stayed with the department.

The reason I am asking for there to be some specific data collected on bias is, we had a hearing earlier this session and a question was raised by one of our colleagues from Assembly District 39 [page 6]. He was concerned about how long it took for the Department of Public Safety to process employment applications. He was specifically concerned about why some of the candidates whom he actually knew, who were not hired or who were barred from application, if it was because of the polygraph. Those same applicants left since they were disbarred or disqualified and were hired by another public safety organization. The answer to his inquiry was this from Sheri Brueggemann, Deputy Director, Department of Public Safety. She said,

You are right, we have found that by doing the polygraph first, we have been able to keep up with all of the backgrounds without having that backlog, and we are finding close to a 50 percent fail rate. However, we do go back and look at some other things. The polygraph officer who handles it does not have the final say; it goes through the department back over to the hiring authority. It is either the lieutenant or sergeant at Highway Patrol, or lieutenant and sergeant at Parole and Probation who look at the facts there. We ask more questions, and I have to say the majority of our information comes from other law enforcement agencies that have already performed a background, so often that is the primary issue where we have more information than just the polygraph itself.

This is a concern for me. It is a concern because we have a test that 50 percent of the people who take it fail. Because the rate of failure is so high, we now have to move to a

discretionary process that picks and chooses which of the candidates, after they had failed a polygraph, get a second chance and get to move on to another set of qualifiers in order to be able to be hired into these jobs.

We know that anytime we are working outside of the process and adding, we open up the door for biases. There are people who want to work in this field, and we do not want them disqualified. We need to hire people, but we need to find a process that is more accurate. I am hoping that this study will help us do that.

At this time, that is pretty much my presentation. I do have some articles that I found that you might find interesting [page 7, [Exhibit C](#)]. If Mr. Haseebullah has anything else to add, that is pretty much all that I have for this.

Athar Haseebullah, Executive Director, American Civil Liberties Union of Nevada:

Obviously, the American Civil Liberties Union (ACLU) is supportive of this bill specifically because lie detector technology has been rejected by scientists for decades. That was most definitively done in a comprehensive expert report published in 2003 by the National Academy of Sciences that has dubbed polygraph tests to be a pseudoscientific approach. Lie detectors are banned for use by private employers, as was mentioned, and are not admissible as evidence in court, but as we have seen, public bodies continue to utilize these same polygraph tests. The fail rates we have recognized over the course of years and through data obtained from both police departments and lawsuits have shown that the fail rates end up being higher in certain communities than in others. They vary wildly from examiner to examiner. There really is not an exact science underlying it because so much of what is done is contingent on the examiner's own approach to understanding nonverbal communication.

Polygraph tests can have lasting negative repercussions in an applicant's life. As we have mentioned in other hearings, the ACLU's position is that we hope to get more Nevadans back to work, not fewer Nevadans to work. If polygraph tests continue to play a role in providing and serving as a barrier to employment opportunities, it is something this body should consider assessing. Since 1950, the ACLU has been opposed to lie detectors. It has never been exclusively about their ineffectiveness or the technology of the polygraph, but because of the elements and the violations associated with the Fourth and Fifth Amendments that are implicated, as well as the fact that they are a fundamental affront to human dignity.

The use of lie detectors in hiring is an example of a larger and larger and more disturbing trend, which is the apparent inability of the individuals who are in those employer settings that are utilizing these to discriminate between solid science and highly discretionary techniques that, as National Geographic once put it, rely on methods and interpretations that involve more craft than science. Among the forensic techniques that the National Academy of Sciences report previously found to rest on uncertain scientific ground are hair analysis, bite mark analysis, arson analysis, and other widely relied upon forensic techniques.

We find ourselves here in these types of circumstances dealing with things such as polygraph tests, which in 2023, have not really played a role. We have attempted to conduct a greater data research just on Nevada specifically and what those numbers have looked like. The majority of research that exists with respect to the barriers, as well as the data that is in information that is available, seems to be based on national settings. To my knowledge, this will be the first one in recent memory that actually shows what is happening in Nevada. We can never have too much data. That is why the ACLU is proud to support this study, and we thank Assemblywoman Summers-Armstrong for bringing it forward.

Assemblywoman Summers-Armstrong:

I am open for any questions, and I believe that Mr. Haseebullah will stay on the line and answer anything that is outside my ability.

Chair Gorelow:

Committee members, do you have any questions?

Assemblywoman González:

I was just curious about what the data sharing looks like. Are we talking about one police department or every police department in the state? How are we protecting people's information while we are conducting the study?

Assemblywoman Summers-Armstrong:

I think that would have to be determined by the study committee. I would hope that it would be kept confidential because this is personal information from job applications. It does not necessarily have to have names, but I think the identifiers, especially for those candidates who are of ethnic groups, would be really important to collect that on a basis so that we can know what we are getting. I was not able to verify on the Department of Public Safety's website their data on hiring. Their data was very flat. It just gave me how many people were hired and how many people left. That was part of their presentation in February, so we did not have any drill-down data to pull from. I think we are going to have to ask specific questions to get specific data.

Assemblywoman González:

My concern is with knowing who passed or failed the polygraph. Could that be used against them in the future now that we are collecting data on it? For the committee, I just want to make sure that we are protecting that information because I would not want the wrong person to have that information. Do you know how long a polygraph pass or fail stays on an applicant's application?

Assemblywoman Summers-Armstrong:

I did not ask that specific question, but in the hearing the contention was 18 months minimum and possibly permanently. Ms. Brueggemann did not say that was not true.

Athar Haseebullah:

I was just going to add on to the first portion of the question. With respect to the data confidentiality question, the actual data collected here refers primarily to the methods, methodologies, implementation strategies, and quantities conducted; not with respect to the personal information or identifiers conducted. There would not be an expectation that a study of this nature would include any level of personal information, only, effectively, the items that are laid out. Any additional items beyond that would actually exceed the bounds of the study and the confidentiality provisions.

To Assemblywoman Summers-Armstrong's point, it is actually spelled out what the body is to consider, and also that body must remain within the parameters of the law when discussing what that ends up looking like in terms of implementation and setting parameters for the study. It seems rather narrow. But again, because we do not have any of this data readily available statewide, agency-to-agency, it is unclear what the barrier has been. As it stands right now, the narrow nature of what the study would call for poses significant benefits while preserving confidentiality.

Assemblywoman Monroe-Moreno:

Do you know how many police departments and public safety agencies within the state currently use the polygraph system?

Assemblywoman Summers-Armstrong:

I know that the Department of Public Safety does. It is my understanding, but I did not ask directly, that also the Las Vegas Metropolitan Police Department does. I am not sure about North Las Vegas.

Assemblywoman Monroe-Moreno:

Would Assembly Concurrent Resolution 4 also include voice stress analysis testing, or simply polygraphs?

Assemblywoman Summers-Armstrong:

We did not include voice stress. We just asked for the polygraph because that was clearly delineated in testimony. If there is an interest in that, I think it could be considered, but I think that we should probably keep it as narrow as possible.

Chair Gorelow:

Committee members, are there any other questions? One came through on our chat. Just out of curiosity, do we know how many other state agencies use polygraphs?

Assemblywoman Summers-Armstrong:

Within the state of Nevada, I am not one hundred percent sure. I wanted to concentrate this strictly on public safety because I think that that is an area where we are seeing across the board that we are having a shortage in hiring and retention, and also where I think there is a real need for diversity and cultural competency. I am hopeful that we can start there and see where we are at. If there is more, we can talk about it at a different time.

Assemblyman Miller:

I realize that there is going to be a committee that will probably determine the full scope of what they study. Do you foresee them incorporating a comparison with more accurate measures or tools that could be in place that are better determiners, or more accurate in the results, on what the goal of a polygraph would have been?

Assemblywoman Summers-Armstrong:

I think I am going to phone a friend on this one. Mr. Haseebullah?

Athar Haseebullah:

There is nothing to preclude that provision. Generally, the model of shifting away from polygraph tests has actually shifted away from the notion of arbitrary lines of questioning and examinations of nonverbal behavior. It has been focusing on whether or not there is a restriction in place through some other verifiable means. In employment settings, what that looked like in states that have gotten more people back to work and have not had the same barriers, would be focusing on, for instance, recent felony convictions or convictions for items that are tied to something specific. The use of polygraph tests, inherently because of their largely erroneous nature as has been demonstrated throughout the years, has played a role in moving away from that process as a whole. With respect to replacing it with something else, that is something potentially for the committee to decide, or for this body and the Legislature to take up in the future.

I think the most outstanding thing right now is that we just do not know the full length of barriers. Certainly, the ACLU of Nevada has received complaints periodically of individuals not being able to pass a polygraph test. But it also remains unclear, to Assemblywoman González's earlier point, about the length of time where it might remain in someone's background. Different bodies might collect that a little bit differently. There does not appear to be uniformity with respect to that. The last thing we want to see is when someone gets through every stage of an interview, is ready to go, and because their nonverbal communication might be different in terms of expression—they may have anxiety, they may simply just be nervous on the day, or they might have a different affect than the examiner is used to dealing with—it leads to the preclusion of that ability to move forward. Reliance on tools that are not empirically or scientifically accurate and are simply pseudoscientific generally tends to pose employment barriers. We do not know the full length of this problem and the full extent of it within the state of Nevada. We will not until the study is conducted.

Chair Gorelow:

Committee members, are there any other questions? Seeing none, we will move on to testimony in support of A.C.R. 4. Since no one is coming to the table in Carson City, is there anybody in Las Vegas who would like to come to the table in support of A.C.R. 4? Seeing no one, are there callers in support of A.C.R. 4?

Michael Kelly, Chair, Nevada Democratic Veterans and Military Families Caucus:

I am also the director for the Nevada Democratic National Committee Veterans and Military Families Council. I would like to testify in support of this resolution. I want to thank

Assemblywoman Summers-Armstrong for proposing it. This has been an issue that veterans have quite frankly complained about for many years as to why they are subjected to a test that does not really establish the true accuracy and truthfulness of anyone. Nobody in our profession, in the national security profession, including four-star generals, admirals, and anyone in the Central Intelligence Agency has to undergo a polygraph. That is absolutely unusual. We do not have to undergo voice stress analyzers and we are entrusted with some of the nation's highest and most dangerous secrets every single day.

We find it very unusual that we have to go through polygraph and voice stress analyzers when applying for local government agencies like municipal police departments. For the record, the New York Police Department, U.S. Marshals Service, Department of Veterans Affairs Police, and the military do not conduct voice stress analyzers and do not use polygraphs. It is inaccurate. It does not necessarily determine anything. Thorough background work does, but these have never worked. I urge you to approve this and conduct a study. You will find that the truth is, these tests are a waste of time; they hinder hiring and, frankly, work against veterans.

Just for the record, I will give you an instance where we have had veterans with top secret clearances who have actually been turned down by departments because of the polygraph results or voice stress analyzer results. Meanwhile, these folks are still serving as National Guardsmen or reservists with top secret clearances. Thank you very much for this resolution, and we look forward to seeing it move forward.

Chair Gorelow:

Are there any other callers in support of A.C.R. 4? [There were none.] With that, we will close testimony in support for A.C.R. 4 and open up testimony in opposition. Seeing no one in Carson City or Las Vegas, we will ask for callers to testify in opposition. [There were none.]

We will close testimony in opposition and open up testimony in neutral. Is there anyone in Carson City who would like to come to the table to testify in neutral? Seeing no one, is there anyone in Las Vegas who would like to testify in neutral? [There was no one.] Are there callers to testify in neutral? [There were no callers.]

Assemblywoman Summers-Armstrong, would you care to make any final comments on Assembly Concurrent Resolution 4?

Assemblywoman Summers-Armstrong:

I just want to say thank you to all of you for listening attentively and for your consideration of this study. We want the folks in Nevada to have an opportunity to work. For those folks who want to answer the call to be in public safety, no matter what they look like, no matter what their religious beliefs, no matter what their anything—if they want to work in public service and work and protect our community, we want them to have an opportunity and not be barred by these processes that really do not show us that they work.

Chair Gorelow:

With that, we will close the hearing on Assembly Concurrent Resolution 4 and open the hearing on Assembly Concurrent Resolution 6, also being presented by Assemblywoman Summers-Armstrong.

Assembly Concurrent Resolution 6: Directs the Joint Interim Standing Committee on the Judiciary to conduct a study relating to battery which constitutes domestic violence. (BDR R-840)

Assemblywoman Shondra Summers-Armstrong, Assembly District No. 6:

My second presentation today directs the Joint Interim Standing Committee on Judiciary to conduct a study relating to battery which constitutes domestic violence. With me today is Liz Ortenburger, Chief Executive Officer of SafeNest, which studies domestic and sexual violence.

During the Committee on Judiciary this session, I carried a bill on behalf of SafeNest. I am just going to give you a little backstory [page 2, [Exhibit D](#)]. I went to an event with chief executive officers who represent nonprofits. They are all in the building today. At that meeting, I had a chance to speak with Ms. Ortenburger. We talked about the issue of domestic violence and strangulation. I carried a bill, and it is going to be heard in the Ways and Means Committee tomorrow. This bill's purpose is to try and find a way to finance the examination for strangulation. We have an epidemic of domestic violence in our communities. Ms. Ortenburger will speak to you about that. This is a very serious issue, but it is also a very touchy issue. One of the asks from Ms. Ortenburger was to change the definition of "strangulation." We had some conversations with her organization and others about whether or not the definition of strangulation should be changed and what the effect of that change could be on our community.

On the screen you have the current definition: "'Strangulation' means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person in a manner that creates a risk of death or substantial bodily harm." When we had our discussions—I believe in trying to do things collectively and collaboratively—I invited the advocacy groups, the district attorneys, as well as the public defenders. We were not able to come to a decision on what type of language change there should be.

Ms. Ortenburger is going to talk to you about her concerns and where she believes the language should go [page 3]. At the last slide you will see what questions we want the study committee to address so that we can come to a decision on where this language should be. This is really critical. It is critical that it is collaborative, and it is critical that it is looked at in a fact-finding and data-collecting manner so that we know what we do and how it can affect our community as a whole. I have included language on this slide from other states so that you can see how others have positioned themselves. I am going to hand it over to Ms. Ortenburger, and she is going to talk about her perspective.

Liz Ortenburger, Chief Executive Officer, SafeNest, Las Vegas, Nevada:

SafeNest is a large domestic and sexual violence agency. We work with over 20,000 clients a year. Our clients include survivors, those perpetrating violence, and children affected by this epidemic. What we do know is that strangulation is a red flag for homicide. The Training Institute on Strangulation Prevention reports that when a female victim is strangled once, her chances increase by 750 percent of being a victim of homicide. Each time she is strangled, that percentage increases. On average, a woman waits five strangulations before she calls 911. That is a research-backed study. Studies also show that in households with children where strangulation is occurring, the children are being strangled 10 percent of the time.

We also know the Training Institute on Strangulation Prevention called out Nevada's definition of strangulation as problematic based on the last few words: "death or bodily harm." Only Nevada and Oklahoma carry this extra burden on their definitions. What we do not know, in a complete sense, is the effect this is having on the justice system for both survivors and those accused. Assembly Concurrent Resolution 6 allows Nevada the interim period to review gathered data from our courts as to how often the outcomes of these cases and the facts surrounding what we are seeing in our justice system. This critical process can provide an avenue for understanding and efficiency to our system, ensuring everyone receives the justice they deserve. Other than immediately changing the definition, this is the correct response for victims, those charged with domestic violence, and the community at large.

Assemblywoman Summers-Armstrong:

She said that much more gracefully than I was trying to say. In the request, we polled the district attorneys, public defenders, Ms. Ortenburger, and other folks to send the questions that they felt were important to be asked during this study. Here they are. Under current battery domestic violence strangulation statute [page 4, [Exhibit D](#)]: How many are filed? How many are dismissed? How many folks are sentenced to prison for the charge? How many of these charges are plead down to lesser offenses? We believe that is really critical to know.

We also believe that it is critical to understand, under domestic violence charges: How many are listed as domestic violence battery by strangulation on the probable cause sheet versus how many are reduced during the prosecutor's charging process? You can imagine that came from the public defenders. Additionally, how many go to trial under the domestic violence by strangulation charge? Of those that go to jury trial, what is the number of verdicts that are guilty, not guilty, or guilty of a lesser included offense?

As you can see, the parties involved in this on both sides have clearly delineated the types of data that they would like to have collected. We are hopeful that you will support this so that we can understand this not just from the perspective of prosecution, but also maybe help us with some prevention. With that, I will be quiet and open up for questions.

Chair Gorelow:

Committee members, do we have any questions?

Assemblyman Yeager:

I had a couple of questions and then maybe one suggestion. It looks like we are going to prepare a report for the next session of the Nevada Legislature. Assuming that this bill passes, we are going to essentially get that snapshot in time of whenever the Interim Judiciary Committee starts meeting. I think we are moving that up to September or October this year. We will get a 6- to 12-month snapshot. Is that the idea behind the bill?

Assemblywoman Summers-Armstrong:

Yes, it is to try and capture something quantitative.

Assemblyman Yeager:

Obviously, Clark County is a big part of the population, and Washoe County is the remainder. We have smaller populations in the rurals. Could you indicate whether you had conversations with folks outside of the major metropolitan areas to talk about their ability to collect this data and the ability to provide it? In Clark County, you are probably going to be all right with most of this, but I worry somewhat about some of the smaller courts. Maybe I am wrong about Clark County as well. I know from being in this building, data collection and getting actionable, usable data from some of these jurisdictions can be a challenge. I wondered if you had those sorts of conversations and what we might do when we inevitably encounter folks who say, We do not collect that information. We cannot give it to you. We do not have it.

Assemblywoman Summers-Armstrong:

When we asked for the input from Washoe County, there was no indication they thought there could be a barrier to collecting the data, but we can dig deeper into that. Even if we cannot, though, I think it would still be important to gather it where we can. If we can get the data from Clark County or Washoe County, even though it will not be completely comprehensive for the whole state, I think it will give us a pretty good idea of what we are seeing in the larger metropolitan areas.

Assemblyman Yeager:

I wanted to make one suggestion in the data that is being collected. Something that I think is missing would be charges that were declined, meaning someone is arrested, there is a police report generated, but ultimately, the prosecutor decides not to file a charge. That may be a little harder to get because you are essentially going to have to rely on the prosecutors because that will never make it into the court system. I think that would be a good addition, if you are willing to do it.

Another one I think might be good that I did not necessarily see in here would be, when we are talking about these cases, are we talking about intimate partners? Or are we talking about siblings? I know we changed the definition with domestic violence, but I think it does still

encounter and capture more than just marriage or dating. I think there is still some familial relationships. I would think there would not be as much strangulation there, but I think it would be a good point to be able to see if we could collect that.

Liz Ortenburger:

We did change the definition not to include roommates. But if there is a power-and-control relationship in the sibling partnership where one sibling has guardianship, for example, or those types of things, that does fall under domestic violence. Your instinct is correct. All indications show strangulations are often between intimate partners, not relational, but we can track the whole body.

Assemblyman Yeager:

I know we are not talking about that here with this bill, but my recollection was this: for a misdemeanor domestic violence case, there was a requirement in statute that to negotiate those down, prosecutors had to provide a reason to the court that they did not have the discretion to negotiate them down. What I do not know is whether that is the case with strangulation or not. This might just not apply, but I think it would be curious. When someone is charged with battery strangulation and ultimately the prosecutor decides to offer something less than a strangulation, sometimes it is because exactly what you have here. You have an uncooperative victim—I should not say uncooperative, but a victim who just does not want to participate. Sometimes you have a recanting victim; sometimes that is what the victim asks for. I think under Marsy's Law they have the right to do that, to have their voice heard. I just wonder if there is some way to collect why cases get reduced beyond those things that are the obvious ones.

I do not really have a question, I guess. I know this is really hard information to get because it is not like a computer system where someone just puts it in and we can run an algorithm. Obviously, you are going to need prosecutors to cooperate with you here. I just think, for our edification in future sessions, the more information we can get about not just what is happening with strangulation out in the world, but what is actually happening in the court system. I will just leave it at that.

Liz Ortenburger:

What we do know is that in the strangulation circumstances and in parallel bills we have going through, the no-cost examination piece should really start to prohibit and provide a backbone to some of that information. What we have right now is a lot of dismissals because there is no exam. Once that exam becomes more available, all of this should start to have an energy to it that allows us to get to the pathways.

Assemblyman DeLong:

In your presentation, you put up definitions from various states or areas within states. This makes me want to ask, Is one of the goals of this study to come up with recommendations on modifications to Nevada's strangulation definition?

Liz Ortenburger:

Yes, that is the goal: to have a definition that meets the needs of both survivors and for those being accused.

Chair Gorelow:

I had a quick question about A.C.R. 6 on page 2, line 3: "Defendants accused of battery which constitutes domestic violence and is committed by strangulation by an alleged victim who received a forensic strangulation examination . . ." First, I was not really sure what a "forensic strangulation examination" was. What if they do not receive that? Would that change things?

Liz Ortenburger:

A "forensic strangulation examination" is one that is carried out by a forensic nurse. That nurse is then also available to be an expert witness, if needed, during the judicial process. Yes, there is a difference. We have cases of survivors who present to an emergency room and get an examination, but because it is not done in the forensic place, that exam does not hold the water that the prosecutors need to run it as a strangulation. It is critical that it is done by a forensic nurse.

Chair Gorelow:

Do you by chance know what kind of marks or things they would be finding during those examinations?

Liz Ortenburger:

Fifty percent of strangulations have no physical signs to the naked eye, even on homicide when there is a murder. What they are able to do in these forensic exams is really a phased exam. First, they have a camera that can see subdermal markings and bruising. They know how to look for the petechiae underneath the eyelid, which could be broken blood vessels. They can see a lot of things that are not seen by patrol officers which, depending on skin tone and the time of day can be very visible at noon in the hot sun but not visible at night. These exams take all the way through that. They are also looking for DNA underneath the fingernails, scratches to the neck, all other evidence gathering, and they can escalate all the way to a CAT scan if needed.

You do those exams for two reasons. Primarily it is for the health of the mother or of the survivor. We have many survivors who have long-lasting medical issues because their strangulation never got an examination, and we could not catch things early like cracks in the vertebrae. Then the other is for the forensic piece and evidence gathering.

Assemblywoman Summers-Armstrong:

I would like Ms. Ortenburger to talk about where these exams are conducted and why there is a barrier for them to be undertaken.

Liz Ortenburger:

In Clark County, we have one forensic nurse for 2.4 million people. As you can imagine, on a busy weekend, we are close to 3 million people. That nurse is charged with all sexual assault exams and any forensic strangulation exams. These exams happen in the downtown centralized county hospital in a very noisy emergency room. If you can imagine having an almost life-and-death experience or being sexually assaulted and then having to go to the county emergency room at 2 a.m. on a Saturday morning and waiting sometimes 16 hours without a shower to be able to be given an exam. That is another set of legislation that we are working on.

There are only six forensic nurses in the state of Nevada. There absolutely is a bottleneck to our being able to do these exams with the survivors that we need, or the services that we need, at this scale.

When a survivor walks into the exam room, the first thing they are told is the cost for a strangulation exam is between \$500 and \$1,500. For many of these survivors, that is a lot of money to put up front even though they are told they can be reimbursed by the Victims of Crime Program. Even a reimbursement is a prohibitive barrier.

Chair Gorelow:

That is kind of disturbing that the victim then gets charged an average of \$1,000 for an exam. Hopefully, we can work on that one.

Assemblyman Hibbetts:

When did we get down to one sexual assault nurse examiner (SANE) nurse for the entire county?

Liz Ortenburger:

To my knowledge, we have always had one. In 2007 there was legislation for more, but it did not pass.

Assemblyman Hibbetts:

Then who does the SANE exams when she is on vacation?

Liz Ortenburger:

My understanding is that she has a couple of folks who are in training that help her. The long answer is that survivors wait. You have three days to get an exam, so sometimes they are waiting that length of time.

Chair Gorelow:

I would guess that if she takes an extended vacation, they do not get an exam at all—another disturbing piece of information.

Committee members, are there any other questions? I would just ask one more quick one. I know for me, when I hear strangulation, I think manual with hands. I assume that this also would go for any sort of objects as well.

Liz Ortenburger:

Yes, strangulation can be done with a foreign object as well. It is not just manual.

Chair Gorelow:

We will open up testimony in support of A.C.R. 6.

Serena Evans, Policy Director, Nevada Coalition to END Domestic and Sexual Violence:

This proposed study is long overdue and necessary for increasing safety in the state. We know that nonfatal strangulation is a powerful form of abuse used by perpetrators to send a clear message, inflict fear, and maintain power and control. Shockingly, nearly one in ten victim-survivors of intimate partner violence has been strangled by their partner. Those who have experienced nonfatal strangulation have an increased risk of homicide by 700 percent and are at high risk for traumatic brain injuries or other medical complications. Despite these alarming statistics, we routinely see strangulation charges being dismissed and plead down, and victim-survivors left without the necessary resources. Nevada continues to be one of the deadliest states in America for women, and we have to evaluate our current systems and hold them accountable. This study will ensure that recommendations to modernize our strangulation statutes and system response are thoughtfully crafted with the input and collaboration around the state and backed by the necessary data. We urge your support.

Chair Gorelow:

Seeing no other testifiers in support in Carson City or Las Vegas, we will now move to callers in support of A.C.R. 6.

Rick Beatty, Cofounder, The Alessandra Foundation, Las Vegas, Nevada:

Thank you for allowing me to share my thoughts on Assembly Concurrent Resolution 6. My wife DiAnn and I are cofounders of The Alessandra Foundation. The Alessandra Foundation is a 501(c)(3) nonprofit domestic violence organization formed in 2016. It is named to honor our daughter, Alessandra Barlas, who was brutally murdered by her ex-dating partner on October 23, 2015, in San Jose, California. Alessandra's murderer attempted to kill a former dating partner in 2009 in Reno, Nevada. He spent approximately 2.5 years in jail for this attempted murder, which was eventually plead down to a battery. The first victim survived the attack. Critical to these proceedings is the method he used to gain access to his first victim and Alessandra. Both had broken up with the murderer; both were lured to a meeting to offer apologies as a false promise; both were strangled and stabbed with a knife. Alessandra died from the very vicious act and was left in a downtown San Jose apartment for three days.

Assembly Committee Resolution 6 addresses the critical need for accurate information in dealing with violent crime. Transparency of information to the general public and to those public servants dealing with the outcomes of violent crimes is absolutely vital. Evil thrives in the darkness. There is no room for secrecy in a civil society concerning violent crimes. This resolution is a strong statement to addressing these issues and provides a path to shine a light on the issue of domestic and sexual violence. Evil cannot survive in the light. On behalf of my wife DiAnn, our four surviving children, and the entire board of directors of the foundation, I humbly ask you to support this resolution and move it swiftly to action. Thank you all for your service to the people of Nevada. May God bless you and give you wisdom as you serve.

Chair Gorelow:

Thank you very much for your testimony and sharing your story with us. There are no other callers to testify in support, so we will close testimony in support of A.C.R. 6 and open up testimony in opposition. Seeing no one in Carson City or Las Vegas, we will move to callers in opposition. [There were none.] We will close testimony in opposition and open up testimony in neutral. Is there anyone in Carson City or Las Vegas? [There was no one.] We will go to the phones. [There were no callers.] Assemblywoman Summers-Armstrong, would you like to make closing comments?

Assemblywoman Summers-Armstrong:

I just want to thank the Committee, again, for your attention. This is a really, really serious issue. It has grave implications for the victims, and we need to do what we can to gather data and come up with something that is equitable all the way around. I am so grateful to Ms. Ortenburger and Ms. Evans, just for hanging in there. They work in a space on a daily basis that I cannot even imagine how difficult it is. I am also grateful to the district attorneys and public defenders who came to the table and put their requests in. This is an opportunity for us to work together on something and hopefully come up with a good resolution. There are lives at stake here for those who are victims, and lives at stake for those who are accused. We just want to do the right thing, and I am just grateful for the opportunity to be of service.

Chair Gorelow:

And with that, we will close the hearing on AC.R. 6 and move to public comment. [There was no public comment.]

Committee members, before we adjourn, are there any comments? Seeing none, I just want to take a moment and thank our staff for all their hard work. I do not thank them enough, so thank you. With that, we are adjourned [at 5:01 p.m.].

RESPECTFULLY SUBMITTED:

Kristi Howard
Committee Secretary

APPROVED BY:

Assemblywoman Michelle Gorelow, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a copy of a PowerPoint titled "[ACR 4](#)," presented by Assemblywoman Shondra Summers-Armstrong, Assembly District No. 6.

[Exhibit D](#) is a copy of a PowerPoint titled "[ACR 6](#)," presented by Assemblywoman Shondra Summers-Armstrong, Assembly District No. 6.