

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 8, 2023

DeBOER: Good morning, everyone. Good morning and welcome to the Judiciary Committee. My name is Senator Wendy DeBoer. I represent District 10 in northwest Omaha and I serve as Vice Chair of the Judiciary Committee. So we'll start off by having members of the committee and committee staff do self-introductions, starting on my right with Senator McKinney.

McKINNEY: Good morning. Senator Terrell McKinney, District 11, north Omaha.

JOSH HENNINGSSEN: Josh Henningsen, committee legal counsel.

ANGENITA PIERRE-LOUIS: Angenita Pierre-Louis, committee clerk.

BLOOD: Good morning. Senator Carol Blood, representing Bellevue and Papillion, Nebraska.

DeKAY: Good morning. Barry DeKay, District 40, representing Holt, Knox, Cedar, Antelope, northern part of Pierce County and most of Dixon County.

DeBOER: And I'm sure some of the other senators will be joining us, as they have bills in other committees and get through with those introductions, etcetera. Also assisting us today are our committee pages, Morgan Baird from Gehring, who is a political science major at UNL, and Tessa Menke from Glenvil, who is a business and law major at UNL. This morning, we will be hearing three bills and we'll be taking them in-- up in the order listed outside the room. On the table in the side of the room, you will find blue testifier sheets. If you're planning to testify today, please fill one out and hand it to the pages when you come up. This will help us to keep an accurate record of the hearing. If you do not wish to testify but would like to record your presence at the hearing, please fill out the gold sheet in the back-- side of the room. Also, I would note the Legislature's policy that all letters for the record must be received by the committee by noon the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask if you have any handouts that you please bring ten copies and give them to the pages. If you need additional copies, the pages will be able to provide them for you. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from any supporters of the bill, then from those in opposition, followed by those speaking in the neutral capacity. The introducer of the bill will then be given the

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opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by giving us your first and last name and please also spell those for the record. We will be using a three-minute timer light system today. When you begin your testimony, the light on the table will be green. The yellow light is your one-minute warning and when the red light comes on, we will ask you to wrap up your final thoughts. And we've been kind of a stickler on that in here, so we've started that so we will continue that. I would like to remind everyone, including senators, to please turn off your cell phones or put them on vibrate. And with that, we will begin today's hearing with LB328 and Senator Raybould. Welcome to your Judiciary Committee, Senator Raybould.

RAYBOULD: Well, good morning, colleagues. And thank you, Vice Chair DeBoer, and thank you so much, members of the Judiciary Committee. My name is Jane Raybould, and it's spelled J-a-n-e, last name is Raybould, R-a-y-b-o-u-l-d. I represent Legislative District 28 and appear before you today to introduce LB328. LB328 would create the Office of Liaison for Missing and Murdered Indigenous Persons. As you can see in the bill, Section 1 directs the Nebraska Attorney General to establish this office and staff it with a full-time specialist. The specialist in this role will serve as a liaison among local, state, tribal and federal entities involved in reporting or investigating missing and murdered indigenous persons cases in Nebraska. So I'm going to go over the mechanics and then I'll give you lots of details. Section 1, subsection (3) of the bill describes the duties of this specialist, which includes but is not limited to: identifying, collecting and directing resources and information to aid in combating the prevalence of missing and murdered indigenous persons in Nebraska; synthesizing information regarding missing and murdered indigenous persons from state, local, tribal and federal law enforcement entities involved in such cases; aiding in communication among such entities and reporting information to tribes, communities, the media and the public as appropriate to aid in locating missing and murdered indigenous persons; and consulting and coordinating with the Commission on Indian Affairs regularly in the course of the specialist's duties. In order to carry out these duties, the bill calls for an appropriation of general funds to the Attorney General. The fiscal note reflects the salary and benefits for the specialist's role totaling \$106,049 in fiscal year 2023 and 2024, and \$109,504 in the following year. It also lists \$10,000 per beginning in fiscal year 2023 and 2024, to the Nebraska Commission on Indian Affairs for costs associated with travel for agency staff in support of the Office of the Liaison for Missing and Murdered Indigenous Persons. How did this

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all get started? In 2019, Senators Tom Brewer, Tim Gragert, Patty Pansing Brooks and others introduced LB154. And I-- we're not supposed to use props, but hopefully, we will be emailing you that report of LB154 to each of the Judiciary members. This report required the Nebraska State Patrol, in collaboration with the Nebraska Commission on Indian Affairs, to produce a report on the number of missing Native American women and children in Nebraska and identify barriers to reporting. Governor Pete Ricketts signed the bill into law on March 6, 2019. The report raises needed awareness of the potential interrelatedness of missing persons to human trafficking and other social challenges and lists steps that the Nebraska Commission on Indian Affairs would undertake to improve the response to missing native women and children within the state of Nebraska. I was truly honored when Judi Gaiashkibos from the Nebraska Commission on Indian Affairs approached me about introducing legislation to establish the Office of Liaison for Missing and Murdered Indigenous Persons. This legislation is one small step that we can take that has big potential in improving the response to missing native persons within Nebraska. If you haven't read the report, like I said, we will be emailing it to every member of the Judiciary. What I wanted to say is that many task force across the United States and other states that surround Nebraska have already implemented this type of person, specialist and office. So just to, to throw out a few other states that have done it, Washington has, Arizona, Montana, North and South Dakota and Colorado recently implemented this, as well. While LB154 directed the study toward missing Native American women and children, the data showed that Native American males are overrepresented among missing persons in Nebraska. When looking at the distribution of age and sex of missing persons and missing native persons, nearly two-thirds of Native American missing persons are boys, age 17 years or older. The research indicates that Native American persons experience crime victimization at higher rates than non-Native people and that violence against Native women and children is a particular concern. Native American women are also murdered at an extraordinarily high rate, more than 10 times the national average on some reservations. Native youth experience violent crime rates up to 10 times the national average, with violence serving as the factor in three-quarters of deaths of Native American adolescents and young adults between the ages of 12 and 20. Due to the disparities and violent victimization concentrated in Native American communities, national attention has focused on the problem of missing and murdered Native women and children in the United States. The report helps us understand the challenges of counting missing persons. What I'm about to share is a mix of the report itself and other items that are directly related. Missing

persons cases are dynamic. Most missing persons are missing for a short period of time and the number of missing person cases in any jurisdiction may change on a daily basis. Other challenges in ascertaining an accurate picture of missing persons include inconsistent reporting policies and definitions. Reporting to law enforcement agencies and accurate data entry by these agencies is critical. It's crucial. However, some law enforcement agents may not enter a case into various data systems, both the Nebraska system and the national system, because they believe the case will be resolved, they believe the case doesn't constitute a missing persons case for some reason or they are unaware or unmandated to enter missing persons cases, especially adults, into certain data systems. Furthermore, the lack of standardization in the definition of missing person, lack of protocols or policies in reporting and investigating these cases and the lack of standardization regarding who is considered a youth and thus, federally mandated to report or adult varies across states. These challenges regarding reporting and investigating missing persons may be exacerbated among Native American missing persons, primarily due to jurisdictional issues, a lack of coordination and relationships between tribal and non-tribal law enforcement agencies and racial misclassification when entering the cases in the databases. First, jurisdictional issues between tribal and non-tribal law enforcement agencies may convolute the reporting process, for Native American community members must decide to whom they should report the case, who they trust. The data from the report suggests that there is much confusion from Native American community members about which agency is a report-- appropriate reporting agency. This issue is tied strongly to the second problem, which is that tribal and non-tribal law enforcement agencies may not agree on which agency should investigate the missing person case. This might be complicated by several issues, including whether the missing person is a member of the tribe, whether the reporter is a member of a tribe, whether the missing person was living on tribal lands and where the missing person is suspected to be, particularly whether they are suspected to be on or off tribal lands. In many cases, it may be that tribal and non-tribal law enforcement agencies need to jointly coordinate the case investigation, but the informal or formal relationships are not in place to facilitate the communication and coordination that is needed to accomplish this collaboration. Finally, the race and/or tribal affiliation of the missing person may be unclear, leading to potential underreporting or misclassification of Native missing persons. So what we've known from the other states is that, that missing persons of tribal members are one of the most underreported of missing persons. The point about underreporting due to misclassification stands out to

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me. A total in the report of 498 missing persons were identified at a point in time. So using the 2019 census data population estimates for Nebraska: Nebraska's per-- missing person rate on March 31, 2020 was 25.7 per 100,000 persons. So I'm a businesswoman. I love data. And I-- I'm sorry. I don't mean to overwhelm you, but some of the numbers that came forward from the report indicated the majority of the missing persons in this snapshot were white, 66.9 percent, followed closely by African American, which was 19.7 percent and then in third place was Native American at 4.6 percent. But what the shocking statistic that jumped out to me right away that I latched on to, was that 8 percent, 8 percent of the entries for missing persons list the race as unknown. So you can imagine if you would take that 8 percent and put it directly in the Native American category, that would be a significant increase, which would substantiate a lot of the data from the other states indicating that the missing persons is underreported. So we also know that there is a disproportionate number of Nebraskans reported missing persons are black, 3.9 percent [SIC] times their population, and Native American, 3.1 times their population. The data also revealed that not all of Nebraska law enforcement agency have a missing persons policy. So out of the 212 law enforcement agencies contacted for this report, only 51 responded. And out of those 51 that responded, those 51 agencies responded, only 16 had missing persons policies and guidelines to help them clearly identify individuals and provide the critical data to help locate or track and follow these missing persons. The final barriers to reporting and investigating missing persons-- missing Native American persons and I'm going to share, came from the community listening sessions with members of the Ponca, Santee Sioux, Winnebago and Omaha tribes. The most prominent theme, which was reported at all four listening sessions, was that the community members simply did not have a clear understanding of how and when to report a missing person. Closely aligned with this was confusion regarding whether they should report the missing person to law enforcement, tribal or non-tribal, or a social service agency such as DHHS. Additionally, community members reported that there was a lack of communication between the different law enforcement agencies, as well as poor communication between law enforcement and tribal communities, particularly in regard to missing persons cases. The report highlights several other challenges, but I believe that I've shared enough with you at this point to illustrate the need and benefit for creating the Office of Liaison for Missing and Murdered Indigenous Persons. So in the report, they have a full page of recommendations and actionable items, but I'm just going to hit on three top ones. The first one is Nebraska State Patrol and tribal and non-tribal law enforcement cooperation needs to be increased. Number

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two, we need to enhance the awareness of reporting options and mechanisms to the Native American communities. And thirdly, we need to be aware of the potential interrelatedness of missing persons to human trafficking and other social challenges. The green copy of the bill which listed duties that I mentioned at the beginning of my opening, go a long way to begin to bridge the gaps that exist in helping to improve the response to missing native persons within Nebraska. I want to thank you all very much for your time and attention and I will be more than happy to answer any questions you may have.

DeBOER: Are there any questions for Senator Raybould? Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. Thank you for bringing this forward, Senator Raybould, I have one clarification and a question.

RAYBOULD: Sure.

BLOOD: So during your presentation-- and I'm, I'm not saying this to like embarrass you, I'm saying this to make sure it's right on the record.

RAYBOULD: Yes.

BLOOD: You had said boys age 17 and older, but isn't it 73.3 percent were age 17 and younger in the report?

RAYBOULD: I, I may have misspoke about the age but--

BLOOD: It's definitely younger.

RAYBOULD: --that was the surprising detail that came out from the report, that it was missing young males. And the report went on to say that it could be because of abuse and neglect, could be a-- because of depression or other issues of poverty that they see on the reservation.

BLOOD: But, but am I correct in saying it was 17 and younger and not 17 and older, right? But you said 17 and older and I remember reading--

RAYBOULD: I think it's--

BLOOD: --the report and I thought it was 17 and younger.

RAYBOULD: I think you're correct. I'd have to pull it up again--

BLOOD: OK. That, that's--

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RAYBOULD: --to find that spot.

BLOOD: --it's like 73.3 percent. Right.

RAYBOULD: It was a shocking number of 73.3 percent.

BLOOD: I was surprised, also--

RAYBOULD: Yeah.

BLOOD: --that it was mostly young boys. And I'm sure trafficking plays a big role in part of that as well. And then, you had noted 4.6 percent of our population is Native American, as far as-- excuse me, 4.6 percent were recorded as being Native American in the list of those who are missing, with 8 percent unknown. While I thought it was interesting, only-- isn't only 1.5 percent of our population in Nebraska Native American? So 4.6 percent of 1.5 percent is a lot of people.

RAYBOULD: It's a lot of people. It's 3.1 percent-- 3.1 times more than the population. And we also saw the same thing for the African-American population. Missing persons indicated 3.9 percent times that population. So it is-- but the, the thing that I latched on was that 8 percent of unknown. And that goes right to the problem of there are no guidelines and clear direction. I know Lincoln Police Department and Omaha Police Department have clear guidelines that I know that they would be willing to share with all the other agencies to help come up with more consistent methods of really tracking, in both the Nebraska system as well as the national system.

BLOOD: So I agree with the tracking and everything you've said today, but how do you make agencies, who had traditionally not really cared about these demographics, start caring?

RAYBOULD: Well, we know that there's one of the elements in the report, they wanted to have additional cultural awareness training for many of the agencies across the state of Nebraska to help raise that awareness and how better to approach different-- the communities and how to interact with the communities in a more appropriate way. One of the the action items that they had requested would be like the cross-deputization of the tribal officers and the state patrol so that they could work more effectively and efficiently together on responding quicker to a lot of these issues and also trying to collect the data in a more appropriate fashion, in a clearer fashion, with better guidelines.

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BLOOD: And wouldn't you say that until we can move to a place where, no matter who is missing, where they come from, what they look like, what color they are, how they identify, until we treat everybody like human beings, period, we're never going to get justice for any of these people?

RAYBOULD: I think that is a fair statement to make, but we recognize that this individual, this specialist, will be a big part of helping work with the cultural differences and raising cultural awareness. We envision that this individual will be traveling throughout the state of Nebraska, continuing with listening sessions, but including law enforcement agencies, so that they can work collaboratively and cooperatively together on looking at these missing persons in a different way and how to treat them in compliance with the standards that other law enforcement agencies are using to help them better identify and, and recognize they can be doing it better, despite, maybe, some of their cultural differences that they have or lack of awareness. We know that the specialist will go a long way in, in help bridging this huge deficiency and gap to making sure that we have better, better reporting statistics, but more importantly, that we jump on these miss-- missing individual cases quicker and have a better response to solving them and in locating them.

BLOOD: Thank you.

RAYBOULD: You're welcome.

DeBOER: Other questions? Senator DeKay.

DeKAY: Thank you, Vice Chair DeBoer. Senator Raybould, a couple quick questions. The other states that have these type of agencies, are they one-person agencies that we're, we're proposing here today or are they--

RAYBOULD: You know, I, I can't answer that question if they have just one individual that takes it on. I didn't dig down deep enough into-- to their policies that they have implemented, but I know that it was important enough for these agencies that, that have tribal members to take on this task. So I, I can get back to you with that information.

DeKAY: And the other-- this person that we're suggesting hiring for this agency in Nebraska, would they act as-- almost like an investigator trying to bring up information or are they going to actively try to provide a go-between between tribal police and state police and county police and sheriffs?

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RAYBOULD: Well we, we hope they act in both capacities. What I would say, more a facilitator in outreach to law enforcement agencies is number one, getting a uniformity in guidelines and standards in reporting, in reporting missing individuals and certainly, being a, a go-between between the tribal authorities and having the authority to do so under the Attorney General's Office. The Attorney General Office does have a human trafficking expert, but they need to work in collaboration because of some of the cultural deficiencies that we are seeing and a underreporting of Native American individuals who are missing. So it's under the Attorney General's Office that they would have the, the authority to work in collaboration with law enforcement. We'd have the authority to do so and also be able to coordinate with the tribal authorities to kind of be that liaison and facilitate some of the mistrust that the tribal authority individuals have with law enforcement, so that they can respond better and quicker to missing persons.

DeKAY: Thank you.

DeBOER: Any other questions for Senator Raybould? I don't see any. Thank you. Are you staying around to close?

RAYBOULD: I certainly will.

DeBOER: OK. Let's have our first proponent testifier. Welcome to your Judiciary Committee.

CHEYENNE ROBINSON: Hi. Good morning. [INAUDIBLE]. My name is Cheyenne Robinson and I serve as a secretary for the Omaha Tribe of Nebraska. It is important for me to be here today to speak on behalf of my tribal citizens on such a sensitive but significant issue. By now we all heard of the case of the missing and murdered Gabby Petito. But chances are you probably haven't heard of the disparity of a young mother on the Omaha Indian Reservation whose life was taken too soon back in 2020. Indigenous relatives all over the country go missing every day and you never hear about it in the news, but this is nothing new in Indian Country. Throughout history, indigenous people have been disproportionately impacted by violence in the United States. In addition, addressing more MMIP issues in Indian Country is particularly challenging due to the confusion, confusion, as mentioned earlier, surrounding jurisdiction, lack of coordination and inadequate resources. With that being said, the Omaha Tribe of Nebraska is in support of LB328. Not only is it important for tribes and indigenous organizations, organizations to have a direct point of contact with the state officials, but it is even more important for public safety

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organizations to be culturally aware of how tribes and indigenous organizations, organizations operate. I recently searched the Nebraska State Patrol missing persons list, last night, actually. Currently, there are 45 active cases of missing Native Americans, 19 of which of those are from Omaha Indian Reservation and the Winnebago Indian Reservation. I have been in office since 2021 and unfortunately, I've only seen and heard of-- or heard from the Attorney General once and I have only seen and heard from the Nebraska State Patrol leadership once. Generally, there's a lot of animosity between tribal citizens and law enforcement, but having that office can-- that can understand and assess time sensitive cases could quickly bring together tribal, county and state officials to work as one and also, most importantly, bridge that gap. The state of Nebraska can support this bill and assist tribal citizens by having tribal consultations, gathering data specifically related to the tribes in Nebraska, developing creation of MMIP work groups, increasing collaboration and communication with all law enforcement agencies within the state of Nebraska, specifically adopting a standard of operating procedure on how they will assist missing and murdered indigenous persons once they receive the notification. But most importantly, the Office of Liaison for Missing and Murdered Indigenous Persons should have a director with a holistic understanding of how our culture, traditions and kinships play a role in our everyday lives and how domestic violence, substance abuse, mental health challenges and poverty contributes to missing and murdered indigenous persons. When reading the bill, I see that indigenous, indigenous descent preference is at a forefront of it. From this position, we expect community connection and vetting from the indigenous communities to know, to know if this individual has done good work in indigenous commu-- communities or is even connected to the community at all. Who better than our own homegrown, diverse tribal citizens to advocate for the missing and murdered indigenous persons? Also consider individuals--

DeBOER: I'm going to have to-- sorry, I have to stop you because the red light is on, but I'm sure you'll get a question. But first, could you spell your name because we didn't get it for our record?

CHEYENNE ROBINSON: Yes. Sorry. Cheyenne Robinson, spelled C-h-e-y-e-n-n-e, Robinson, R-o-b-i-n-s-o-n.

DeBOER: OK. Are there any questions for Miss Robinson? I don't see any. Thank you for being here.

CHEYENNE ROBINSON: Thank you.

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DeBOER: I'll note for the record that Senators Ibach and Holdcroft have joined us. And Geist.

DON WESELY: Vice Chair DeBoer, members of the Judiciary Committee, for the record, my name is Don Wesely, D-o-n W-e-s-e-l-y, and I'm here as a lobbyist on behalf of the Winnebago Tribe. First, I want to thank Senator Raybould for introducing this legislation and as she outlined in her testimony, there-- the study that was done by previous Senator Pansing Brooks and others, showed the need, the problem and so the question now is what to do about it. So that's what I'd like to focus on on this testimony. And I am actually here on behalf of the chair of the Winnebago Tribal Council, Victoria Kitcheyan. I'm going to go back in time to 1990 when I was a member of the Legislature and introduced LB886, and it was passed and it dealt with-- the, the title was Attorney General Crimes Against Children Act. And what we did is we set up a special unit within the Attorney General's Office to prosecute child abuse and other crimes against children. And we did it because there was a problem with county attorneys in smaller counties dealing with very complex and very difficult child abuse cases. And the feeling was they needed help and so a unit was set up with the Attorney General that was available, depending on the county at their request, would come in and help prosecute child abuse cases. It was very successful and, and it's, it's an example of how the state working with the counties and local police and the federal government can accomplish something when there's a serious problem. Well, now that serious problem is the MMIP issue and this proposal to set up a liaison within the Attorney General's Office, I think, is exactly the right solution because you do have many jurisdictions. You have federal authorities involved, you've got the state patrol and the Attorney General's Office, you've got county attorneys, you've got local police. So somebody whose only job is focusing on trying to address this problem, bringing those people together could be very effective and I think, cost-efficient way to deal with this and to finally do something about this problem that we've known about now for several years. So I'm here to support the legislation. The Winnebago tribe is very supportive of trying to do something about this problem and would appreciate your support for this legislation.

DeBOER: All right. Are there any questions for this testifier? Senator DeKay.

DeKAY: Thank you. Mr. Wesely, I didn't-- if you can't answer the question maybe Senator Raybould can in her closing. With states that have implemented these agencies, do you have a percentage of the

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success rate that they have after these were implemented and how far back they have been, how many years they have been in service already?

DON WESELY: I think that's an excellent question. I don't have the answer to that. But I know, Judi Gaiashkibos will be testifying after me and she's very familiar with what other states have done, so then thank you for asking that question.

DeBOER: Any other questions? Senator Geist.

GEIST: Thank you for your testimony. I just have a quick question of would this liaison be forward looking and backward looking so it would look at old cases and current cases?

DON WESELY: Well, I'll tell you, in the example that I gave, there were pending cases that they immediately got involved with and then from that point forward. So I would think they would do both because there are missing persons out there. They've got the list. They know who's, who's missing and I would imagine they would immediately start looking at that list and trying to see what they can do to make some progress on addressing those.

GEIST: OK. Thank you.

DeBOER: Any other questions? I don't see any.

DON WESELY: Thank you.

DeBOER: Next proponent testifier. Welcome to your Judiciary Committee.

MARIAN HOLSTEIN: Madam Chair and committee members, my name is Marian Holstein and I cannot confirm that I was the first female Native American deputy sheriff in Monterey County, California.

DeBOER: Can you, can you, can you spell your name for us? Sorry. Can you spell your name for us?

MARIAN HOLSTEIN: I'm sorry. I apologize.

DeBOER: That's all right.

MARIAN HOLSTEIN: M-a-r-i-a-n H-o-l-s-t-e-i-n, just like the cow. And-- but they did not keep this data back then. But what I can confirm is that Monterey County lost the first female deputy sheriff in the line of duty, Jerri [PHONETIC] Jacobus. And it's a, it's a-- an experience I carry with me every day. There are several components to the tragedy

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of missing and murdered indigenous persons. I am indigenous, so I know the suffering families experience and it is debilitating. There are several websites with information about, about this tragedy, but what I hope for is the establishment of an Office of Liaison for Murdered Indigenous Persons. Law enforcement understands first contact in investigation is critical. However, if this is conducted by officers with little to no empathy for people of color, it lessens that probability of that case being solved. Our people are already distrustful of a government and people who have carried out and continued to carry out inhumane policies that demonstrate no one has learned from the past. We have always petitioned for Indigenous people serving Indigenous people and this is no exception. What I want to address today and what I can share about this problem is a firsthand knowledge of the human element, the law enforcement officer. At times it amazes me no one speaks of the educational levels of officers. From a-- a quick search found of the 54 largest cities in America, approximately 38 have minimum requirements of a high school diploma or GED. And if these people get through the academy, then they are on the streets. I have always wondered how anyone could turn loose the John Wayne types, the types who probably were bullied as adolescents and are aiming to finally exert their authority, power and get even. Were there no psychological screenings or further vetting? And I think we see that today that there probably wasn't. Of course, there are the multitudes of, of excellent law enforcement officers and I salute them and wish them more pay. But my point is, we release officers with less, with less than a college education and more-- most likely with no sociology or human courses on a trusting public. Thank you.

DeBOER: Thank you very much and thank you for monitoring the light system. Let's wait and see if there's a question for you. Are there any questions for this testifier? Well, well, I have a couple. Did you. I'm sorry I interrupted you at the beginning to get your spelling. Did you say that you were a sheriff's deputy? Is that what you said or--

MARIAN HOLSTEIN: Deputy sheriff, Monterey County.

DeBOER: OK. And how long were you doing that position?

MARIAN HOLSTEIN: Three years, 1979, I started, so that's why I said way back.

DeBOER: Yeah. OK. And do you, do you think that this, this liaison position-- you've seen sort of first hand how it all works. Do you think that that would help to be a kind of a go-between between other

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law enforcement agencies and tribal law enforcement agencies? Do you see that working?

MARIAN HOLSTEIN: Yes, because a person has to know that community and those resources and agencies that are there. They have to have that working relationship. You know, as I mentioned, we still, to this day have-- we don't have that much trust in, you know, government officials. So, so having someone there who relates to the culture, relates to how we feel as native, as indigenous people and how we interpret that world, it's a-- it's, it's critical. It's important.

DeBOER: What characteristics would you say, assuming we pass this legislation and we're looking for this liaison person, what characteristics do you think would help them to most succeed?

MARIAN HOLSTEIN: Well, of course, knowledge of the law, knowledge of that governing responsibility so that we know who to go to when things aren't working right and truthfulness. Because, you know, we come across in-- really in any work situation, you know, we come across areas of improvement that we see that we need to voice our opinion on. But oftentimes, you know, it's a matter of politics or whatever that, you know, you know, I don't want to lose my job, I don't want this person to think worse of me, etcetera. So we need a brave person also--

DeBOER: OK.

MARIAN HOLSTEIN: --who's going to really speak up and give us the facts.

DeBOER: I think that's very helpful. Thank you very much. Are there other questions? Senator DeKay.

DeKAY: One quick one. So would this person be working across the state or working within the tribal boundaries of the reservation? I guess my question is they would have more of a at-home knowledge of families and circumstances that might contribute to these cases or if they're traveling across the state, they may not have that local knowledge of, you know, the cases that are impending, so I'm just curious on how that would all work out.

MARIAN HOLSTEIN: Well, this, as you know, is a problem that has been with us for decades. So I would encourage them to read up on the history. You know, Canada has been ringing the bell for, for a long time and this, this individual, I believe, would have to have that ability to interpret and synthesize everything that we have learned so

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far and apply it. And in the-- you know, when we're doing investigating, you always sort of look towards the abstract. And I didn't put it in my testimony, but I, I have this very far out there idea that, you know, with the human trafficking that is occurring today and we know that a lot of it may be from, you know, other countries. You know, if they've seen that-- how we investigate missing indigenous women, well, you know, women in general, seem like they're fair game. And, you know, why do we-- and, and here we are today with this terrible human trafficking.

DeBOER: Thank you, Senator DeKay. Other questions? Thank you for being here.

MARIAN HOLSTEIN: Pinagigi.

DeBOER: Next proponent testifier. Welcome.

GRACE JOHNSON: My name is Grace Johnson. I am a therapist, drug and alcohol counselor. I'm an enrolled member of the Oglala Lakota Sioux Tribe. I live in Omaha, Nebraska, and I've worked with tribal agencies on and off the reservations. I, I want to reiterate what our previous person had said and, and advocate for this position to be made. Please. Working with Native communities, you definitely need to have an in. And I would advocate that the person in this position be indigenous, be Native American. Native American communities have that history of like was said earlier, that there is a large distrust there, so it's almost a closed community. You need somebody who understands the culture, somebody who knows how to come in and talk to people and, and how to-- what families to work with. The other portion, portion that I want to reiterate, too, is that Native women are fair game. It's-- the issue of MMIP has gotten to be a large national issue. And it's known now that if there's a crime committed on most tribes, they can't be prosecuted. Non-Native tribal members are not prosecuted in many of these places and so we need that advocate. We need somebody to stand up and say there is going to be a long investigation looking into this at some level that we, we have somebody to protect us. So I'm advocating for this position, I'm advocating for all of this work. We definitely need somebody who can go in and be advocate for us, who can work with the agencies, who can bring up the issues, would know how to talk to people. Gabby Petito was brought up. In her investigation, nine bodies were found because nobody was looking for the other people that were-- had gone missing. So there's just-- we need somebody to advocate for us. We need help. We need that, if that makes any sense, what I have just said. But working between-- working on and off the reservation, I've seen the

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jurisdictional issues. I've seen what it takes to get people to coordinate between county, state, tribal, patrol, federal-- I believe I said, what, four different districts right there? And when you, when you don't get people coordinating at those four levels, on every level-- city, county, state, federal, and none of them are working, what do you think is going to happen? We're going to have what we have right now. We're going to have this situation happening nationally, which it is. And Nebraska was in a report saying that we have one of the highest numbers of missing indigenous people in the nation. Is anybody proud of that? I mean, this, this committee here, this is what you guys need to be working on. We are one of the most vulnerable populations. We are your citizens of Nebraska. Help us. That's all I got. So, any questions?

DeBOER: Thank you. Can you, can you spell your name for the record?

GRACE JOHNSON: Grace Johnson, G-r-a-c-e J-o-h-n-s-o-n.

DeBOER: Thank you. Are there questions for this testifier? I don't see any. Thank you. Next testifier.

KENT ROBERT: Morning, Senator DeBoer, members of the Judiciary Committee. My name is Kent Rogert, K-e-n-t R-o-g-e-r-t, and I'm here representing the Ponca Tribe of Nebraska in support of LB328. I'll just reiterate the comments of Mr. Wesely and those that were before us. This is-- I, I think if, if you look at something that has an anagram already, MMIP, we're beyond time of dealing with the, the issue at hand. It's time to, to talk seriously about what's going on. The Ponca tribe is unique to Nebraska with-- because we don't have a reservation, we have service areas. So they lack the support system and our members are scattered across the state, so they-- there is a-- sometimes a disconnect between where people are and where they aren't. And so, you have some issues keeping-- you know, with reporting whether they might be missing or not. Senator DeKay, you asked a question: the bill is, is very broad. But if you look down and I'm-- it's too early in the morning to be able to read, but sub, sub (b)-- four-- 4(b) says, provide legal guidance with-- and work with the U.S. Attorney's Office, the Department of Justice, state and tribal law enforcement agencies like the Bureau of Interior-- the Department of the Interior and the Bureau of Indian Affairs. So I think there's-- the idea would be that this person would work across the country, not even across the state, but-- to try and keep track of where, where these folks have gone and, and what's going on. But I just want to support the bill and answer any questions I can.

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DeBOER: Are there any questions for this testifier? I do not see any.

KENT ROBERT: Thanks.

DeBOER: Next proponent testifier. Welcome.

LESTINA SAUL-MERDASSI: Good morning. Hinhanni waste [PHONETIC]. My name is Lestina Saul-Merdassi, and I'm an enrolled member of the Sisseton-Wahpeton Dakota Oyate of North and South Dakota, but I am also a lineal descendant of the Santee Tribe of Nebraska, who is actually a forced, relocated tribe here to Nebraska from Minnesota. I would like to speak in favor of LB328 because currently, I work in a position where I advocate for human and sex trafficking in the American Indian and Alaska Native populations. And there are so many cases of different intersectionalities and correlations with human trafficking and our murdered and missing indigenous people. And I just want to say that I also have four relatives, three who are active cold cases who are of the missing and murdered indigenous peoples population. And I also have a relative named Merle Saul who went missing out of Grand Island, Nebraska, and who is actively missing. But in my, in my perception, I feel like he was basically written off as a transient, written off because he suffered from alcohol-related issues and people did not take into consideration that he is a United States veteran and he risked his life in the Vietnam War for this country. And it's very disappointing to me and the family that the police, the state patrol, whoever chooses to have jurisdiction, cannot like, actively form a search party like they did for Kerry Allen, who was a recent case out of Omaha, Nebraska, who went missing. So I really think that this office needs to be created and that there needs to be an indigenous person that is in charge of this office, because we do have a different world view from your typical western or caucasian person. And I feel like it takes somebody who has been in this, been in these shoes or has a similar life experiences to understand some of the struggles that we go through as indigenous people, so I am highly in favor of this bill. And if you don't have any statistics on these rates, the Urban Indian Health Institute out of California is indigenous research by indigenous people. And that brings to light the data issue that oftentimes, state, local, tribal and federal do not work together to collaborate on data. So I think that this office should take that into consideration also when they staff the person.

DeBOER: Thank you very much. Could you spell your name for the record for us, please?

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LESTINA SAUL-MERDASSI: L-e-s as in Sam, t-i-n-a, last name Saul, S-a-u-l-M-e-r-d-a-s-s-i.

DeBOER: Thank you. Are there any questions for this testifier? I don't see any, but thank you so much for being here. Next proponent testifier.

ROSE GODINEZ: Good morning. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, and I am here to testify on behalf of the ACLU of Nebraska in favor of LB328. First, we'd like to thank Senator Raybould for introducing this legislation. The ACLU is committed to defending the rights of indigenous people and tribes to be free from discrimination and governmental abuse of power. LB328 creates a much needed office at the AG's Office to support a liaison between local, state and tribal and federal entities on the specific issue of missing and murdered indigenous persons cases in Nebraska. For context, Nebraska ranks seventh among states with the highest number of murdered and missing indigenous women. In addition to the more updated statistics that Senator Raybould mentioned in her opening, I just want to highlight the report from the Urban Indian Health Institute, which was just mentioned by the previous testifier, that served as a siren on this issue, particularly in Nebraska. The report, if you want to look it up, is called Missing and Murdered Indigenous Women and Girls: A snapshot of data from 71 urban cities in the United States. The report detailed an astonishing lack of data on the issue. For example, the report stated the National Crime Information Center reported that in 2016, there were 5,712 reports of missing American Indian and Alaska Native women and girls. Through the U.S. Department of Justice's Federal Missing Persons database, NamUs only logged 116 cases. Of the 71 cities for which data was requested and collected, Omaha, Nebraska, ranked 8 among cities and Nebraska ranked 7 among states with the highest number of murdered and indigenous wom-- missing wom-- indigenous women and girls. A liaison between all key stakeholders as set out in LB328 is an important step to address this ongoing crisis. In this instance, the historical issues regarding jurisdiction, the misunderstanding of race, ethnicity and political affiliation, the inconsistencies in databases and gender have led to a persistent and widespread lack of appropriate responses. And then, I would be remiss to not mention that this is particularly more important now than ever, with the recent Supreme Court decision of Oklahoma v. Castro-Huerta, which ruled that expanded state's authority to prosecute non-natives who commit crimes against native persons on tribal nations. As such, we offer our full support of LB328 and urge the committee to advance this bill to General File.

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DeBOER: All right. Are there any questions for this testifier? I don't see any, but thank you for being here.

ROSE GODINEZ: Thank you.

DeBOER: Let's have our next proponent testifier. Welcome.

JUDI GAIASHKIBOS: Good morning, Madam Chair and members of the Judiciary Committee. My name is Judi gaiashkibos. That is spelled J-u-d-i g-a-i-a-s-h-k-i-b-o-s, and I am the executive director of the Nebraska Commission on Indian Affairs. And I want to thank you all. I-- and especially, I would like to thank Senator Jane Raybould for being willing to introduce this important legislation and she did such a fabulous job in her opening. I don't really feel like I have too much to add. I also want to thank all of the tribal people that came so far this early this morning. That's a real challenge with hearings being in the morning. So I was a little worried, but they came forward and they stood strong with me to support this important legislation for our native women. I also want to thank the other people that testified as well. And former Senator Don Wesely said he was going to go back in time. And I know Senator Raybould said that as well. And I wanted to go back just a bit to the timeline here, thanking the senators that introduced the LB154. Senator DeBoer was one of those, Senator Brewer, Senator Patty Pansing Brooks. And that was a result-- that came out of, in 2017, the closing of Whiteclay. And we had a task force then and one of my wishes that I begged Senator Brewer and Patty Pansing Brooks was to do something about missing and murdered indigenous women. And so, that resulted in LB154, the study. So you all have the study report, and that was a partnership with the State Patrol and the Indian Commission. We went out and we did listening sessions on all of the reservations and the data reflects some of the findings that were cited in the opening by Senator Raybould of what we should do going forward. I'd like to tell you a story and personalize and I see the light's already on and I'm going to go really fast. I want you to go out of this hearing remembering I dedicate my testimony to those lives of missing and murdered women already lost. Cozy DeCora was only 22 years old and a mother to three and a member of the Ho-Chunk tribe murdered May 16, 2020 by her fiancée near Winnebago, Nebraska. Ashley Aldrich was age 29 and a member of the Omaha tribe and mother to two children. Her body was found January 7, 2020, in a field near Macy, Nebraska. Ashley Wabasha, age 19, a member of the Santee Sioux Nation, was last seen on March 27, and we have not been able to find her yet. Esther Wolf, age 21, she was missing for eight days in July 2019. She was kidnapped by her ex-boyfriend in Rapid City, South Dakota. She was transported across the border into

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Nebraska and repeatedly assaulted and held captive at a Nebraska motel in Chadron. The assailants were charged with kidnapping and assault. Recently--

DeBOER: I'm afraid, I'm afraid I'm going to have to stop you there.

JUDI GAIASHKIBOS: OK. So in closing, I think this bill is really important because it creates that liaison person who would do a variety of things. And they wouldn't be so much an investigator. I know that was a question that was answered. We would prefer, hopefully, that the person is Native American and has that cultural sensitivity and/or has had experience working with Native people. They would cover the whole state. They would be within the AG's Office. One of the questions asked was what are other states doing? Some states, as in South Dakota, they have someone that does human trafficking in the AG's Office, a native person. They also have a missing and murdered indigenous person liaison. We don't really have statistical data yet because these are all pretty new, but Minnesota, Arizona, Wyoming, Montana, Washington State, and hopefully now Nebraska. So.

DeBOER: OK. Thank, thank you very much.

JUDI GAIASHKIBOS: Thank you so much. Any questions?

DeBOER: Are there any questions for this testifier? I don't see any. Thank you so much for being here.

JUDI GAIASHKIBOS: OK. Thank you.

DeBOER: Next proponent testifier. Any others who would like to testify in favor of this bill? Are there any opponents? Anyone who wishes to testify in opposition to this bill? Is there anyone here today who would like to testify in the neutral capacity?

GLEN PARKS: Chair DeBoer, thank you, members of the committee. My name is Glen Parks, G-l-e-n P-a-r-k-s. I am assistant attorney general and the coordinator of the Nebraska Human Trafficking Task Force. I'm here on behalf of the Attorney General, Mike Hilgers, in a neutral capacity. We do endorse the, the objective of the bill, increased information and cooperation among agencies. Since if the bill does pass, it will require the office to create an office within the office and hire, hire these-- the liaison. We have a few logistical concerns we want to [INAUDIBLE]. Before I do list those, I do want to say that we're eager to work, if this does come out of committee, we're eager to work with Senator Raybould and, and the committee and the proponents of this to address these four issues, which are: the first

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one is that it-- we're curious if this could be accomplished with a position but not creating an office. The Attorney General's Office doesn't have offices within the office. This may be a nomenclature thing, but that would be something we'd like to address. Secondly, on line 24 of the current version of the bill, the Attorney General is required to pursue any available federal funding. With very few exceptions, the AG's Office does not seek federal funding for its, its tasks. That is usually the Crime Commission's role. This is obviously not essential to this bill, as subsection (5) and of course gives the intent of the Legislature to fund this and the fiscal note reflects that-- and to fund the position and travel expenses and all. So we'd ask-- request that to be removed. Thirdly, it requires us to appoint-- hire a specialist and we're just not sure what that exactly requires. Is that some additional qualifications? Of course, there is the, the preference for applicants of indigenous descent which makes sense, but if there's anything else, another requirement that we should demand of candidates that are eligible, we'd like that to be made clear. If not, we prefer the word specialist to just say liaison or something. So in five and ten years from now when the AG's Office is trying to fulfill the law, it's very clear if there is additional requirements for this position or not. And finally, the last there, it requires the Attorney General to "provide legal guidance" and coordinate the functions of several offices, including federal and tribal and we're not certain what that means. Legal guidance is, is a term of art, obviously, in the AG's Office, so if that could be clarified at some point. Before I close though, I want to speak as the coordinator of, of the task force. If this bill passes, we would ask this, this liaison to gather information from, collate, synthesize and give information from and to local, state, federal and tribal authorities. As you know, this is not-- may I speak a little bit longer?

DeBOER: Please finish up quickly.

GLEN PARKS: OK. The-- there's no demand for federal and tribal authorities to work to get this information. I run a state-wide task force and I have experience with agencies who don't want to work with us or don't want to share this information. So I guess I just want to lower our expectations if we do this. This is a step in the right direction. We do think this is a good idea, but it is a small step in the right direction. And if this is in our office, I don't want to have unrealistic expectations that this is the silver bullet. Again, I want to reiterate, we're willing to talk further if this passes.

DeBOER: OK.

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GLEN PARKS: Any questions?

DeBOER: Are there any questions for this testifier? I don't see any.

GLEN PARKS: OK.

DeBOER: Thank you so much for being here.

GLEN PARKS: Thank you.

DeBOER: Other neutral testimony? Anyone else here to testify in the neutral capacity? All right. Senator Raybould to close and as she's coming forward, I'll tell you that we have, for the record, we have received 14 letters in support. Senator Raybould.

RAYBOULD: Thank you very much. I want to remind everyone, Nebraska is home to four federally recognized tribes: Omaha Tribe of Nebraska, Winnebago Tribe of Nebraska, Santee Sioux Nation and Ponca Tribe of Nebraska. Other Nebraska resident tribes include the Pawnee Nation of Oklahoma, Oglala Sioux Tribe, Iowa Tribe of Kansas and Nebraska, and the Sac and Fox Tribes. There are many native persons living on and off tribal lands. This liaison in the Office of the Attorney General will go a long way in helping bridge the disparity that we see in data collection that helps solve missing and indigenous peoples cases. And I just want to address some of the comments from Mr. Parks, because I know the report gave a tremendous amount of recommendation and action items that would specifically apply to this individual that I'm happy to, to share with Mr. Parks afterward. And there is no doubt, his work is so profoundly important and there is that interconnectedness between human trafficking and missing individuals. We know that working with the, the Bureau of Indian Affairs, the FBI, Department of Justice, and all this efforts to collect appropriate data that gives us the indications of where we need to go and the problems that we need to solve are critical. Having this liaison person to do some of that work, the data collection, analyzing it, but they also need to have that authority, working with the Attorney General's Office to transcend and work with State Patrol, work with FBI, the Department of Justice, to make sure that we are on the right pathway to assisting and solving this problem. And just-- a-- you know, I'm happy to give you the report. I don't want to take up any more time, but there are several action items recognized in the report that would fall under the scope of the specialist or the liaison officer in trying to come up with solutions to this problem. And I wanted to respond to Senator DeKay. In addition to sending you out the full report, we will follow up with all those states that have implemented this type of position

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and give you more data to help you make a great decision. But in closing, I do ask for my colleagues' support on this. I think we owe it to the tribal members in our community and in our state. I do want to thank Judi and her efforts on behalf of so many. And I do want to thank the tribal members who did travel so far to provide their testimony for you all today. So thank you very much. And if there's any other questions I can try to answer, I'd be happy to.

DeBOER: Thank you very much, Senator Raybould. Are there questions from the committee? I don't see any. Thank you so much. So with that, we'll close the hearing on LB328 and open the hearing on LB135. So welcome to the Judiciary Committee, Senator John Cavanaugh.

J. CAVANAUGH: Thank you, Chair-- Vice Chairperson DeBoer and members of the Judiciary Committee. I actually have some testimony handouts that-- if I can get the pages-- maybe I'll wait until everyone clears. Again, thank you, Vice Chair DeBoer and members of the Judiciary Committee. The testimony I'm having circulated is testimony from the Innocence Project who wanted to be here to testify but due to weather constraints, I think they got stuck in Kentucky is where I heard they were. So it is the testimony of the Innocence Project who wanted to be here but couldn't and so I wanted to make sure you had that in your hands. My name is John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in midtown Omaha. I'm here today to introduce LB135, which prohibits the use of deception by police officers in questioning, questioning of juveniles. Police lie. That sounds like a shocking and controversial statement, but in the case of interrogations, it is an indisputable truth. Deceptions and outright falsehoods are a commonly used interrogation technique by law enforcement to elicit confessions from potential suspects. Police are allowed to and very often do lie about evidence linking a person to a crime, even if no such evidence exists. This includes conveying a false offer of leniency, such as you'll be free to go if you just tell us what happened. These sorts of tactics can often lead to false or coerced confessions, particularly when it comes to juveniles. When I introduced this bill last year as LB732, a representative of the Omaha Police Union testified against the bill, saying that it was, it was a necessary tool for police to be able to lie and deceive. Another representative of the Omaha Police Department described the deceptive practice used by the department regularly, which would be disallowed under this bill. I expect that you'll hear similar testimony today. There is no dispute that these practices take place. The only question is whether they're acceptable. Children are particularly susceptible to this-- to suggestion and false information which could lead to false confessions. LB135 states that a statement obtained as a result

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of deception shall not be admissible against the juvenile who made that statement. The primary difference between LB135 and LB732 is the addition of the, of the word false in (3) (a) (ii). This addresses the concerns raised by the Nebraska Bar Association regarding the language around off-- offers of leniency. In LB135, communicating false facts, false information or false statements regarding leniency would be inadmissible, in addition to communicating false facts about the evidence in the case. This makes sure that the ordinary plea bargaining process is not disrupted by the bill in any way and that it only targets the use of deception by police officers during an interrogation. Fundamentally, the question comes down to this: is it OK for cops to lie to kids? I am a firm-- firmly believer-- of the belief that, no, it is not OK. You'll hear testimony today from veteran police officers who say they will not be able to do their job effectively if they cannot lie to kids. And I hope that officers, their police departments and their union leadership will take the time to reflect on how that position and that attitude serves to erode the trust between law enforcement and the community and that these-- they're supposed to protect and serve. I have distributed the testimony and letters from Innocence Project and Wicklander-Zulawski, a law enforcement training consultant that focuses on ethical, truthful interrogation techniques. I thank you for your time and I'd ask you to support LB135 forward and I'd be happy to take any questions.

DeBOER: Are there any questions? Senator Holdcroft.

HOLDCROFT: Thank you. Chairman DeBoer. Hasn't the Supreme Court ruled on something similar to this?

J. CAVANAUGH: Well it's-- in any capacity, they've ruled that it's acceptable under the Constitution.

HOLDCROFT: So the Supreme Court said that it's OK to use deception during interrogations.

J. CAVANAUGH: Yes. And that's why I'm bringing a law to say that we shouldn't do it.

HOLDCROFT: OK.

DeBOER: Any other questions for Senator Cavanaugh? I don't see any. Are you going to stay around for closing?

J. CAVANAUGH: Yeah.

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DeBOER: All right. Let's have our first proponent testifier, please. First proponent. Good morning.

ANAHI SALAZAR: Thank you, Senator DeBoer and members of the Judiciary Committee. My name is Anahi Salazar, A-n-a-h-i S-a-l-a-z-a-r, and I represent Voices for Children in Nebraska, here today in support of LB135. Our justice system should ensure that youth are held accountable for their actions in developmentally appropriate ways through mechanisms, mechanisms that are fair and unbiased. We are here to support LB135 because it would prohibit investigators from knowingly communicating false facts about evidence and unauthorized statements regarding leniency with interrogating youth in custody, tactics which can lead to false confessions instead of reliable ones and result in tragic miscarriages of justice. To put it plainly, current law allows police to lie to children in order to coerce confessions to crimes they may or may not have committed. Research has repeatedly-- repeatedly shown that young people are particularly susceptible to manipulation during interrogation, due to a prefrontal cortex, cortex still in development. Adolescents can have weak judgment, problem-solving skills and decision-making abilities, as compared to adults. Deceptive tactics by investigators can, as a result, be especially coercive to young people, particularly in the stressful setting of an interrogation. False confessions have played a role in approximately 30 percent of all wrong convictions later overturned by DNA evidence. Data from the Innocence Projects across the country show that in 340 exoneration cases, 42 percent of individuals who were a minor at the time of interrogation, had falsely confessed, compared with only 13 percent of adults. In one study, minors from 12-16 years of age showed a significant impact in police compliance with the addition of false evidence in, in interrogations, highlighting how younger individuals are more susceptible to compliance and agreement with information given in investigations without, without regard to whether the information is true or false. Youth are not sophisticated criminal actors and lying to children about facts, rights and possible consequences, consequences should be beneath the dignity and integrity of our justice system. It cuts at the very heart of what justice means and we should expect our law enforcement agencies to do better. It is time for Nebraska to demonstrate its commitment to a fair and equitable justice system and to end this harmful practice. We thank Senator John Cavanaugh for his work on this critical issue and thank the committee for your time and consideration. We respectfully urge you to advance LB135 and I am available to try to answer any questions.

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DeBOER: Thank you very much. Are there any questions for this testifier? I do not see any. Thank you so much for being here.

ANAHI SALAZAR: Thank you.

DeBOER: Next proponent testifier. Welcome to your Judiciary Committee.

JENNIFER CRAVEN: Thank you. My name is Jennifer Craven, J-e-n-n-i-f-e-r C-r-a-v-e-n. I am a second-year law student at UNL. Before law school, I worked with kids for over ten-- for ten years as a teacher, including seven years teaching middle school in Omaha Public Schools. Last fall, I wrote a research paper for the Nebraska Law Review. In my paper, I argued for the adoption of a bill like LB135. I've provided a handout with some key findings from my paper, which is forthcoming in Volume 102:1 of the Nebraska Law Review. The handout includes a link where you can read my latest draft if you would like more information. Many police departments, including those in Nebraska, condone the use of deception to interrogate suspects. The goal of the deception is to convince the suspect to confess. Common tactics include claiming to have physical evidence when no such evidence actually exists, claiming that there is enough evidence to convict the suspect without a confession, without a confession and implying that the prosecution might be more lenient if the suspect confesses. It's easy to assume that this deception would only work if the suspect was actually guilty, but unfortunately, there are cases that prove otherwise. There are many examples where these deceptive interrogation tactics led to false confessions and wrongful convictions. Juveniles are especially vulnerable because their brains are not fully developed. They're more impulsive and more easily influenced by authority figures. They have trouble understanding the long-term confession-- consequences of a confession and may believe that if they say the right thing, they will get to go home. Even older teens struggle with these issues. Of the known cases of exonerated juveniles, the data that I found said about 35 percent involved a false confession. While I believe deceptive tactics should be banned for all suspects, LB135 is an important first step to protecting the most vulnerable. At the hearing on last year's version of this bill, several officers acknowledged that police in Nebraska use these deceptive interrogation techniques. They said that the purpose is to get to the truth. Proponents of this method say that officers only use these tactics when they believe they have the right suspect, but sometimes they're wrong. We all want justice, but wrongful convictions are not justice. Lying is not a good way to find the truth. I urge you to prioritize LB135 to project-- to protect juveniles from this risk, either alone or as part of a juvenile justice package with other bills

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that have been introduced this session. Thank you for your time and I'm happy to answer any questions to the best of my ability.

DeBOER: Thank you so much. Are there any questions? We'll start with Senator Ibach.

IBACH: Thank you. Madam Vice Chair, and thank you for being here today. Can you just clarify for me, under your National Registry of Exonerations?

JENNIFER CRAVEN: Yes.

IBACH: Are those an annual or a--

JENNIFER CRAVEN: So the latest statistics that I have and I just checked this again yesterday, was from April 2022. So I'm guessing there'll be some more data put out, maybe this next April. But that's the most recent data.

IBACH: Would those be like an annual accounting, though? I mean, are there 268 known exonerations from wrongfully convicted juveniles annually or is that--

JENNIFER CRAVEN: I believe it's since-- I believe they started collecting data in 1989.

IBACH: OK. So that's an accumulation of data. OK. Thank you. Thank you.

DeBOER: Thank you, Senator Ibach. Senator Geist.

GEIST: Yes. Thank you for your testimony. How many states have adopted this sort of thing, do you know?

JENNIFER CRAVEN: Great question. So I know that it's been adopted in Illinois and Oregon. I believe that New York adopted something similar. Those are the states that I remember right now off the top of my head. But like I said, my-- there's a link to my paper there if you want to take a look at that and I'll, I'll be updating that, as well.

GEIST: Would that be-- list-- is that information in your paper?

JENNIFER CRAVEN: Yes.

GEIST: OK.

JENNIFER CRAVEN: Yeah, I know I mentioned the bills in those states.

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GEIST: OK. Thank you.

DeBOER: Thank you. Senator Geist. Other questions for this testifier? I don't see any. Thank you so much for being here.

JENNIFER CRAVEN: Thank you.

DeBOER: Let's have the next proponent testifier.

JOE NIGRO: Good morning, Senator DeBoer, members of the committee. I'm Joe Nigro. I'm here in support of LB135 as a private citizen. I was a public defender for 39 years and I'm now retired. I want to thank Senator Cavanaugh for introducing this bill. LB135 is simple. It says police cannot lie to children. I don't think the police should lie to anyone, but it's especially egregious when they lie to children. A juvenile judge once told me that if a police officer lies to a child, it makes it difficult for the child to trust anyone in the system, including judges and probation officers, causing all sorts of problems. Two years ago, Illinois passed similar legislation. Oregon quickly followed. Other states have considered doing the same thing. Opponents of this bill may tell you that lying to children is an important law enforcement technique, to which I say poppycock. It may be a technique that gets someone to confess, but it doesn't get someone to tell you the truth. The goal for police when they conduct an investigation should always be to learn the truth. It's wrong to have a system where it's a crime to lie to police, but police can lie to you. Would any sane person say parents lying to children to get them to confess to something is a good parenting technique? If it's a bad idea for parents to do something, it's a bad idea for the police to do it and I urge the committee to advance this bill. Thank you.

DeBOER: Thank you. Are there any questions for Mr. Nigro? I do not see any. Thank you so much for being here.

JOE NIGRO: Thank you.

DeBOER: Next proponent testifier.

SPIKE EICKHOLT: Good morning. My name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association in support of LB135. We want to thank Senator John Cavanaugh for introducing the bill. I'm having passed out just a one-page summary of the law, if you will, in Nebraska when it comes to police deception. And I give a couple of examples or several examples of some cases from our State Supreme Court where they have permitted law enforcement to

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use deception during questioning. You've heard people say and it's simply a fact, and I suspect the opponents that they do testify live are going to explain and acknowledge that they do use deceptive tactics when questioning individuals. They can misrepresent facts when questioning an individual about a possible crime. They can also, to a certain extent misrepresent the status of the law, the possible penalties, promises of leniency and that sort of thing. And the test, basically, the Supreme Court has acknowledged or has crafted is that mere police deception does not render an admission or confession from being used against a defendant. The test for determining the admissibility of the statement is whether that deception produced false or untrust-- untrustworthy confessions or statements. So we kind of have this sort of "ends justify the means" standard. This bill makes what I would suggest is a modest reform to that. And it simply says law enforcement should not use this deceptive tool against people under 18, against children. It is a crime for any person to lie to the police. It's a Class I misdemeanor to provide false reporting. It's a felony if you provide false information as to your identity. But law enforcement is permitted to use it against people who are presumed innocent, people who are questioned, oftentimes, without their parents being notified, without their lawyers being notified if they have an attorney. And the law presumes that people sort of know what their rights are and that law enforcement is permitted to somehow do these different tactics when questioning to elicit incriminating responses. I would submit and I think the data is clear, that juveniles don't know what their rights are. They aren't quite aware of where the situation is going when they're being questioned by an officer. And what this bill simply says, it doesn't say that you can't question you. It doesn't even require that parents be notified. It doesn't require that a lawyer be provided. It simply says that law enforcement shall not use deception against those children when being questioned. So we would urge the committee to support the bill and I'll answer any questions if you have any.

DeBOER: Are there any questions for this testifier? Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair DeBoer. So if the police officer walks in and says, son, you're in trouble now. Would that be considered deception?

SPIKE EICKHOLT: No, because that's probably accurate. If there's an officer questioning them, they probably are in some sort of trouble.

HOLDCROFT: Well they-- so, so there are some sometimes when he might say something that may not be correct, but it's acceptable?

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SPIKE EICKHOLT: I don't-- if you're in trouble now is an actually a misrepresentation of facts, but I think I see what, what you're asking that, for instance, a law enforcement officer may not be aware perhaps. This is a true circumstance and they may inadvertently misrepresent something during questioning. I think the bill captures that because it does provide for intentionally and knowingly-- an officer is prohibited from intention-- intentionally and knowingly using deceptive practices when questioning.

HOLDCROFT: Well, there's, what, four lines here that describe what is deception in the bill. I think we'll-- well, I'll wait to hear what the, the officers have to say, but I'm, I'm not sure that's enough guidance really to, to enact. Pretty broad, pretty broad law in this case. Thank you.

SPIKE EICKHOLT: Thank you.

DeBOER: Other questions? I do have one. How would this bill interact with undercover agents or not interact with undercover agents? So if I'm an undercover agent and I'm talking to a youth, a young person and I'm deceiving them as to the fact that I am an undercover agent by virtue of interacting with them, would that be-- would that trigger this bill?

SPIKE EICKHOLT: That's a good question. I don't know if an officer acting in their undercover capacity when talking with or conversing or maybe even questioning somebody, would that-- if that would even be considered an interrogation. The language of the bill, it sort of implies interviewing, questioning or interrogating. And that would imply an acknowledgment at some point in the interrogation that that person is a law enforcement officer and that they are questioning them. That's kind of the standard for some of the cases to [INAUDIBLE] and define what interrogation means. I mean, an officer in their undercover capacity, right, is already, sort of ipso facto, has already--

DeBOER: Right.

SPIKE EICKHOLT: --deceived anyone anyway. Right. Because they're there sort of pretending to be any-- someone other than an officer. But that's probably a fair point. And I don't-- I can't speak for Senator John Cavanaugh, but I think what his intent is to provide for formal questioning, formal interviewing, formal interrogation, a law enforcement officer of a juvenile.

DeBOER: OK.

SPIKE EICKHOLT: Because there you have that power imbalance, you have that difference, deference to authority and you have that time, that forum when anything that person says is going to be used against them.

DeBOER: Thank you. Other questions? I don't see any. Thank you very much. Next proponent testifier. The next person who would like to testify in favor of the bill.

FRANCIS KUHLMAN: Thank you. Francis Kuhlman, Lincoln, Nebraska, K-u-h-l-m-a-n. I don't think deception should ever be used by a law enforcement officer or investigator, especially against, you know, juveniles. As far as son, you're in trouble now, he might be in trouble, but he might not be in trouble that you're innocent until proven guilty in America. In, in my opinion, he's already deceiving and scaring that kid, so he should be prohibited from saying that. Undercover agents: there again, here we go into the deception area. A sting operation, let's say-- some kid-- there's drugs being sold in our high school and so we have to, we have to do a sting operation to find out which kids are selling them. So now we have, what, adults showing up at the border of the school? Or maybe you convince a kid to, to lie, you know and, and try to snitch and find out information or whatever. But let's just say it's an adult, a cop, showing up at the border of the school trying to buy drugs. So the kid-- well, are, are you a cop? How do I know I'm not going to get in trouble by selling you a little bit of marijuana? And what does the sting operation, what does the undercover cop say? He lies. He deceives them. No, I'm not a cop. I'm just a you know, somebody that needs a high, needs to be able to relax, needs to be able to treat my arthritis with a little bit of pot. That shouldn't happen either, in my opinion. They should be required to stick to the truth. So anyway, I'm a proponent of this bill. Open for questions.

DeBOER: Any questions for this testifier? I do not see any today. Thank you so much for being here.

FRANCIS KUHLMAN: Thank you.

DeBOER: Next proponent testifier. Anyone else who would like to testify in favor of the bill? You can fill that out after if you want.

NATURE VILLEGAS: OK. Hi, my name is Nature Villegas, N-a-t-u-r-e V-i-l-l-e-g-a-s. I wasn't going to testify on this, but listening to everyone talk, I went through acculturation at age nine where they

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took us out of our homes and they put us in the system. They cut our hair, they took our clothes, they took our culture, they took our languages. I could go on and on but as you all know, I don't have a lot of time. So hearing the questions, when I got thrown into the system, I was automatically labeled. I faced things no child should have to face by adults, by police, by people in positions that should have had the audacity to stand up and be my voice, especially when I came to them and say harms and crimes were happening, inside group homes, foster homes, psych wards, juvenile detention centers. I can go on and on. But again, I have limited time. And deceit was used by officers and others in these high-up positions to intimidate me, to scare me. And as you can tell, I'm a little bit on the feisty side, so it didn't really work and that really pissed them off, so I became even more criminalized. As a child, that turned to officers, that turned to judges, that turned to caseworkers that turned-- I didn't know about this yet or I would have been here there, too. And instead, I got locked away. I got beaten. I got tossed around in the system. I literally grew in the system by the state of no-- state in Nebraska did this. This is why I will not leave the state of Nebr-- I'm not even from here. I'm here to make changes because Nebraska f****d my life up and I don't know how else to say that. I just happen to be the queen of turning pain to power, but not everybody knows how to do that or find that or maybe it's too late for them. I don't know. They don't make it. Not all of us make it. I'm uphill every day in my life now, still picking up all these pieces. So, no, it is not OK to use deception to intimidate children. It's not OK. And the fact that we're even debating that is disgusting. And it must be nice to be so comfortable that you really don't have to worry about it. Or maybe your kids don't, but never should we use deceit with humans, let alone children. It's horrible. And I trust no officials, sitting before you at 42, because of that. That is a huge part of that. Nebraska is very terrible at not being accountable for things they do to people. And apparently, adults-- we don't like to see adults as humans. Fine. Can we at least see our children as humans, because we do grow up. And I graduated from foster care and group homes all the way up to prison and half of the-- all of my juvenile time, I did no crime. Do you hear me? I did no crimes. I was thrown away with deceit. That's what they use deceit for, to throw us away. That's all I have.

DeBOER: Are there any questions for this testifier? I don't see any. Thank you so much for being here. Next proponent testifier. Anyone else in favor of the bill? OK, Now let's take our first opponent testifier. Anyone here who would like to speak in opposition to this bill? Welcome.

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MATT BARRALL: Vice Chairman DeBoer, thank you. My name is Matt Barrall, it is M-a-t-t B-a-r-r-a-l-l. I am here speaking as the vice president for the State Fraternal Order of Police in opposition to this bill. This is a very delicate subject. The use of deception, I would agree, as a 24-year law enforcement veteran, is something that needs to be used very delicately and should be used very sparingly. However, in my time in law enforcement, I have encountered juvenile murderers, juvenile rapists, juvenile sex offenders and in those case-- juvenile armed robbers. In those cases, many times we don't need to use deception. In fact, I would argue, to the contrary of what has been previously stated, that we use it many times. In my experience, we use it sparingly. However, there are times, like anything else, that it can become necessary. Many agencies have policies in place and best practices that say an adult needs to be present. My own law enforcement agency has that. If we are conducting an interview or an interrogation where there is custody, meaning they are not free to leave, we have to read them their rights per Miranda, whether it's a juvenile or an adult. In those cases, if they do not understand, it is on us to stop that interview. We need to be able to make good decisions as law enforcement officers, but part of that is also being able to keep the tools at our disposal. If there's any questions, I'm free to answer.

DeBOER: Any questions? Senator McKinney.

McKINNEY: Thank you. And thank you for your testimony. So you're opposing this, saying that it's a good decision to lie to kids or deceive them?

MATT BARRALL: I'm opposing this, saying that it is a tool that is sometimes necessary. Is it good? I couldn't say if it's good. Sometimes, it's necessary.

McKINNEY: But you don't consider the negative impacts of utilizing, utilizing deceptive tactics upon kids?

MATT BARRALL: There can absolutely be negative impacts. That is why it is--

McKINNEY: Shouldn't that outweigh your, your ability to try to use a tool to deceive them?

MATT BARRALL: I do not believe so.

McKINNEY: Thank you.

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DeBOER: Other questions? Senator Holdcroft.

HOLDCROFT: Thank you, Chairman-- Vice Chairman DeBoer. Thank you for your testimony. Can you go into a little bit more detail on what the law says or what your requirements are to contact a guardian or parent before you start interrogation?

MATT BARRALL: So there isn't actually a law that says we have to. It is definitely the best practice and I would say that most law enforcement agencies that I have dealt with, which is limited to eastern Nebraska, they have those policies in place. My agency has that in place. The Omaha Police Department has that in place. Many of the other agencies in Sarpy County have that in place. We do not conduct an interview if there is not an adult present. We will forgo that. If I get someone on the phone that says, yes, you can interview my child, we will do that, but we will not do it without at least speaking to a parent or guardian first.

HOLDCROFT: And that's a policy.

MATT BARRALL: It's a policy. It is not law. I can't say that I would be against a law that says a parent or guardian has to be present. I think that would probably be a very good law. But being able to limit the tools that we have is-- I don't believe is a good law.

HOLDCROFT: Thank you.

DeBOER: Other questions? Senator McKinney.

McKINNEY: Thank you. So do you notify the parents that you can lie to their kids, too?

MATT BARRALL: Do I notify--

McKINNEY: If a parent is present, do you notify them that during this interrogation I can get away with lying to your kid?

MATT BARRALL: --no, I do not.

McKINNEY: Thank you.

DeBOER: Other questions? Well, I'll ask you one. You've suggested that there are situations in which it's necessary to lie. Can you give me an example of what-- I'm trying to wrap my head around what that looks like?

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MATT BARRALL: OK. So I have used deception in a sexual assault case involving a 17-year-old, which would qualify under this law, in which I have said that we have DNA evidence that would lead to your arrest and said, do you think that that DNA evidence-- will your DNA evidence be there that we have collected? And I didn't know if we had collected it and that gave the confession that, yes, we actually did engage in sexual intercourse and it was against her will. So, yes, I have done that. There is, there is one example that I can say that I personally have used.

DeBOER: You didn't know whether or not the DNA had been collected?

MATT BARRALL: Correct.

DeBOER: So, I mean, that's maybe not--

MATT BARRALL: But that would qualify under this law, that that-- so I, I try and resist to say what my personal practices are because I don't-- this isn't just talking about me. I'm representing--

DeBOER: --yeah.

MATT BARRALL: --the law enforcement for the state of Nebraska. You know, I personally find that using the truth can get you much more than lying to someone. However, there are those times in which it is necessary.

DeBOER: OK. Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. And thank you for coming today. I know you don't have an easy job, and I know you're in the hot seat right now and I appreciate you staying calm and answering questions. But I, I do have a hard question and unfortunately, I had to miss Senator Cavanaugh's introduction, so perhaps it was covered in his introduction. But when you interrogate, do you take into consideration developmental considerations in adolescence, because we know that lots of times when that's not taken into consideration, that's when we get the false confessions. So what kind of considerations do you have when it comes to them developmentally? Is it that they're like 10-12? Do you have a certain type of way you interrogate 12-17? Like, do you, do you take into consideration-- because we know, especially young men, no offense, their brains don't develop as awesomely as women.

MATT BARRALL: You're not wrong.

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BLOOD: And that's science. I, I get to say that with a smile. That's science. So that, that's one of the concerns that I have, is that we know, science shows us that developmentally-- and test after test there's been a lot of research, something like up to 44 percent of these test groups, the kids give false confessions and it's because we don't take that into consideration. So the question, for clarification because I've wandered off, is, is developmental consideration taken into account that, that, that can create a false confession when you guys talk to them?

MATT BARRALL: We do, at the Sarpy County Sheriff's Office. Absolutely.

BLOOD: OK. Can you tell me, walk me through how like--

MATT BARRALL: Well--

BLOOD: --categorize it for me.

MATT BARRALL: --again, we try and have a parent present.

BLOOD: OK. But not all--

MATT BARRALL: We--

BLOOD: --parents are available. Right? Or necessarily even, you know, a grandparent.

MATT BARRALL: --we won't, we won't conduct an interview without some sort of parental or guardian authorization.

BLOOD: Ever?

MATT BARRALL: Ever.

BLOOD: OK.

MATT BARRALL: We do not do that. That is against our policy. When I speak to a juvenile, I would be extremely hesitant to even interview a child under 12. That goes against all of my law enforcement training in actually being able to have the mental capacity to commit a crime and know that they've committed a crime. So there's that step. Further, there's a step on whether they really understand their rights under Miranda. So I can read them Miranda, which is a very adult thing--

BLOOD: Right.

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MATT BARRALL: --and if it is my belief that they don't understand, I won't interview them.

BLOOD: How, how do you-- and, and I'm-- like I'm really trying to get my head wrapped around this. How do you know? Like, I can, I, I, I can tell you that I sit in rooms of senators while I explain something like blockchain technology and they'll be like, yeah, yeah, I get that, I get that. And then you get to the floor for a vote and they're like, yeah, I don't understand it. So a child can say, I understand my rights. How, how do you know that?

MATT BARRALL: I ask, I ask them to explain it back to me.

BLOOD: OK.

MATT BARRALL: And if they can't explain it, that they have the right not to say anything to me, that I can't force them to talk, then I won't do it. That's what I do and that's what I've been trained to do. And it's-- the Wicklander-Zulawski reference that was made by Mr. Eickholt, that's, that's within that training. And it is-- it's, it's an excellent training. So I don't know-- is it universal? No. Should it be? Certainly. That, that would be a very important thing to have, that you know, if we want to talk about training in law enforcement and extensions for that specific type of thing, I think that's an excellent idea.

BLOOD: So that would be something you would support?

MATT BARRALL: Absolutely.

BLOOD: All right. I really appreciate you helping to break this down. Thank you.

DeBOER: Other questions? Senator DeKay.

DeKAY: Thank you, Senator DeBoer. Quick question. You cited an example of a case that you used. I was going to ask, is there ever cases where there's a sense of urgency where you might have to use the deception way of doing it, as opposed to like, waiting until a DNA sample does come back from hospital, doctor, whoever?

MATT BARRALL: It's an interesting question. I'm trying to come up with a specific example. I could see there possibly being the case if we had a homicide with a weapon at large and trying to locate that so it wasn't placed in the hands of someone else that could injure themselves with it. In regards to my specific example that I used, we

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had the 17-year-old at the time. We knew that an act had occurred. Could I have waited for proof? Possibly. But I had that interview there and I had that person's guardian there with me. So in that specific instance, it played into the entire interview. And again, the-- there have been instances within the state of Nebraska where juveniles were blatantly lied to and coerced. I think the, the Beatrice case is probably a prime example. And I watched that interview and I was appalled by it. That goes so far beyond the training that we receive in modern law enforcement. So there would be something that I would say that, there is an egregious example. It does-- it, it has happened. But the only thing that you can really do is to provide the best possible training, an example similar to what Senator Blood just, just asked on when is it necessary. And I would say that there, there just-- there are times that it can be necessary and I would hate to see that tool get taken away.

DeKAY: Thank you for your explanation.

DeBOER: Thank you, Senator DeKay. Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. Would you be open to having to notify-- to tell the parents that you've lied to their kids?

MATT BARRALL: Hmm. I wouldn't be against it.

McKINNEY: You would be against it?

MATT BARRALL: I would not be against it.

McKINNEY: You wouldn't?

MATT BARRALL: No.

McKINNEY: OK. Thank you.

DeBOER: Thank you, Senator McKinney. Other-- Senator Ibach.

IBACH: Thank you. Thank you for your testimony, as well. I just keep going back to the whole interpretation question, with all of the testifiers. And is there some confusion or maybe a reason why you would phrase or word things differently to try to get juveniles to admit something or-- I mean, is there something in your training that says if you ask it this way-- and this kind of goes back to Senator Blood's question, too, as far as if juveniles' brains don't develop at the same rate or they're behind, is there an interpretation question,

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as far as, this is the way we ask it, this is the way juveniles typically hear it. Is there?

MATT BARRALL: That goes outside my realm of knowledge.

IBACH: That would be a psychologist that needs to-- OK.

MATT BARRALL: Yes. I'm sorry. I would love to be able to answer that question. I don't know the answer to that.

IBACH: OK. Thank you.

DeBOER: Thank you, Senator Ibach. Other questions from the committee? Thank you so much for being here. Next opponent testifier.

WILLIAM RINN: Morning. I'm William Rinn. William is spelled W-i-l-l-i-a-m R-i-n-n. I'm the chief deputy of administration for the Douglas County Sheriff's Office. Sheriff Hanson wishes he could be here today, but he's asked me to come in his stead and speak on our behalf. I'll try and be brief and read this and, and then open up for questions if there's time. We are fervent in our ongoing mission to find that equilibrium between the protection of youth in Omaha and the overall safety of the public. At the forefront of discussion are the increases in juvenile-involved crimes of violence and weapons violations by juvenile offenders, both nationally and locally. Moreover, there does lie a deeper concern of the recruitment of younger offenders that are committing crimes that are traditionally committed by adults, knowing that there is potentially leniency offered to juveniles who are involved in such crimes. The U.S. Supreme Court in *Frazier v. Cupp*, allowed the use of deception for law enforcement officers so long as it follows the standard of, does, does not shock the conscience. We would be ignorant if reckless if we do not recognize the credible literature and research that confirms the vulnerability of youths when tendency to be using deception and they would produce false confessions. However, the midline of such themes and those literatures does stop short of the outright ban of the practice. Rather, such summations and findings indicate the need for a balanced approach, which includes but is not limited to training education and the thorough value of situations and the reliance of the protections of due process. In such cases, the Reasonable Child Standard Act is used and a totality circum-- circumstances should be weighed in which age is just but one factor. There is sufficient state safeguards in place and it has been proven in states, in Iowa court, in which intrinsic lies have been used and suppressed. Limitations on false facts do create a public safety issue. There's a foundational

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counterweight found in the Fifth Amendment with regards to weighing involuntariness and the use of state-mandated recording of juvenile interviews, which can later be used to determine if the proper procedures were unnecessarily, unlawfully used. Thank you.

DeBOER: Thank you very much. Are there any questions for this testifier? Senator McKinney.

McKINNEY: Thank you. Thank you for your testimony. Just for the record, are you saying that the Douglas County Sheriff's Office thinks it's good to lie or deceive juveniles?

WILLIAM RINN: I'm going to say that it is not good, but I would say that it still is necessary to be used very stringently. I would hold our accreditation in front of it, which goes beyond policy, to make sure that we have extremely stringent juvenile programs and juvenile interrogation programs, to make sure that if it has to be used, that it's done in a manner that can be regulated and the least harmful.

McKINNEY: Done in a manner that can be regulated against, according to the population of the DCYC in Omaha, 80-plus percent of black kids and probably 90-plus percent of minority kids that you think it's OK to deceive. Thank you.

DeBOER: Senator Geist.

GEIST: Briefly, did you say that you record, you video, all of the interviews that are, are done with-- between an officer and a juvenile?

WILLIAM RINN: If they are a formal interrogation or interview, yes, we do. We do it also in the field, as well, with body cams and/or the cruiser cameras.

GEIST: Are any of those recordings used for training or are they looked on later if there's a question about whether that was done properly?

WILLIAM RINN: Yes.

GEIST: Thank you.

DeBOER: Thank you, Senator Geist. Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. Thank you for coming in today, Chief Deputy. I have a question for you. Based on the letter that you

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gave us today, you said one of the deeper concerns were, quote, at the recruitment of youth offenders to commit traditionally adult-based crimes involving weapons, handguns and violence due to the tendency towards leniency for juveniles. So that's been going on forever. So I'm kind of curious. I know what's being done in Sarpy County, what's being done in Douglas County to help prevent this? I mean, when you're using it as a reason that's-- that you would like the ability to, to be untruthful with juvenile offenders, what are we doing to prevent them from coming into the system right now, as far as Douglas County goes?

WILLIAM RINN: Well, well, I think our, our concern is, is the broadness of this bill as it states and that we would-- the, the gun violence and the crime, crime violence-- I think, our gentleman from Sarpy County has testified to, is of concern to us. What's being done is I know that the sheriff's office is heavily involved, sheriff specifically, with youth and youth diversion programs and trying to figure out where these youth can be placed other than the youth center and follow-up programs to help track them out on the street in a way that's less intrusive than being incarcerated.

BLOOD: Would you say you've got good data that shows that that's actually-- that you're making inroads in that? Because I, I've not really seen anything on that from Douglas County, so I'm kind of curious like where you're at on that.

WILLIAM RINN: Given that the sheriff just took office on the 5th, I don't know that I have any data for you right now.

BLOOD: OK. So you're saying under Sheriff Hanson--

WILLIAM RINN: That is his--

BLOOD: --not prior to that.

WILLIAM RINN: --what he's expressed is his new, new goal. And I haven't acted in that capacity until recently. I've spent the majority of my career in an investigative capacity and I've only, within the last three or four years, added an administrative and research capacity.

BLOOD: All right. Fair enough. Yeah, it was used as one of the, the reasons why and I thought, gosh, if it's so pressing, surely there's going to be data or you know, let me know like that we're making inroads to help these young people, but maybe that's not the question that can be answered today.

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WILLIAM RINN: Well, I'd be help-- very happy and encouraged to follow up with, with the body on any data that we do find in future on that to keep this type of reform going.

BLOOD: I'd, I'd like to keep people away from being interrogated.

WILLIAM RINN: Certainly. Yeah.

BLOOD: All right. Thank you.

DeBOER: OK. Thank you, Senator. Blood. Other questions for this testifier? I think that's it.

WILLIAM RINN: Thank you very much.

DeBOER: Next opponent testifier. Is there anyone else who would like to testify in opposition to LB135? Next, we'll take up neutral testimony. Anyone testifying today in the neutral position? I do not see any. For the record then, we have received 14 letters, 10 letters in support and 4 letters in opposition. And we'll take the closing from Senator John Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chair DeBoer and members of the committee. This has been an interesting discussion and I appreciate everybody who came to testify on this. There were a couple of questions that I just wanted to make sure and address. First off, in terms of states that have adopted this, Illinois, Oregon and Utah adopted a similar law to this. And as to-- well, I'll just try and go chronologically, Senator-- let's see. Where am I at here? Holdcroft's question. I probably should've given you a better answer during, but I think we got to it a little bit. So the, the bill here is not a question of whether it's constitutional or not. The Constitution-- the Supreme Court, as Mr. Eickholt talked about, has set out a standard under which deception is acceptable. The bill is a policy proposition saying this is a bad idea. So it's not saying that we're violating the Constitution. My bill is merely saying that when you interrogate children and you deceive them in that interrogation, we get bad policy outcomes. And you heard the testimony that-- from Ms. Craven, that it was 35 percent of wrongful convictions involved a false confession; from Ms. Salazar, I think it was 30 percent of wrongful convictions. I think the 35 percent was for juveniles and 30 percent, maybe, was for everyone. And so false confessions lead to wrongful convictions. You get a false confession when you deceive somebody. You give-- when you lie to them about what the evidence is, people are more likely to lie back to you and tell you what they think you want to hear. Children

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are much more likely to do that. I appreciate Officer, I think it was Barrall, being here and I-- and, and the context he gave to this conversation. I would point out that he said that they have a, a policy that they adhere to most of the time about interviewing kids with their parents present. I would tell you, just sitting here during the hearing, I got emails from defense attorneys in Douglas County telling me juveniles in Douglas County are regularly interviewed without an adult present. I actually recall Senator McKinney brought a bill last session that said that you had to have a parent present or had to be notified. So the reason I point to that is we can have policies to regulate and to have officers follow that get good-- that do not get followed and the harm is done. What we're saying here is-- and actually, as a matter of fact, we're not saying officers can't lie. We're saying if they lie, it is not admissible. The statement they [INAUDIBLE]. And that's an answer to your question, Senator DeKay, about the exigency question. If you get to a point where it's an emergency and they think that they need to get some information from this kid, they can still lie to them, just whatever information they get as a result of that can't be used in a trial as evidence against that kid. And so that's all we're saying here, is this is an evidentiary question, not necessarily whether they can actually do it. And so they have to make that calculus and say, is the exigency of this circumstance such that we need to lie to this kid? And so-- and I think you heard Officer or I'm sorry, Deputy Rinn and Officer Barrall say this is used sparingly only in the most important of circumstances, that they have policies around how to do it. They-- the reason for that is because this is something that we shouldn't be doing. They have policies to constrain their own conduct because they know that they shouldn't be doing it. And so this is a question before this Legislature about whether we want to have our law enforcement lying to kids to get to answers. Officer Barrall gave that example, which I thought was a pretty spot-on one. I would suggest that you read Ms. Craven's article. It's very good. It has a great example. It talks about the Beatrice Six case. It talks about another case out of Lincoln that elicited a false confession, both with adults. Both-- Beatrice Six were adults, the case out of Lincoln was an adult case. But what he described and what she has on her paper is a breakdown of the Reid technique, which is a technique under which officers lie and the phrasing of the what he said sounds very similar to what's described in that technique. And it's-- and the reason, the justification he gave for it, when I think, I think Senator Ibach maybe asked this question, about why do it then or if you could have gotten-- or maybe it was Senator Geist-- asked about, if you could have gotten the DNA. His answer was basically, expediency or

convenience. He said, well, we could have waited, could have come back. They had the person in the room, they had the parent in the room, they wanted to get the interview done at that point in time. That is not a justification to lie to somebody. That is not a justification to potentially elicit a false confession. That is an inconvenience. And the justice system is not meant to be convenient, it's meant to get justice. And what happened in the Beatrice Six case, is the person who committed that homicide was out on the streets for years. And, and I don't remember if they committed other homicides, but in other cases, the [RECORDER MALFUNCTION] I think this is in Ms. Craven's case-- Ms. Craven's article about the-- what is it-- that the Central Park kids and they were wrongfully convicted after having been given false information and the person who ultimately committed that crime went on and committed other crimes. And that's what we're talking about here. It's not about expediency. It's not about trying to get, to get to this answer. Justice is about getting to the right answer. It's about getting justice for everyone. And when we arrest the wrong person, we convict the wrong person, we think we've solved the case, that potentially you have somebody else out there who's going free so you have now committed two injustices. And so the data is clear that when you lie to kids, they're more likely to give a false confession. When you give a false confession, you get a, you get a wrongful conviction, the right person goes free and the continuation of that problem. So this is a policy question about whether or not we want to continue having people-- law enforcement lying to kids or not. They have a tough job admittedly. They do a great job and-- but they say they need this tool, but they-- really when we use this tool, it gets the wrong outcomes. And so I think-- I addressed [INAUDIBLE]-- if you wanted the section of statute or Ohio-- or I'm sorry, Utah, it was 80-6-206. Oh, and Senator DeBoer, undercover officers, I think the statute is pretty clear-- this proposed statute is pretty clear about this, says a peace officer interviewing, questioning or interrogating a juvenile in connection with the investigation. I think that already excludes undercover officers. I do think that there is an easy cleanup to that if we are concerned. And as to the comment that this is overbroad, this is-- it says communicating false facts about the evidence in the case or representing false-- communicating false facts, false information or false statements to a juvenile regarding leniency in arrest, prosecution, dispute-- disposition of such juvenile and juvenile makes certain statements or if such juvenile makes certain statements or admissions during an interview, the questioning or in an interrogation. Pretty specific. It applies to these very specific circumstances. And the comments-- I mean, that was just an insincere, constructive criticism because if you want to

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constructively talk about how to make this narrow, you come in and you'd say, we agree that we shouldn't be lying to kids, but this bill is overbroad. What you heard was we need to lie to kids and this bill is overbroad. So I'm happy to engage in a conversation that gets us to a place that effectuates the intent of this bill, which is preventing lying to kids. If there is an actual way to constrain this bill that is overbroad and has those unintended consequences, like potentially the undercover officers are implicated, I'm happy to have that conversation and figure out how to fix it. But I will engage in a serious, good-faith conversation about how to fix this and not an insincere one.

DeBOER: OK. Are there questions for Senator Cavanaugh? Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. Senator Cavanaugh, I'm sorry I missed your intro. I'm sure it was awesome, but. So you heard Sarpy County say that they supported maybe more training. How do you feel about that?

J. CAVANAUGH: Well, I certainly think if we passed this bill, they would have to have some training that says you can't lie to kids. And if you do, that it's not admissible evidence. I think it's a policy question. But fundamentally, the question is, is it a good idea to lie to kids? My, my position is no. It gets bad outcomes. It actually undermines the, the integrity and the relationship of law enforcement with the public, the greater public. And so it is a bad idea. So all the training in the world doesn't solve those two problems. If we pass this law, it will require some training to make sure everybody knows how to implement it properly.

BLOOD: All right. Fair enough. Thank you.

DeBOER: Other questions? With that, we'll close the hearing on LB135 and open the hearing on LB284 so welcome to your Judiciary Committee, Senator McKinney.

McKINNEY: Good morning, Vice Chair DeBoer and members of the Judiciary Committee. My name is Terrell McKinney, T-e-r-r-e-l-l M-c-K-i-n-n-e-y. I represent District 11, north Omaha, and we are here today to discuss LB284 to adopt the Municipal Police Oversight Act, require maintenance of the Brady and Giglio lists restrict use of-- restrict usage of no-knock warrants, prohibit the collection of data on gang membership, require a bachelor's degree for law enforcement certification, change requirements on law enforcement records, and eliminate the offense of unlawful membership recruitment into an organization. It is 2023 and

today, the United States of America and the state of Nebraska has yet to pass meaningful legislation to hold police accountable. What has happened is a culture of hero worshiping and fear at the expense of countless Americans who have been traumatized, brutalized, harassed and killed at the hands of those supposedly signed up to protect and serve. Until we tackle the issues with police and those who act as allies gain courage, I'm not sure if it will ever stop. The system of policing is the problem, no matter the officer's race. Racism, white supremacy and self-hate are substantial factors, as well as the blue wall of silence, silence, coverups, and a lack of human decency. Opponents will come in here and say that they can't-- they can police themselves, officers will be at risk, they won't be able to recruit and a bunch of other outrageous comments about criminals. That being said, a report by the Equal Justice Initiative reported that the U.S. has the highest incarceration rate in the world. Over the last five decades, our country has criminalized an increasing number of behaviors and targeted black communities and communities of color for overpolicing and aggressive prosecution. Law enforcement agencies have outsized budgets, while other vital community services are underfunded. In too many places, police engage in patterns and practices that undermine public safety and create harm. Thousands of black people were lynched by white mobs in the past, often with the support and involvement of local police, and our government did nothing. The system of police and incarceration evolved as a way to maintain racial hierarchy after the Civil War. We will eliminate the scourge of police violence and abuse only if we address the central--centrality of racial injustice and inequality in America. Because the United States did not commit to racial equality, slavery did not end in 1865. It evolved into convict leasing and decades of racial terror as far as lynchings. Without an explicit commitment to ending racial injustice, the narrative that sustained it, law enforcement and other forms of racial control and mistreatment will continue. A system built on the foundations of slave patrols needs to be demolished and rethought. LB284 is my part in doing so and I will continue to do so till something meaningful as passed. Omaha nor the state of Nebraska have a pristine history. Although some will act like community police relationships are good, they are not and the affluent and bourgeoisie do not speak for the masses. On the topic of municipal police oversight, I believe that it is needed because it should be apparent that the police cannot police themselves and independent oversight with investigatory power should be needed. The current system does not work and it has no teeth in the city of Omaha. Also on the topic of Brady, Giglio list, often called Brady list after Brady v. Maryland in 1963, where the US Supreme Court case established that these lists are

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some cause-- sometimes called the do-not-call and no-call disclosure or exclusionary lists. Brady lists are automatically a list of police employees whose involvement in a case as arresting officer, investigator, witness, or in another role undermines its integrity. These lists, maintained by prosecutors, should be updated regularly to ensure they include the most recent and comprehensive information. Brady lists are vital public information, as they show which police employees have credibility issues and indicate whether prosecutors are following the law by maintaining and updating those records. Juries should know, for instance, if the police employee testifying before them had repeatedly been investigated, for example, for mishandling evidence, especially if they were deciding whether to convict someone based on that evidence. Crime victims should know that if police employees are handling their case and had a history, for instance, of coercing false statements from people which could prevent the state from getting the truth. And prosecutors should be aware if case is unlikely to hold up in court because it relies on unreliable police employee information. Another piece of this is limiting the use of no-knock warrants, which is a matter of public safety for all parties involved, especially those who could potentially be victimized or killed like Breonna Taylor and like Amir Locke who was set to move to Omaha before his death at the hands of police. The police will say they don't or only use them in limited situations. Even so, we must have something in place to ensure we play-- we protect those police are supposed to protect. Now, on the topic of preventing the gang lists, honestly speaking, gang lists are inaccurate and it needs to be clarified how someone can be removed. For example, if your family member is in a gang and you are riding in a car with them and he or she gets pulled over, you may be added to this list unbeknownst to you. Now, down the line, if you get in trouble or something happens, you go to court and the prosecutor will say Suzanne Geist is in a gang also. Never been in a gang, never had any gang involvement, but only was added to this list because you were riding in a car with your family. Even me as a state senator, I am more than likely on the gang list in the city of Omaha and I'm a sitting senator right now. On the topic of bachelor's degrees for law enforcement, I have some reasons. And there's been studies and people will argue there's counter studies that say there's no correlation. But research shows that overall, college-educated officers generate fewer citizen complaints. They are also terminated less frequently for misconduct and are less likely to use force. And I've been receiving some pushback on this portion of the bill and shockingly, one of the components I feel is, is really one that I feel is the most sensible. Requiring a bachelor's degree to become a police officer should have an-- you should have an education

to have a license to kill point blank, period. You need one to become a doctor, need one to become a pilot. You need one to be an engineer, engineer creating machinery that could possibly kill someone. So why not have an-- have a license for an occupation that involves direct use of deadly force? That just doesn't make any sense to me. Why is there a focus on improving recruitment populations over the conservation of lives? What we have is not working. Perhaps the pool that is being-- perhaps the pool that is being pulled from needs-- perhaps the people that will be eliminated if this becomes law, it needs to be drained, especially if it's infested with applicants to shoot or kill first and ask questions later. This has been a wave as of lately and honestly, forever. I've seen it. You've seen it. Everyone is witnessing the senseless, the senseless taking of lives, all of which has occurred with the current way we're doing things. I'm a firm believer in if you do what you've always done, you will always get what you always got. As of current, police do not have four years of education to become police officers. That's clearly not working and we have to change something. And, you know, I'm-- I can't see a person who seeks to become a police officer, goes to college, places themselves amongst the first class of individuals has this narrow mindedness that we see in many communities of color across the country. You get people fresh out the military or fresh from western Nebraska thrown into these communities and they don't have even a baseline foundation of understanding those communities and that's the problem. And training just doesn't fix that. If the training worked, the young man that was killed a little after George Floyd was killed-- it probably would have been avoided because the lady that killed him was actually a trainer and training somebody during that situation and she still killed somebody. And another popular word that is being used by opposition is diversity. I find it quite interesting because if diversity really mattered in policing, the police force would be diverse right now and it isn't. In fact, according to a Zippia data science team that estimates demographics and statistics for police officers in the United States using data from 30 million profiles after extensive research and analysis found within ten-year span, much hasn't changed and it's been rather constant in terms of diversity. I also think if an officer has, you know, a four-year degree, you can assist with community policing and problems oriented-- or oriented policing. I think it also will enable officers to better relate with communities of color and minority communities. I think it will help officers identify the best practices. And hopefully, I hope that requiring them to get more education equips them to be better leaders in the community and are not as-- I don't even got the word, but that it's-- hopefully they become better people. I understand that it's not

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an end all, be all, and they still might kill somebody, but I would feel more comfortable knowing that they went to school and got more education before they were thrown into our communities. A couple of years ago, we passed LB51 and it established a database that is maintained by the Crime Commission. Last year, it was brought to my attention that the Crime Commission does not place active officers on this list. The argument was they kind of wanted to avoid making people uncomfortable. It is not also known if active officers would even, even end up on this list, but the fact that they're just not going to do it is my issue. If they're-- if it's an active officer who has misconduct on the record, they should be on this list. And many think I hate the police, but honestly, I'm not a hateful person. My motive is about accountability and transparency. I'll speak on a few situations that have shaped my perspective outside of the injustices we see constantly on social media. As a kid, we were living in the projects in south Omaha and it was getting raided. The police bust in, woke me up with a gun to my face, took me downstairs and I witnessed them talking to my mom like she was less than human. That's one. On another occasion, I witnessed the police fighting my grandma rolling up and down a hill, my grandma and two officers. I also have permanent scars on my head from being jumped by the Omaha police. And after they did it, they placed me in a car and asked me did I want more before they took me to the county jail. And, you know, that's what shaped my perspective. I don't like-- I don't really care if people think I hate the police. Honestly, even if I did, I would think it's valid, but that's neither here or there. I believe we need police accountability and transparency in the state of Nebraska. They, they come in here and scream about criminals and the need for new crimes, but they forget to mention the countless headlines in the news about officer misconduct, department discrimination, and aligning themselves with white supremacy ideology. We keep seeing it every year. A black man-- not even just black people, it's people across the board being killed and brutalized by police and we don't do anything but stand up and say we support blu,. We love policing, hero worshipping. But who's going to hold them accountable? We need to hold them accountable. And you can agree or disagree all you want, but the fact is true. The police have not been held accountable in this country and it's never-- and the protests won't stop. Your things about woke people won't stop. None of this will stop until y'all step up to hold police accountable. And I'm going to continue to put bills forward to hold them accountable until we do so. Thank you.

DeBOER: Thank you. Are there questions for Senator McKinney? We'll start with Senator Geist.

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GEIST: I'm-- just have one quick one and it's on page 12. And it was the example you used about me being in the car with the gang, which I get where you're coming from with that. But I wonder if in that legislation on-- it's Section 2, which talks about that they cannot collect or assemble any data on a criminal-- or a purported criminal. Does that mean-- or a purported gang member--

McKINNEY: Gang member.

GEIST: So does that mean any gang member or just someone that they suspect could be? So I'm-- I guess, in short, I'm asking, can they continue to collect data on a gang member, a known gang member, just not a purported gang member?

McKINNEY: How do they know somebody is a known gang member without--

GEIST: Probably repeated experience.

McKINNEY: But there is no system in place to confirm or-- confirm that these individuals are gang members. It's all based on speculation. It-- I'm not saying there aren't real gang members on the list. The problem is how do you get off the list? If I'm 50 and I've changed my life, why am I still on the gang list?

GEIST: OK. I-- well, I get that. I'm just wondering about current gang members. Can they collect information on--

McKINNEY: I don't think they should.

GEIST: OK.

DeBOER: Thank you, Senator Geist. Senator DeKay.

DeKAY: Thank you, Senator DeBoer. Thank you, Senator McKinney. Two quick questions: you talked about getting a bachelor's degree to possibly alleviate more financial burden to a potential applicant. Would you consider it-- we've talked about this before-- would you consider an associate's degree, which would be a short-- a shorter program, 18 months or two years, compared to a four-year degree?

McKINNEY: I'm honestly open. One, I feel like policing needs to be professionalized and that's a huge part of the problem. We're pulling people fresh off the streets to become police. So whether it's an associate's degree or a bachelor's degree, whatever education that they get, I believe they need it to equip them to be able to interact, especially with minority communities.

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DeKAY: Thank you. Second question: for the different ethnic groups that are police officers, you had a graph that showed like 60 percent. Do those numbers correlate with the number of applicants from different groups that come in? If it's 60 percent white people that are applying for these positions as compared to, you know, 18 percent for Hispanics, do the applicants fall in line with the number of people hired?

McKINNEY: I can't say factually yes or no, but I would argue that it's probably low., but.

DeKAY: Well, I--

McKINNEY: Yeah.

DeKAY: --I just, I just don't want to-- I don't want people to be rejected because of their ethnic group by what-- so that's why I asked the question.

McKINNEY: No problem.

DeBOER: Thank you, Senator DeKay. Other questions? I have a couple for you, Senator McKinney. First, I'm just curious, how old were you when you were pulled from your bed with a gun in your face?

McKINNEY: I was probably eight or nine, I believe.

DeBOER: Wow. And when you got the scars on your head, about how old were you?

McKINNEY: I was 20, 19-- no, I wasn't even 20 yet. I was 19.

DeBOER: And then on the issue of the college educated, would you foresee having the police academy training within that program? So, like, you would get your-- do you, do you foresee it as you get your college degree and then you go to the police academy or you get your college degree and in the course of getting that degree, you would have a semester that would be the, the training portion that-- so maybe, like, a student-teacher, you'd have something like that?

McKINNEY: I mean, it could be flexible. I would honestly like them to have a college degree before they became cops. But in the bill, it outlines to about 2037 for every officer to have a four-year degree because not all of them have it now. So there will have to be some flexibility, but I'm open to it.

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DeBOER: OK. Other questions? I don't see any. We'll take our first proponent testifier, please.

JADEN PERKINS: Good morn-- good morning, Vice-- excuse me. Catch my voice back. Good morning, Vice Chair DeBoer and members of the Judiciary Committee. My name is Jaden Perkins, J-a-d-e-n P-e-r-k-i-n-s, and I am a north Omaha community organizer for the Heartland Worker Center. First, I want to thank Senator McKinney for introducing this bill and for being a consistent champion for the community on the issue of police accountability. HWC is here in support of LB284 because we believe in fighting for the issues that affect our underrepresented communities and that it's time for meaningful police reform in Nebraska. According to a 2020 report by the Brookings Institute, black people are 3.5 times more likely than white people to be killed by police when they are not attacking or have a weapon. Black teenagers are 21 more times likely than white teenagers to be killed by police and a black person is killed nearly every 40 hours by police. I'm sure you all will hear certain people in this room try to minimize the issue of police brutality in our state with the same old bad apples argument. Well, guess what? Bad apples come from rotten trees and rotten trees are lawn-- are law enforcement agencies imbued in structural racism and white supremacy. Standard processes for holding police officers accountable, issuing civil payouts to victims of police violence and rehiring fired officers are a few of the factors that contribute to the entrenchment of police brutality. News flash: police violence happens here too. March of 2013, a neighbor captured an arrest on video in which Omaha police officers violently threw young Octavius Johnson to the ground, repeatedly punched him and held him in a stranglehold. 2014, Jasmine McMiller and a friend were in town for a Terence Crawford fight and booked a room at the downtown Hilton. Omaha police confronted McMiller in the elevator and in an unbelievable display of prejudice, the police demanded proof that the pair actually had rooms in the hotel. Video evidence shows an officer slamming a handcuffed McMiller to-- onto the surface with a chokehold after discovering from the front desk that she did have a room at the hotel. McMiller spent her holiday evening in jail for disturbing the peace. She had done nothing wrong. 2017, an indigenous man named Zachary Bear Heels was suffering from mental illness when he was kicked off a bus in Omaha, a city he had no knowledge of how to navigate, and was forced to walk miles in a blistering hot June afternoon only to face his demise at the hands of Omaha cops who were not properly trained. May 2020, 72nd and Dodge, peaceful Black Lives Matter protesters, including myself, were subject to expired tear gas and rubber bullets, which were the result of total

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escalation of police. Urging you all to vote this bill out of committee because it's time for police reform in Nebraska. Thank you. I'm open to questions.

DeBOER: Are there any questions for this testifier? I do not see any, but thank you for being here.

JADEN PERKINS: Thank you.

DeBOER: Next proponent testifier.

SHERMAN WELLS: Hello, I'm Sherman Wells, S-h-e-r-m-a-n W-e-l-l-s, and I'm here in support of LB284 and its entirety. Give me a moment. Hmm, for the sake of time, I'm only going to address a few things. The oversight board that I believe is necessary is going to be responsible for holding the police accountable. One of them-- and that's one of the most important parts of the bill. My family has actually been impacted by the lack of police accountability in this state. In north Omaha in 1969, Omaha Police Officer Mark Loder [SIC] shot and killed my 14-year-old cousin, Vivian Strong, as she ran away from him and he received no consequences for that murder. That murder was actually the reason north Omaha was punished for years economically for standing up against that injustice. So I believe we need the police without a doubt, but the current method of policing is not working. The deception of the good old boys and the police is always right is over. And just like the seasons change, I believe we need to have a lot of change and the failures in this state and even in this country, the lack of the ability just with time is hindering the black community. No longer do people trust the police to investigate themselves. And since the incorporation of body cameras, we have seen what we already know. Nobody is perfect, not even the police. They are humans with a job just like us and they sometimes make mistakes. But when they make a mistake that ends a person's life, they need to be held accountable. The other part of the bill, that's further education, which in my opinion, I think all public servants need that. That's a no-brainer. The most important part of the bill to me also is another event which took place with our family. Karen Wells, who is my cousin, is the mother of Amir Locke. I'm here with her brother and Ami's uncle right here. And currently, we have-- even before Amir's death, we have been doing a lot of community engagement in the north Omaha community. Amir was killed. He was a law-abiding citizen carrying his own gun, sleeping on a family member's couch, which was kicked by the police, and he was shot dead. And only after he was shot dead, they realized he was not on a warrant and didn't have nothing to do with nothing. That recklessness of using no-knock search warrants is not only

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jeopardizing the life of the legal gun owner, it's also jeopardizing the lives of our officers with the trauma that comes with after the actual shooting. The mental strain it puts on the officers that accidentally shoot and kill innocent person, their safety, their family's safety and the years of good police work that they've done is down the drain for one mistake that could have been prevented if we would have just thoroughly thought through the usage of no-knock search warrants. It's 2023. Everybody has a firearm. People's walking in Targets with firearms. Now, people-- contrary to belief, black people do carry and legally carry. And so I think we need to get to a point where we're adjusting with the time and understanding that everybody has a firearm. And I'm here with any questions.

DeBOER: All right. Are there questions for this testifier? It seemed like you were about to get to a point so if you want--

SHERMAN WELLS: OK.

DeBOER: --just another sentence or two--

SHERMAN WELLS: Yeah--

DeBOER: --you have two sentences.

SHERMAN WELLS: --well, and the real point is, like Senator McKinney said, that the police-- the lack of police accountability amongst black people is, is really just tearing us apart and we want to see-- we know police officers are necessary, but we want to see the real relationships established in the communities instead of the judgment that we've been receiving for years. I'm a victim of police brutality. I was picked out wrongly by the police and then beat down. And by the time the beating happened, only after that, when they brought the witness to the scene, they determined I was not the person. And so throughout the years, we've just been police-- I mean, "brutalitized" by the police. So I think everything that the senator has proposed in this bill I'm a proponent of for the simple fact that it's affected my family. It currently affects the people in our community. And I have grandkids and kids that this is going to affect if y'all don't take a stand and take this change and make the change that's necessary that the senator is proposing in this bill.

DeBOER: Thank you very much. Are there any questions? No? I don't see any, thank you so much for being here.

SHERMAN WELLS: All right.

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DeBOER: Next testifier. Next proponent testifier.

SPIKE EICKHOLT: Good afternoon, members of the committee. My name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association in support of the bill. The bill does quite a few things so I was thinking about preparing some written testimony, but I honestly didn't know where to start. But I'll just kind of maybe elevate some of the key points of the bill. First, the bill does create sort of a model standard for a municipal police oversight entity to sit-- and it applies to cities of Lincoln and Omaha. There are oversight boards in both Lincoln and Omaha. They vary to a certain extent. In our opinion, this would make these committees or these oversight entities much more robust in the, in the sense that it does provide them with subpoena power and it does provide that they are public bodies and will have public testimony. Omaha's advisory committee is generally not public and their findings aren't public. Lincoln's is. They do have regular meetings and it is public, but they don't have subpoena and actual investigatory authority and this bill provides sort of a template for providing that. They will also make some reforms to search and arrest warrants and prohibit or at least limit when no-knock warrants can be done. If you want to look at what our current law provides for, it's on page 8, lines 5 through 20. We don't really have the phrase, "no-knock warrant," but judges have the authority when they issue a search warrant to sort of allow law enforcement to not give notice of their authority and purpose, which under the law, basically means they can smash in the door. It does provide it can be done sort of with a felony only, but there's not necessarily an actual finding, at least in statute, that that warrant that authorizes no notice to be given needs be for a violent felony or there's any sort of risk to officers. I will submit that the current practice is, is that when they are applying for a warrant, most judges are going to expect some sort of articulable facts before they will authorize entry without notice. But what Senator McKinney's bill does is actually provide that in the statute, which we would submit is a good plan. The bill also requires sort of a maintenance and public accessibility of a Brady and Giglio list and it does require the prosecutor to do it as well. If you're not familiar with Brady v. Maryland, it's basically a duty on the prosecutors and the state to disclose exculpatory information to the defendant, whether the defendant asked for it or the defendant knows about it. And in the context of-- and for the police officer, is there some reason to believe that officer's credibility, something they had done on this case or another case? The prosecutors have an affirmative duty to

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disclose it to the defense lawyers. I will say as a practicing defense attorney, I didn't always get Brady disclosed to me. If I found out about it sometimes, it was always provided by the prosecutors. In their defense, I think admittedly, sometimes prosecutors don't know about it. There are separate offices from the police department. Some of these things are shielded due to internal affairs investigations, due to union agreements. But what this bill does is it really provides that this will be public and provides a process for having that list be publicly available so that everyone knows. I guess I see my time's up. I'll answer the question if anyone has any.

DeBOER: Are there any questions for this testifier? I do not see any, Mr. Eickholt. Next proponent testifier. Next person who's here to testify in favor of the bill.

AMY HUTFLES: Good afternoon. My name is Amy Hutfles, A-m-y H-u-t-f-l-e-s. I'm here in support of LB284 in its entirety. I echo the sentiments of the folks who have testified ahead of me. I would like to add there are scenarios-- I have a close friend who is in fear of leaving her very abusive husband who is a police officer in the city of Omaha for fear that his-- the police association-- like, that all of the cops will team up and she will lose her kids and, and she won't be able to get out of it unscathed, even though she's the victim here. So that's another scenario that I would really encourage you all to consider. Accountability and transparency for the police department is smart and it's necessary. It could also protect the police officers, but it will help start to mend and bridge this gap that we have. As far as education part, critical thinking is something that is taught and learned when someone has a bachelor's degree or an associate's degree. And that can only help when police officers in the city have the opportunities to take someone's life to engage in some critical thinking. And that education, that education piece could add to that. I grew up in Puerto Rico and, and there is a lot of corruption in the police department in Puerto Rico. And I could only dream of an opportunity like this to have some oversight by the community and a board like this. So I really-- I hope that this passes through the committee. Any questions?

DeBOER: Any questions for this testifier? I do not see any today. Thank you so much for being here. Let's have our next proponent testifier. Last call for proponents. Anyone in favor of this bill? Is there anyone who would like to testify in opposition to this bill?

FRANCIS KUHLMAN: Francis Kuhlman, K-u-h-l-m-a-n. This microphone is not sensitive enough for the people in back to hear. You notice I'm

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six inches away and they can probably hear me well, but most of your people sit back here and talk about this volume and they can't, they can't hear and, you know, understand. So please consider changing that in the future. I'm against this bill as it's currently written because why, why limit the field of hirees just from those who have graduated from college? I think that's a mistake. Secondly, college does not encourage critical thinking. From what I've seen, college stifles critical thinking. If you want to make the grade in college, you're going to pare it back to that professor, what the book says or what he wants you to hear. So that's a myth, I believe. So I'm against this as currently written. And secondly, are we really not going to collect gang, gang member data? That is just such a huge mistake, in my opinion. No-- OK, now the guy that testified last said-- first, I guess-- said I'm probably on a gang list. Well, he may be, but that just means that the gang list is sloppily kept. And if he thinks he's on a gang list, he needs to file an affidavit in court saying, you know, either I used to be in a gang, but now I'm no longer or I've never been in such and such a gang, you know, etcetera, and I swear to it this day, you know, January, February or whatever, so that cops will know what's-- what the affidavit says when they arrest him. Or when, when he's pulled over and OK, he's, he's not on a gang list so we don't need to give him special treatment. When he's in court testifying-- maybe he's been accused of a crime-- it's an easy matter to take the stand and say, no, I'm not on a gang. So you know that's swearing under oath. Our voter registration rolls contain many dead people and people that have moved out of state. But no one is-- they're not perfect. That just means we need to true up our voter registration rolls. But no one is saying do away with the voter "rege" rolls. So let's not do away with the-- with people that are members of gangs either. It's easy to prove whether they're in a gang. Well, I shouldn't say easy, but it's possible. Cell phone data, you can track whether they've been to the gang house 50 times in the last two years. Was there a gangland murder, you know, that's happened? Were they there? Check on, check on their cell phone record there. Or their criminal record, have they "hanged" out with and committed fellow crimes with fellow gang members? Do they have the MS-13 tattoo on their cheek, etcetera? It's not impossible to prove that someone's in a gang. Any questions?

DeBOER: Any questions for this testifier? I do not see any, but thank you for being here.

FRANCIS KUHLMAN: Thank you.

DeBOER: Next opponent testifier.

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TERESA EWINS: Good afternoon, Vice Chair DeBoer, members of the Judiciary Committee. LB284 is a well-intentioned bill designed to improve police accountability. The Lincoln Police Department incorporates the public into many of our policy decisions, strategic plans and promotional processes. Community oversight has been embedded in our agency's culture since 1975, with the creation of the Citizen Police Advisory Board. Mayoral-appointed community representatives of the C-- CPAB have investigated complaints, listened to public concerns, influenced department policies and procedures and strengthened the relationship between our agency and the community. LB284 will eliminate the current established practice. We support training requirements for all commissioned officers, however, disagree with the requirement of a degree. This requirement disregards the value of life experience and limits candidates to those who can afford a four-year degree. If a member does not achieve a degree by the designated time frame, will we be firing these members? It will adversely impact low-income, communities of color and members of the community who have children or single parents. Having a degree does not automatically make you a better police officer. In an age where police agencies already struggle with recruitment for diverse membership , LB284 would further hinder our efforts. LB284 is also an unfunded mandate, placing financial burden on local government to absorb the costs of independent investigators, legal counsel and costs associated with this oversight body. These citizen review boards, given unchecked authority, will eliminate the ability for police chiefs to hold their membership accountable and eliminates officers' due process. This legislation prohibits police agencies from collecting, assembling or preserving data related to gang status or membership and requires the destruction of all current data. Any intelligence data gathered throughout the course of an investigation can prove invaluable for future investigations. Many gang-related crimes are related to feuds between groups. Some of these conflicts are related to tribe or regional conflict from their country of origin. Law enforcement's knowledge of their past relationships and disputes can often provide a quick, quick resolution, prevent further retaliation and additional victims. Our goal is prevention and working with community leaders to develop programs to lead youth away from gangs. We have created a process which has been implemented for years to evaluate and remove those who do not have gang-related activity off such lists. I strongly urge you to oppose passage of LB284 in its current form. We're happy to continue this conversation to find an acceptable balance that captures the intent of the bill while still addressing the impacts to public safety.

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DeBOER: All right. Thank you very much. Are there questions for this testifier? Senator Ibach.

IBACH: Thank you. I just have one question. The, the thought or the idea of having a bachelor's degree intrigues me. So I googled are-- do any states require a bachelor's degree to be a police officer and there apparently are none.

TERESA EWINS: Yes.

IBACH: Is that correct--

TERESA EWINS: Yes.

IBACH: --as far as you know? And do you have officers on your force currently that have a bachelor's degree or, or the equivalent?

TERESA EWINS: We do. We also have individuals that have master's degrees. I think the-- you know, the idea that to hire people is-- to have a degree is, is not really-- I wouldn't, I wouldn't be a police officer today. I got my degree. I finished my degree years ago, five or six years ago. I have dyslexia. I had to deal with that through school. I'm revealing too much right now, but, you know, it's-- there are some circumstances in life in which prevents you from doing that. Getting a degree I would have done, but my partner at the time wanted to go and further her education at the time. So we chose financially for her to go as opposed to me when I was a police officer at the time. So there's many different life experiences that one has in order to-- you know, it doesn't mean you're a good police officer. I've seen plenty of people with higher education that are police officers that are not as good as people that have life experience itself.

IBACH: OK. Thank you very much.

DeBOER: Any other questions? I was raising my hand.

TERESA EWINS: Do you have a question for me?

DeBOER: Apparently, I do. Senator DeBoer. So we were talking about this education piece. Maybe not then the bachelor's degree, whatever. I can understand that. I have, most of my career, been a college professor. I don't think it's maybe so much brainwashing as perhaps some others might. But that might be just an occupational hazard of my own belief. But I wonder if maybe there might be a way to-- we keep talking about training, training, training, training-- if there might be a way to add some measure of education before the academy, during

the academy, something like that. Would you be open to looking at adding more to the academy process?

TERESA EWINS: Absolutely. I do think that there are some junior colleges that could have a process to-- for people to enter into law enforcement. Continuing education is essential, making sure that we are, are understanding communities, understand-- all that training has to be in our curriculum, but continuing education has to be there. It can't just be one training when you're in the academy, and then ten years later, you're getting another training. It has to be continuous and it has to be updated. We shouldn't be relying on training curriculums that were written 20 years ago, which is-- has happened. And so we need to make sure that we are in a place as a profession that we have the high standards when it comes to the education that we're providing both in the academy and throughout someone's career.

DeBOER: How long is the academy?

TERESA EWINS: I knew you were going to ask me that question. So right now, it's six months. We're looking to, to really further that more to provide-- you know, duty to intervene is something that has been in discussion and that is something we've implemented now. It's-- all these classes have to be reviewed and I hope to, to really have a strong curriculum for our new members.

DeBOER: Can you give me a sense of what the structure is like? What percentage of the time in the academy is spent doing sort of hands-on training on, I don't know, driving and weaponry and etcetera? And what percentage is sitting in a classroom learning about communities and about police theory and some of those kinds of things?

TERESA EWINS: Right. I can send you our curriculum.

DeBOER: OK.

TERESA EWINS: But, you know, overall, we have a lot of time in the classroom because you have to learn about law. You have to learn about arrests, Fourth Amendment, a lot of different things you have to learn. Yes, there's hands-on, a portion of it and then driving. And then at the range, we have intense conversation in applying de-escalation tactics throughout the entire academy because that's important. You don't-- when I came in in the '90s in law enforcement, you, you rush in and you grab people out of a car. That was the training. That's what you did. Today, it's time and distance. It's you're taking your time. You're looking at the totality of the

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circumstances and you're making a decision. And so we try to put that into our, our curriculum and really reinforce that with everyday training.

DeBOER: OK. Thank you. Senator Geist has a question.

GEIST: Thank you. I do have a question. If you would speak to, to training as it's ongoing and maybe in addition to that, what you do specifically for cultural training for different populations.

TERESA EWINS: So we-- so as far as the training goes, we have-- the state-- every state has their own requirements for recertification every year. So our officers go to training and take that curriculum, but we offer additional training. For instance, we-- our-- when I came in, we have our SROs that have mandatory training, patrolling the teen, teen brain, which is very important in my mind because they're interacting with youth almost every single day. But, you know, we do have some curriculum in-- which is required by the state, but also by our department. And the second question, I'm sorry.

GEIST: Was about cult-- specific to cultural training.

TERESA EWINS: So we have that in the academy as well and it is a-- it is part of our review for officers that they are interacting and going to community groups. They're very-- Lincoln Police Department-- you know, I've said this before is I'm very proud of them because they are going to the different community groups and are always interacting with different communities. But overall, the training in the academy is intense because we partner with these different, different community groups like the Malone Center. And so it's an important part of our training and we always try to hit that home and have that community engagement as strong as we can.

GEIST: OK. Thank you.

DeBOER: Other questions? Senator DeKay.

DeKAY: Thank you, Senator DeBoer. In, in the academy, how many-- what's the average size of classes that start the academy and what's either the graduation rate or the fallout rate per class?

TERESA EWINS: Yeah. So we have-- right now, we have 11 members in the academy. We go up to 25. What we try to do is we want the best. We've-- we go over these packets of individuals that either are laterals or coming into the profession and we review whether or not they are to the standard that we have-- that we want. And, and, you

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know, unfortunately, there are some people that this is just not at this time in their life that they're cut out for this job. But we try to have up to 25. You know, a lot of people are retiring right now. A lot of people, because of everything that's happened in the last five years, that-- they're changing professions overall. But we really want the best of the best: those that can think through different situations. They have to go through a polygraph. They have to go through a psych. If the person that did the psych tells me that they're not ready or they have some concerns, then we listen to that. We don't-- I can fill a class every six months, but we have to have the right people doing this job.

DeKAY: Thank you.

DeBOER: Other questions for this testifier? I do not see any so--

TERESA EWINS: Thank you very much.

DeBOER: --thank you very much for being here. Next opponent testifier.

DIANE SABATKA-RINE: Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Diane Sabatka-Rine, D-i-a-n-e S-a-b-a-t-k-a-R-i-n-e. I'm the interim director of the Nebraska Department of Correctional Services. I'm here today to provide testimony in opposition to Section 20 of LB284. Our department identifies individuals who are what we call security threat groups. These groups that were-- these are groups that repeatedly engage in criminal activities such as trafficking, directing violence or participating in violence. Under this bill, our department could no longer maintain data on these groups. Without this data, we cannot manage our facilities safely because we could not make informed decisions regarding things like housing or job assignments. For example, without this information, we could unknowingly assign inmates to the same cell are in-- who are in opposing security threat groups. This could increase the likelihood of serious incidents, especially considering that in other states, there have been instances where security threat group activity escalated into significant disruption to safe operations or in some cases, a riot. NDCS has a formalized process to ensure that our security threat group data is reliable. We use a scoring instrument that documents and validates that an individual is a member of a security threat group. Groups will continue to cause disturbances in our facilities, even if we remove this data. This bill will leave the department unprepared and unable to determine how to safely house inmates and keep our safe-- staff

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safe inside. Thank you for the opportunity to testify and I am happy to answer any questions that you have.

DeBOER: Thank you very much. Is there any-- are there any questions for this-- no questions--

DIANE SABATKA-RINE: Thank you.

DeBOER: --today. Thank you so much for being here. Next opponent testifier.

SCOTT GRAY: Good afternoon, Senators. Appreciate your time this afternoon. My name is Scott Gray, S-c-o-t-t, Gray, G-r-a-y. I'm deputy chief of the Omaha Police Department. The Omaha Police Department is committed to excellence in policing, maintaining high ethical standards, being responsive to the community and promptly addressing concerns. We are always open to working with elected officials on legislation that is beneficial to the community and our officers. Unfortunately, we must oppose LB284 its current form for the following reasons. Regarding civilian oversight, Omaha already adheres to national best practices on civilian oversight. We have a civilian complaint review board that already consists of seven members from the community, plus existing administrative staff, which consists of an Omaha Police Department command officer, a representative from human rights and relations and the city law department. This bill imposes significant financial costs on the citizens of Omaha. It requires hiring, hiring of a dedicated staff of investigators. And currently in our internal affairs division, we have five dedicated investigators. So assuming a similar model, that would be over \$500,000 in impact to the citizens of Omaha for the additional staff of investigators. This would likely take away funding from other departments or programs. In Omaha-- excuse me-- sexual harassment discrimination claims are already independently investigated by the human resources department. In the case of officer-involved shootings, Omaha utilizes investigators from other agencies to provide independent oversight. All in-custody deaths are investigated by a grand jury per existing state law. Policing standard patterns and practices are already defined in law and monitored by the police standards advisory council. There are also a number of concerns regarding constitutionality, primarily due to guaranteed protections. The current investigative process managed by a police chief works very effectively and already has established legal, legal processes in place. Regarding the Brady Giglio list, we established a list about five years ago. It's maintained by the city prosecutor's office, updated regularly and accessible by all attorneys. Regarding no-knock warrants, OPD already

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uses them very sparingly and we meet or exceed national best practices in the area. We have command approval. They're served by SWAT. They're approved by a judge. They have body-worn cameras, clear insignia and we use embedded tactical medics. We believe this is a redundant portion of the law and limits flexibility needed for violent tactical encounters. Regarding the gang program, this is a valuable intelligence tool. Information in it is not publicly available. This valuable information on criminal associations and crime trends is necessary to maintain a level of violent crime suppression that we have achieved in Omaha.

DeBOER: I think--

SCOTT GRAY: Just quickly, regarding the bachelor's degree requirement, we're not necessarily opposed to this, just the way it's stated in its current form. We would prefer to see some kind of state-funded hiring incentive in, in its place. In conclusion, I'll say this: the Omaha Police Department needs your help. We need help attracting, recruiting and retaining highly qualified, ethical and diverse candidates to fill our ranks and maintain the excellent level of public safety that Omaha enjoys. This bill does not accomplish this and may have the opposite effect. We are prepared to work with this committee and the entire legislative body to craft legislation that achieves our common goals. I thank you and welcome any questions.

DeBOER: Any questions? Senator Geist.

GEIST: I'm curious-- I'll ask you the same as I asked the Lincoln Police Chief-- about your training, specifically cultural. Do you have specific training that teaches your officers how to respond in a, in a diverse cultural environment?

SCOTT GRAY: We do. We-- so they do receive that in the basic academy and then we also have annual in-service training programs that address that as well. And there's-- I believe it was last year, it was added additional state-mandated training and cultural competency, competency and diversity issues. So that is, is covered regularly. We spent a lot of training time also on mental health issues. We have a robust co-responder program in our department.

GEIST: May I ask--

SCOTT GRAY: Yeah.

GEIST: --about the mental health issues? Is that--

SCOTT GRAY: Yeah.

GEIST: --specific to the community that, that you're working with or is that for the officers themselves? Does that go both ways?

SCOTT GRAY: Yeah, we have both. We, we have an entire-- it's called the CORE unit. It's basically a behavioral health unit that looks at both sides of it. So we have peer support for the officers. For the public, we have the coresponder program. We have a crisis response team, just a number of different opportunities to de-escalate situations that involve mental health. And the coresponders, really, they're all licensed mental health practitioners so they're civilians, not police officers. They go out with the police officers on calls, but they're really good at setting up follow-up, follow-up plans and diverting people who are in mental health crisis from using up police force resources or fire resources, that kind of thing.

GEIST: OK. Thank you.

DeBOER: Thank you, Senator Geist. Any other questions for this testifier? I don't see any. Thank you so much. Next opponent. Welcome.

LYNN REX: Thank you. Senator DeBoer, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We're here today in opposition to this bill. As always, we're prepared to work with the committee and also, of course, Senator McKinney. One of the reasons I'd like to focus on today in terms of why we're opposing this has to do with the requirements for the certification, if you will, and also the graduate degree and undergraduate degree. I'm looking at page 14, lines 3 to 4: "The applicant has a bachelor's degree or higher from an accredited college or university." Then going on to page 17, lines 18 through 23. In essence, even our current officers, in order to maintain certification as a law enforcement officer, a person shall either hold a bachelor's degree or higher degree for an accredited college or university or enroll in an accredited college or university and obtain a bachelor's degree or higher by September 1, 2037. Again, this is no reflection on those that have a college degree, but I would just underscore the point by the police chief of Lincoln, Nebraska. Some of our best officers don't have college degrees and that's just secondhand anecdotal from our police chiefs from first-class cities and second-class cities across the state of Nebraska. This is an issue dealing with attraction and retention of officers. While you're holding these hearings today, the Revenue Committee, Committee is holding a hearing on Senator Bostar's bill, LB447, to have law

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enforcement attraction retention and change that and morph it to also include firefighters across the state because of the issues dealing with firefighters and police officers. So in anticipation of this hearing, this is not comprehensive, but we did a quick survey of our members. There are-- as you know, there are 529 cities and villages in the state of Nebraska; 380 of those are villages on paper, population 100-800. We have 31 cities with a population of 5,000 and up. For example, Chadron, Kearney, Columbus and so forth. And this is basically from those first-class cities, just to give you an idea. So this is nothing comprehensive, but it's 15 of the 31 first-class cities that could respond within just minutes of a survey. So let me just respond to you in terms of what we have acquired. Does your city have trouble attracting and/or retaining full-time paid police officers? Those that said yes: Holdrege, Blair, South Sioux City, Grand Island, Gering, La Vista, McCook, Chadron, Columbus, Beatrice and York. Those that said no: Papillion, Gretna, Kearney and Crete. And of course this is not comprehensive, but those numbers then would show of those that responded-- of the 15 of the 31 cities that responded, 73.3 percent responded yes, they have trouble attracting and retaining police officers. So we do think that this committee did a really great thing with passage of LB51. The legislature came out of this committee, passed that as a training bill for law enforcement in 2021 and that bill-- and on the closure here, but it had a number of provisions in it. And I'm happy to respond to any questions you might have.

DeBOER: All right. Are there any questions? Doesn't look like anything. Thank you so much for being here.

LYNN REX: Thank you very much. Thanks for your consideration.

DeBOER: We'll have the next opponent testifier.

COREY O'BRIEN: Good afternoon, Vice Chair DeBoer. Senators of Judiciary Committee, my name is Cory O'Brien. It's C-o-r-y O'-B-r-i-e-n. I'm chief prosecutor in the Nebraska Attorney General's Office and today I appear on behalf of the Attorney General, Mike Hilgers and the Nebraska Attorney General's Office in opposition to LB284. While the Attorney General's Office would echo many of the sentiments made by the previous opposition testifiers, I'd like to use this opportunity to highlight one section of the bill in particular. That provision is about disclosure publicly of Brady Giglio lists. These lists are really kept for the benefit of prosecutors and prosecutors alone because it is our sole obligation to provide that information about potentially exculpatory evidence. We have three

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reasons why we're really opposed to this. In particular, you know, prosecutors are apt to give these lists-- or turn over/disclose information from these lists on the side of caution because of the severe consequences that can befall us if we don't turn them over. For instance, the individual can get a retrial. The charges might be dismissed. There might be a mistrial. In fact, I can be held accountable before the bar for failing to honor the rules of professional responsibility if I don't disclose this. So I'm apt to give over that information more times than not. I'll give you some examples from some real-life cases that I've given over information just based upon simply allegations of the officer. I've disclosed Giglio information about an officer for adding 15 minutes to his time sheet, about an officer who told his supervisor he wasn't hurt during an altercation and eventually went to the E.R. complaining of a stiff neck and then turned over information based upon just simply a provocative joke that was told off duty. Secondly, we're concerned about the fact that there is no consistency amongst agencies in terms of what is considered Giglio or not. For instance, in the federal system, they consider, you know, somebody that was involved in a search violation to be Brady Giglio. Also, there's a lack of due process for the officers. The last thing I wanted to add is that-- something nobody else added and that is the bill calls for the outright repeal of a piece of legislation that was passed in 2009 regarding unlawful gang-- or I'm sorry, membership recruitment. That has been a valuable tool for law enforcement and we'd like not to see that be repealed. Thank you. I'd be open to any questions anybody has.

DeBOER: Are there any questions for this testifier? I, I do have a question for you.

COREY O'BRIEN: Yes.

DeBOER: So you've explained why you think there might be some problems with the Brady Giglio. Is there another list or way of creating a list that might get at what the senator is, is looking to get at here or--

COREY O'BRIEN: Well, I think he's already done that with the list that the Crime Commission is supposed to put forward. And I think the design is to get law enforcement officers identified of questionable character or unfitness. Again, this is not a reliable list. These Brady Giglio lists are simply a reminder to other people in my office, hey, look, we may have a problem here. You might need to disclose this. If we don't disclose this, we might risk losing the case. And so what I would say is that a lot of times, you know, they may have-- people that are on the Giglio list may have some credibility or

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character issues and we may have to disclose that. And not in every case of somebody that's on a Brady Giglio list do I provide that information. So, for instance, if all the officer did in my particular case is go out and look for surveillance video and he wasn't really an instrumental part in the investigation and all he did was, you know, flag his time sheet by 15 minutes, I'm probably not going to provide that disclosure that I might do so if he's a more involved witness in the case. So, again, they're not a reliable list of bad actors. And so I think that that list already exists from the prior legislation that was passed, I think it was last year.

DeBOER: And do you know if the Crime Commission has put that list together?

COREY O'BRIEN: I have no idea if they have or not.

DeBOER: OK. I just thought maybe you'd know offhand.

COREY O'BRIEN: I, I gathered from his testimony that they have, but there are some issues with them not providing information about officers that are currently still actively officers. And that doesn't surprise me, given what I know about those lists is that there really is no mechanism under existing law to suspend or revoke somebody-- I'm sorry, suspend somebody's license, a law enforcement officer's license. Basically, they're going to be somebody that has their certificate revoked and so it's taken away from them. So they're not going to be actively police officers anymore so it would not surprise me that the list consists of solely people who are no longer employed as law enforcement because they can't be employed if they don't have a certification.

DeBOER: Are there other question-- thank you. Are there other questions? I don't see. Thank you.

COREY O'BRIEN: Thank you.

DeBOER: Next opponent testifier. Can I see a raise of hands, how many more folks are coming to testify? OK. Thank you.

JEFF SORENSEN: Senator DeBoer and all members of the Judiciary Committee, my name is Jeff Sorensen, J-e-f-f, Sorensen, S-o-r-e-n-s-e-n, and I'm the president of the Lincoln Police Union. Today, I'm here to represent the exceptional men and women of the Lincoln Police Union. The police union would like to express our strong opposition to LB284. We believe any bill of this nature would have disastrous effects on hiring and retention, employee morale and

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community safety. There are a number of concerns we have with this bill, which I will work to address. We echo the opinion and objections to any police oversight committee, the Lincoln Police Department, and Chief Ewins has already articulated. We object to adding extra and unnecessary qualifications for our officers which would make recruitment and retention of officers more difficult. This would have a negative impact on any previous efforts to improve law enforcement recruitment and retention this committee has already worked towards in the last couple of years. We oppose placing an officer's name on any public Brady and Giglio list. This bill does nothing to address what criteria for being on the list would be. No process for determining when disclosure is required. And most importantly, the bill does not address any appeals process when an officer wants to contest any allegations. Intelligence-led policing is a current policing model utilized to prevent criminal activity before it occurs by placing law enforcement resources in specific areas identified by said intelligence. A gang database is just one element that that system has and the intelligence helps us identify conflicts between individuals, groups and areas in which those problems are likely to occur. Gang violence and gun possession is real. Having the ability to put associations together greatly adds in our efforts to prevent violence from occurring, sometimes even saving a life. This intelligence-based system is also an aid in identifying where prevention resources should be directed. These prevention efforts work to reduce criminal activity before it happens and reduce the number of youth and young adults being placed into the criminal justice system. The elimination of the gang database would be detrimental to law enforcement efforts to reduce community violence. The unlawful recruitment statute states, end quote, knowingly and intentionally coerces, intimidates, threatens or inflicts bodily harm in an effort to entice one to join or to prevent one from leaving a criminal organization. I would ask each of you, aren't these all things that we want to protect our youth from? Removing this statute only serves to protect those preying on our youth and our vulnerable. I'd like to remind you that all of the hard work and dedication of our officers exemplified on a daily basis. They sacrifice a lot to serve. They work shifts that cover 24 hours a day, seven days a week and frequently missed family events and milestones. Please do not make their jobs any harder or more stressful. It is expected the community should demand hard work and excellent service from us. Putting limits on our abilities to problem solve only makes our job harder and the communities we serve less safe. The Lincoln Police Union strongly opposes LB284 and I'd be happy to answer any questions you may have.

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DeBOER: Are there questions for this testifier? I don't see any. Thank you very much.

JEFF SORENSEN: Thank you for your time.

DeBOER: Next opponent.

ELAINE MENZEL: Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. For the record, my name is Elaine Menzel. It's E-l-a-i-n-e M-e-n-z-e-l appearing here today on behalf of the Nebraska Association of County Officials in opposition to just one component of the larger bill that you're being presented to with LB284. And that relates to the provision that would require the bachelor's degree for reasons that you've heard from-- Chief Ewins spoke about it previously and she did a good job describing some of the complications that would arise in some of the sheriffs/law enforcement officers. But then also Lynn Rex would also describe many of the issues that we deal with with respect to the recruitment of staff persons for law enforcement at this time. Last year, the Judiciary Committee, as well as Revenue, heard many bills that were addressing some of the issues that we're facing with respect to recruitment and those types of things. We appreciate you having addressed some of those issues and hope that can work to continue to build those things. We are appreciative to Senator McKinney for bringing some of these issues forward and we hope to continue to work with him and the Judiciary Committee. With that said, there is also the unfunded mandates aspect that I would-- I know Chief Ewins mentioned and would like to address that as well. So any questions, I'd be glad to answer them if I can.

DeBOER: Are there any questions for Ms. Menzel? I do not see any. Thank you so much for being here.

ELAINE MENZEL: Thank you.

DeBOER: Next opponent.

WILLIAM RINN: Good morning. Thank you, members of the committee, Vice Chair. My name is William Rinn. William is spelled W-i-l-l-i-a-m, Rinn, R-i-n-n. I'm the chief deputy of administration for the Douglas County Sheriff's Office. I do have some prepared notes here for me that I was going to go through today, but I think that I will probably go off script. I want to make sure that the sheriff's position is seen as genuine and then I-- in my eagerness to be prepared, I don't seem disingenuous. So our letter will stand for it. I think the best way to start is that the sheriff's office does stand opposed to this bill as

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it is in current form. But starting with the positive, I believe very strongly in education and the bachelor's degree concept is actually a strong one by the senator. Personally, my own children, I have two that are just finishing up at the same time with their bachelor's degree. And even over the last four years, my wife and I have seen their growth and their eyes being opened to different things and their open mindedness the exact way-- and being in the recruiting field and hiring portions of the sheriff's office, we do seem to hire more worldly officers when they do have degrees and they seem to fare better on our testing process. Where the problem lies is in how to achieve that. I believe there's a bill on the floor right now for-- under LB447 to assist with payment for those things. So we're headed in the right direction, the execution, which needs to be looked at heavily. With regard to the no-knock search warrant, at this concept, we're really in opposition with that as the sheriff's office has standards in place that are above if not above what are being opposed-- being proposed right now. The only limitations that it proposes for us is that we do have some partnerships with federal task force that stringently guide how we use body cams and how we execute those warrants so that may eliminate some of those opportunities for us. With regard to the office-involved shootings, I've been involved in investigations either with the sheriff's office or the military for about 30 years. Specifically with regard to officer-involved shootings and death involving use of force, I can tell you that I've personally had to recommend charges against officers and corrections officers. It is not something that I liked doing, but I did it and I would continue to do it if I'm still in that position because it's necessary and no one is above the law. And that's pretty much all I have to say about those items. I would take questions for the sheriff if anybody has any.

DeBOER: Any questions for this testifier? Doesn't look like it so thank you so--

WILLIAM RINN: Thank you very much for your time.

DeBOER: Next opponent testifier.

MATT BARRALL: Hello again, members of the committee, Senators. My name is Matt Barrall, M-a-t-t B-a-r-r-a-l-l. I am the vice president for the Nebraska Fraternal Order of Police here speaking in solid opposition to LB284 for most of the reasons that have already been stated by those in positions that are far more educated than I am. But what I will speak to are two of the things that they haven't spoken about. One is the college degree. I have a four-year degree. It was

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from an excellent university in the state of California. I did find that it gave me very good critical thinking skills, which I think have helped me as a law enforcement officer. However, I know many, many law enforcement officers who did not have the benefits that I did growing up to get that four-year degree. I think that making that and putting that in place would severely limit some of the excellent officers that we could obtain not based on education, but based on economic background. I think we would lose diversity. I also think that Senator McKinney missed a major part when he did not allow any sort of exemption for military service. If you have ever served in the military, it is one of the most diverse areas of government that are known to mankind. And many of our very good officers that served 4,6,8, 20 years in the military have never had college degrees and yet they are excellent officers. In addition to that, I wanted to speak very quickly on officer-involved shooting investigations. I have served on multiple officer-involved shootings as well as in-custody deaths. And the training is very specialized to have a group that would be able to investigate those. Without that specialized training, makes no sense. You need use-of-force training. You need force science training. You need to be able to put yourself in the shoes of that reasonable officer. And unfortunately, I think this bill doesn't do that. Some of you may know I was one of the main authors of LB51. The State Fraternal Order of Police is dedicated to police improvement, to law enforcement improvement. So we would be happy to sit down. We were never asked for anything about this bill, but we would be happy to sit down and talk about police improvement and law enforcement in the state of Nebraska. Thank you.

DeBOER: Thank you very much. Are there questions? I don't see any this afternoon so thank you very much. Next opponent testifier. Anyone else who would like to testify in opposition to the bill? Now, we'll move to neutral testimony. Is there anyone who would like to testify in a neutral position? Welcome.

CONNIE S. EDMOND: Good afternoon and thank you, guys, for hanging in there. My name is Connie S. Edmond, C-o-n-n-i-e S E-d-m-o-n-d, and I'm a commissioner for the Commission on African American Affairs. I'm here to enter testimony in a neutral position for LB284, introduced by Senator McKinney, and we appreciate his efforts. We believe in the need of transparency, accountability and public safety, which includes the safety of law enforcement and the citizens. Brady and Giglio lists provides transparency. Transparency builds trust and trust builds communities. No-knock warrants. No-knock warrants were created to assist with the war on drugs and the surprise nature of these warrants was meant to help law enforcement disrupt criminal activity without

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giving a perpetrator time to react. In 2020, the New York Times investigation found that at least 94 civilians and 13 law enforcement officers died as a result of no-knock warrants. As of February 2022, 27 states and 22 cities have some kind of restrictions on no-knock warrants. Four states, Oregon, Connecticut, Virginia and Florida, have outright banned the use of no-knock warrants. Currently, there are no provisions that would prohibit the use of a no-knock warrants to pursue a perpetrator that is suspected to be located at a residence on or premise in which the perpetrator is not a legal owner or record-- or tenant on that lease, thus creating a high level of risk for everyone involved. Where there is risk, one must consider the safety aspect as well. The history of no-knock warrants would suggest that they create a threat to public safety, thus raising the question of putting parameters around the use of a tactic that poses a threat. It's in the best interest of public safety as opposed to eliminating the threat altogether. In regards to requiring a bachelor's degree to gain admission to a law enforcement training academy, statistics indicate that police officers who have obtained higher education tend to be better officers and have a greater understanding of the community. Today, every police officer in the nation goes through a formalized certification course at a police academy that includes tactical, behavioral, community relations and ethical skills. I believe the police academy, on average, is equivalent to 720 course hours and the average hours to attain a bachelor's degree is 120 credit hours. Several states work with community college to provide law enforcement certification programs. If the police departments have data on areas of performance deficiencies that impact their ability to perform their jobs in a professional and transparent manner, then perhaps the data should be reviewed to determine areas in which the curriculum in the police academy should be enhanced. I raise the question of how we can work in collaboration to form police and community partnerships that hold each party accountable for the same goals; establishing standards, maintaining order, resolving disputes and protecting liberties and rights. Thank you to Senator McKinney for inducing this bill to bring awareness to these issues. Thank you for your continued service as senators and thank you for the opportunity to allow me to testify today.

DeBOER: Thank you. Are there any questions? Senator Geist.

GEIST: I'm curious. I was-- as I was asking the police chiefs or deputy chief in the case of Omaha-- and you were referring to additional schooling. I'm wondering if-- I'm hearing what north Omaha community is saying and I'm wondering if additional training, understanding, cultural immersion or whatever the terminology would be

for officers and specific cultural environments that they will encounter in their-- whatever city or town they happen to be in, if, if you believe that integrating that into their training and ongoing training might help some of the issues that are being addressed today.

CONNIE S. EDMOND: Thank you for the question, Senator Geist, because that allows me to talk another minute about things I didn't get to talk about. So I do believe that would be helpful. One such idea that I had is, you know, we have this concept of scared straight where we would take young individuals and put them-- take them through the, the juvenile system to scare them into living a straight, legal life, right? On the reverse, in police academies, it would be helpful for police to have known victims of police misconduct, educate them on the impact and the experience that that has had on their life. That's real-life training.

GEIST: OK. Thank you.

DeBOER: Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. But did that Scared Straight program fail?

CONNIE S. EDMOND: I don't know.

BLOOD: Just thought I'd throw that in.

CONNIE S. EDMOND: Yeah, I don't know. But to Senator Geist's point, the, the police academy, if it's lacking a cultural awareness or an awareness of community interaction, that needs to be part of the academy. We can't just equip people with tactical skills and not equip them with life skills, emotional-social learning and awareness of interacting with people in the community.

BLOOD: Yeah, I don't disagree with that either. But the, the concern that I continue to have, you know, we always say things like kids can't be what they can't see. Like, I mean, we do know that there's still an issue that we're not yet at that point where we're hiring what the demographic is in certain communities. Would you say that that's accurate?

CONNIE S. EDMOND: That's very accurate, yes.

BLOOD: Thank you.

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CONNIE S. EDMOND: But I also think-- if I may, I also think too police can't understand what they've never experienced. And so for those people who have been a victim of police violence, to understand, you know, facing your accuser, there's a lot to be said for that.

BLOOD: But can you teach empathy?

CONNIE S. EDMOND: Well, I think I taught my kids very well to be empathetic so yes.

BLOOD: So since you've drug out the conversation beyond my initial question, explain the difference to me between sympathy and empathy.

CONNIE S. EDMOND: Sympathy is feeling sorry for a situation or something. Empathy is actually experiencing it and sharing that same experience with that person. You can only be empathetic if you've experienced that and a lot of times, you cannot be empathetic to people who have a-- who have been abused by law enforcement if you have never been in that situation. And I think we all are sympathetic when we see Tyre Nichols and police brutality. We're all sympathetic to a person being mistreated or abused. We're all sympathetic, but we can't be empathetic if we've never been that person on the bottom of that pile, getting beat by a baton or being tased by a taser. You can't be sympathetic to that.

BLOOD: We'll have to talk via email--

CONNIE S. EDMOND: OK.

BLOOD: --because I don't agree with that definition. But I was curious since you brought that up, so.

CONNIE S. EDMOND: That's OK. We can, we can agree to disagree.

BLOOD: And I'm not disagreeing with you. I was just always-- I used to do crisis counseling so I think the definition is a little different. And maybe that's where the disconnect is on Senator McKinney's bill so maybe there's more middle ground than you think so maybe we'll--

CONNIE S. EDMOND: Could be.

BLOOD: --have to see. All right. Thank you.

CONNIE S. EDMOND: You're welcome.

DeBOER: Senator Holdcroft.

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HOLDCROFT: Thank you, Vice Chair DeBoer, and thank you for your testimony. Very well delivered. Can you tell me more about your organization, who you represent, how you were selected to come together?

CONNIE S. EDMOND: Yes. Thank you for asking. So under Governor Ricketts, he established-- the bill was actually introduced by McKinney and Wayne. The Commission on African-American Affairs Commission [SIC] was just put into legislation in 2020. We had never had a commission that represented the interest of African-American affairs in the state of Nebraska. So we were just a new commission forming to promote the rights and the advantages for economic, healthy, safety, wealth and education for black people in the state of Nebraska.

HOLDCROFT: OK. Thank you very much.

CONNIE S. EDMOND: You're welcome. Thank you for the question.

DeBOER: Are there other questions? I, I do have one for you. Is there a concern-- it seems like maybe you'd be in favor of the, the bachelor's degree required for entrance into the academy. Is that accurate?

CONNIE S. EDMOND: I would be in favor, favor of education that enhances but not eliminates or discriminates for people to be a part of wanting to serve our community.

DeBOER: Yeah.

CONNIE S. EDMOND: So, you know, a lot of states work in collaborations with community colleges with a certification program along with an associate's degree. I do believe a degree of education teaches you things that you would not normally get by bypassing that education.

DeBOER: That's-- that was-- that sort of answered my question because I was going to ask if that would eliminate or provide a financial burden on a large section of the population that maybe we want to encourage to become law, law enforcement.

CONNIE S. EDMOND: Yeah and it would depend, depend on how you would go about doing it. I think collaborating with some of the community colleges where, you know, law enforcement has resources to bring in educators from those community college-- colleges to teach those type of aspects that they're lacking. You know, the police department has

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data on the deficiencies in their training. If you take that data and then find a solution for those deficiencies, we can bridge the gap.

DeBOER: Thank you very much. Any other questions? I think that's it. Thank you so much for being here.

CONNIE S. EDMOND: Hate to be the one last for lunchtime, right? Thank you.

DeBOER: Well, let's see if you are the last. Are there any other people who are wishing to testify in the neutral capacity? Last call: neutral capacity. As Senator McKinney is coming up, I'll let you know that for the record, we've received 15 letters; ten which were in support and five in opposition.

McKINNEY: Thank you. Thank you for those who came in support, opposed and in neutral. I think it's important to note that everybody that was opposed was white. And it gets at where I'm, we're I'm trying to get to. Black people, people of color have been brutalized by the police since the first slave patrols in this country. And every time we stand up to ask for some real accountability, a bunch of white people stand up and say no or it's too far or, or you're doing too much. But they don't think about the trauma that we have to live through on the daily in our communities because police and people that claim they are allies stand up and say no to what we are asking for. The oversight whatever advisory committee in Omaha is, is a mess. One, they're appointed by the mayor. You have people on the mayor's staff on the board. The mayor has a close relationship with the police department in Omaha. I find a lot of conflicts of interest there and biases that will arise. Police don't want Brady lists to be public because it's inaccurate and doesn't have due process. My same argument is the same one for gang lists; un-- inaccurate, no due process and no clear way to get off those lists. So you don't want Brady lists public because you believe they're inaccurate? I don't want gang lists because they're inaccurate. Y'all don't want people to go to, go to school for degrees, but just imagine if I graduated high school, I apply at Emmanuel Hospital in Omaha and say I want to be a surgeon. Everybody will look at me like I'm crazy. But being a surgeon, you're put in a position where you could-- between life or death in those situations. Police are in a position to kill somebody and we're telling them you don't need to go get further education. That is a problem. And honestly, if it dilutes the pool of applicants, I am supremely happy: (1) because hopefully we weed out the racists; and (2)-- and you're arguing about diversity. Police forces are already not diverse. They're already weeding out black individuals that go to the academy

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for basic things like not being able to pass the math portion of the test. So don't come in here and talk about diversity because if you really wanted diversity in law enforcement, we would have it. And I'm, I'm just-- honestly just fed up with just the conversation, honestly. I mean, it's clear police want to police themselves because they want the police themselves. They want to have committees or oversight committees where all officers could be on here so officers can scare and intimidate people who are on there from actually doing what they're supposed to do and holding police accountable. It's, it's so crazy. And it , it's just-- it's not eye opening. It's just, you know, more clarification that people don't care about black people in America, especially when it comes to police relationships with black people and that is the problem here. There will be another Tyre Nichols. There will be another Amir Locke. There will be another Breonna Taylor. There will be another Michael Brown and so on until y'all step up and we step up to actually pass things that hold them accountable and be transparent about it. And if y'all don't want that to happen, just sign up to fund every funeral for every black man and woman and kid killed by police over these next years because that's what's going to happen. Thank you.

DeBOER: Are there any questions for Senator McKinney? I do not see any. With that, we will close the hearing on LB284 and this morning's hearings.

[BREAK]

WAYNE: Welcome to the Judiciary Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. I serve as the Chair of Judiciary Committee. We will start off today by having committee members and staff to self-introductions starting with my right. Senator Ibach. Not there. Senator McKinney.

McKINNEY: Good afternoon. Senator Terrell McKinney, District 11, north Omaha.

GEIST: Good afternoon, Suzanne Geist, District 25, which is the southeast corner of Lincoln and Lancaster County.

ANGENTIA PIERRE-LOUIS: Angentia Pierre-Louis, committee clerk.

DeBOER: Hi, my name is Wendy DeBoer. I represent District 10, which is in northwest Omaha.

HOLDCROFT: Rick Holdcroft, District 36, west and south Sarpy County.

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WAYNE: Also be assisting us is our committee pages, Laura Brtek-- Logan Brtek from Norfolk, who is a political science and criminology major at UNL, and Isabel Kolb, Isabel Kolb, who is from Omaha, who is a political science and prelaw major. This afternoon we will be hearing five bills and they'll be taken up in the order that was listed outside the room. On the table in the back, you will find blue testifier sheets. If you are planning on testifying today, please fill out the blue testifier sheet and hand it to the page when you come up to testify to make sure we have accurate records. Also will note that it is the legislative policy that all letters for the record must be submitted-- must be received by the committee by noon the day prior before. Any handouts, please make sure you have ten. If you don't have ten, hand it to the page ahead of time so we can have ten copies to make sure everybody has them. Testimony for each bill will begin with the introducer's opening statement, followed by supporters of the bill, then those in opposition, followed by neutral capacity. Then the introducer will have the ability to take a closing statement if they wish to. We ask you to begin your testimony by giving us your first and last name. Spell them for the record. We will be using a three-minute light system today. When you begin your testimony, the light on the the table will turn green. It will be yellow when there is a one-minute mark and then it will be red, we ask you to wrap up your final thoughts. I would like to remind everyone, including senators, to please turn off your cell phones, put them on vibrate, and we will begin today's hearing with LB253. Welcome, Mr. Baker.

TONY BAKER: Thank you, Chairman Wayne. Senator Brewer sends his regrets. He's introducing a bill in another committee right now. Thank you, Chairman and members of the committee. My name is Tony Baker. That's spelled T-o-n-y B-a-k-e-r, and I am Senator Brewer's legislative aide. Out of deference to the four senators who got bills behind me, I'm going to try to get through this really quick and, and give as much time to the committee as I can. I'm here to introduce LB253. Senator Brewer is introducing this bill on behalf of the law enforcement agencies of western Nebraska that are often small, poor departments that have just one or two people in them. This problem-- the problem this bill solves is a problem unique to rural law enforcement agencies in Nebraska. When a new officer is hired, they need to be scheduled for training at Nebraska's law enforcement academy in Grand Island so they can be trained and credentialed to be a fully qualified sworn in law enforcement officer. While these small, poorly funded agencies wait for this officer to complete their training, the officer cannot be used for most law enforcement functions. These small departments absorb the cost of the new officer

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salary while they wait for a class date in the academy. Oftentimes, the larger departments in eastern Nebraska have taken all the seats in the next class, and the smaller department is forced away. I've heard-- I've talked to sheriffs out in the-- out in our 11 counties, and I've heard wait times go from four to seven months. These wait times can be several months. I think this is excessive and it places a heavy burden on a small town police force or a sparsely populated county sheriff's office to carry an employee on the payroll that is almost a liability until they are trained. I think we can do better. The bill says Scottsbluff because we needed to put a town in the bill to do a fiscal note for. And so Senator Brewer's open to whatever town you want to think about. For example, one of the ideas could be we do the classroom training at the Chadron State College campus. Then we load up the students, take them to Grand Island for a couple of weeks, and they do the driving and firearms training piece of the curriculum, and then they can all come together and graduate at Grand Island, too. But there's, there's no reason to have them down there for that if we can find a place to do it in western Nebraska. We don't want a completely separate brick-and-mortar facility. We think existing facilities are usable for this purpose. We basically need a classroom environment and a place to conduct that kind of program of instruction. This will help reduce the per diem costs and the mileage costs that the small departments have to pay. And I think a second law enforcement academy located in western Nebraska would solve that problem. Our small rural law enforcement agencies can't afford lobbyists, their senator is all they have to advocate for them. After considering all the testimony, I look forward to working with the committee to craft the language we need to move this bill forward is what Tom wanted to say. Subject to your questions, that concludes my opening statement. Senator Brewer instructed me to tell the Chair that with your permission I can take questions, but I will not close. Thank you.

WAYNE: Thank you. We won't have any-- I only got one question. Where-- what, what committee does Senator Brewer pick over ours to go open for?

TONY BAKER: Oh, it's the, the first freedom bill and, and, and right now I'm drawing a blank. And I shouldn't have drawn a blank because I wrote the speech for that, too.

WAYNE: We're going to find out and hold that against him. Thank you for being here. First proponent. First proponent.

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ELAINE MENZEL: Chairman Wayne and members of the Judiciary Committee, for the record, my name is Elaine Menzel. That's E-l-a-i-n-e M-e-n-z-e-l, here today on behalf of the Nebraska Association of County Officials in support of LB253. We are in support of this legislation for many of the same reasons-- well, for the reasons that Mr. Baker testified to. And while it would support the smaller populated counties, it would also assist those that are larger populated and waiting to get into the training facility. As he testified, there are longer waiting periods for all individuals due to the demand to get into the training facilities. And you had heard some of-- those of you who were on the committee last year had heard some of these ideas about western Nebraska presence for purposes of training and perhaps now is the time that it would be able to be enacted. With that said, I'll-- if you have any questions, I'll attempt to answer them.

WAYNE: Any questions from the committee? Senator Blood.

BLOOD: Thank you, Senator Wayne. And I'm sorry, but you're the first up so you're the one that's get the questions, but I think you'll know some of these answers. So hopefully.

ELAINE MENZEL: I hope so.

BLOOD: So, you know, because I know that I had a public hearing in reference to this that we brought to light the one in Grand Island being understaffed, not funded and it wasn't-- and, and money taken out of their budget in Grand Island by our Governor and then it wasn't until we got federal funds that we actually funded it and got it up to, to speed. So my question is, because I want to put that scenario out that we've known for a long time public hearings, that I brought forward and others, that Grand Island was severely underfunded, understaffed, and it wasn't until we could get federal funds that we could staff it and, and upgrade it, why do we believe that the state will keep their promise if we have a second location? Because it seems that we, we were very ineffective at funding the Grand Island Training Center and we created those waiting lists they're talking about because we didn't staff and because we didn't upgrade. So what, what assures us that we're going to be able to keep the second location open?

ELAINE MENZEL: Hope.

BLOOD: Hope. I'll take that.

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ELAINE MENZEL: I guess from experience or past history, there are times when the county is reluctant to rely on what the state will support us with--

BLOOD: Sure,--

ELAINE MENZEL: --based on things that--

BLOOD: --because they screw you over constantly.

ELAINE MENZEL: Or, or because the lack of funding or other issues arise or priorities and those types of things. So I-- yeah, opting--

BLOOD: So how would, how would the county feel if the state says we're not going to pay for this anymore and they create another unfunded mandate for the counties, would NACO then come in against that?

ELAINE MENZEL: We would probably be opposed to an unfunded mandate. I think I can say that.

BLOOD: So the-- so have you been in on any of these conversations, because I may have to wait for somebody else for the next question?

ELAINE MENZEL: I'm aware to a minimal degree, but--

BLOOD: OK. So--

ELAINE MENZEL: --with respect to being able to--

BLOOD: --was it considered to do like what Sarpy County did? So we got sick of waiting for Grand Island to finally be funded by our Governor. And so we put together our own training academy with all the communities in Sarpy. I know it's a little bit different out west because you don't have that benefit and municipalities and counties are further apart. But have they talked about sharing resources and doing their own academy?

ELAINE MENZEL: Not to my knowledge, but it could certainly be-- it could be done in terms of an interlocal agreement or something of that nature. But with respect to having the resources to do so in terms of money, I, I don't know that that's something they immediately think of or attempt to--

BLOOD: And that's fair.

ELAINE MENZEL: --at this point, so.

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BLOOD: All right. Thank you so much.

ELAINE MENZEL: Thank you.

WAYNE: Any other questions from the committee?

ELAINE MENZEL: Thank you.

WAYNE: Seeing none, thank you for being here.

ELAINE MENZEL: Thank you.

WAYNE: Next proponent. Next proponent. Any opponents? Opponent? Those testifying in a neutral capacity? Neutral capacity? Seeing none, we have seven letters: three in support, three in opposition, one in neutral. And that'll close-- or unless you want to-- you waive closing on behalf of-- Mr. Baker waives closing on behalf of Senator Brewer. That'll close the hearing on LB235 [SIC--LB253] and open the hearing on-- oh, we pushed yours to the end, you called and said you-- open the hearing on LB417.

McDONNELL: Thank you, Chairperson Wayne, for not pushing me to the end, and members of Judiciary Committee. I got a-- can I? Thank you. I'm introducing LB417-- I'm sorry. My name is Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l. I represent Legislative District 5, south Omaha. I'm introducing LB417, which would require the Nebraska Commission on Law Enforcement and Criminal Justice to coordinate with the University of Nebraska to establish a leadership academy for law enforcement professionals. This is a bill that the Nebraska Fraternal Order of Police have worked on and suggested to the Nebraska Crime Commission. Today, Nebraska law enforcement is forced to seek management and leadership education outside of the state. This does not create a problem for our larger agencies as they can absorb an officer being absent during a three-month academy in Virginia, or they are able to allow these officers to take an online course. For our smaller agencies, this is cost prohibitive and/or these smaller agencies do not have the necessary staffing to cover these officers leaving the state and, and not being on patrol. LB417 would allow a localized leadership academy here in Nebraska that will be cost effective and accessible. The goal is to continue to professionalize our law enforcement personnel across the state. LB417 would take another step towards accomplishing this and professionalizing our law enforcement officers. It's my understanding that the Crime Commission is supportive of this proposal and the University of Nebraska is willing to house this program. Matt Barrall, vice president of the Nebraska

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Fraternal Order Police, is here to further elaborate on this proposal. I was, I was happy to introduce for the Fraternal Order of Police. The idea of them reaching out to want to get more education to help them improve their, their job performance, I think it's telling in a very great way. They're committed to their profession and any kind of education that we can give them in leadership, and I-- in the handouts I gave you, there's kind of an example of some of the classes that could be developed. And you look at the, the times these people are leaving our state, going to Virginia, which possibly is not, there's not a cost for the education, but there is a cost for the room and board, the travel, and, of course, the, the time away. And there is definitely, if you're gonna go to Northwestern, there's a cost of average of \$7,500 for these leadership classes. So we're proposing it because we think it can definitely help their job performance. But at the same time, I think it's going to be more cost effective to keep our, our people here and we have the people that can train them in, in leadership and help improve their job performance. Here to answer any questions.

WAYNE: Any questions from the committee? Senator McKinney.

McKINNEY: Thank you, Senator Wayne. Thank you, Senator McDonnell. You mentioned professionalizing the police law enforcement in the state and I'm just curious, would, would they be open to requiring every officer to go through a leadership academy to gain extra knowledge of policing and professionalism and leadership?

McDONNELL: I, I would be. Yes, I'd be. And I, I would assume that they want all of their police officers to be able to go through, you know, this kind of training eventually. It's, you know, the idea of how big is this academy going to be, how many people can go through at a time. I think, logistics we'd have to discuss. But, no, I'm definitely open to every police officer.

McKINNEY: All right. Thank you.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here.

McDONNELL: Thank you.

WAYNE: Will you stay around for closing?

McDONNELL: Yes, definitely. Thank you.

WAYNE: First proponent. Welcome back to your Judiciary Committee.

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MATT BARRALL: Thank you, Chairman Wayne, Senators. My name is Matt Barrall. It's M-a-t-t B-a-r-r-a-l-l, and I am the vice president for the Nebraska State Fraternal Order of Police. This idea is a continuing effort from LB51 to increase education for law enforcement. This portion covers command officers, generally considered to be lieutenants and captains. Those who are making real decisions for their agencies in terms of how they are going to provide law enforcement to the cities and counties for the state of Nebraska. Right now, those continuing education programs are centered primarily the FBI National Academy in Virginia and Northwestern University. Those are considered the two preeminent educational agencies to do so. Those take quite a bit of time, three months or more. And from what we have received in terms of smaller, mostly western Nebraska agencies, is that they cannot commit the time sync that it takes to send their people there. The FBI National Academy does pay for almost all of that education. Northwestern, like Senator McDonnell said, does run approximately \$7,500, which can be cost prohibitive for many small agencies, especially when you only have three law enforcement officers there for the entire agency. This would allow Nebraska to lead the way for their small agencies in developing a command program with the University of Nebraska. We reached out, University of Nebraska at Omaha has a leadership program in which they deal with businesses and other professions. They are looking to do something for government and law enforcement. So we are hoping to be able to partner with them. They are very excited about this and they are willing to, to go and develop that program. My time is almost up, but I can answer as many questions as I can.

WAYNE: Any questions from the committee? Senator Ibach.

IBACH: Thank you, Mr. Chair. Thank you for testifying. Is this something that could be done online? Could there-- a portion of it or all of it? You referred to the western Nebraska folks as, you know, being-- struggling to, to participate. Is it something that could be done online?

MATT BARRALL: Partially, yes. That is part of the program that they're envisioning where they would have online interaction. And then once a week, once a month, something of that nature, they would come to the University of Omaha, participate in a group setting, because a lot of that interaction does need to happen in a group setting from what I've been told. But, yes, there, there would be a large component of that that would be online.

IBACH: OK. Thank you.

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WAYNE: Any other questions from the committee? Seeing none, thank you for being here again. Next proponent. Any other proponent? Any opponents? Anybody here to testify in opposition? Anybody testifying in the neutral capacity? In the neutral capacity? For the record, we received five letters: four in support and one in opposition. There goes consent calendar. With that-- oh, Senator McDonnell.

McDONNELL: No, I'll-- unless there's questions, I'll waive.

WAYNE: Any questions? Seeing none, Senator McDonnell waives.

McDONNELL: Thank you.

WAYNE: And that concludes the hearing on LB417 and we will open on LB382. Welcome.

NATHAN JANULEWICZ: Hello. Good afternoon, Chairman Wayne and members of the Judiciary Committee. Senator Bostar wishes he could be here, but is introducing a bill in another committee. My name is Nathan Janulewicz; that's N-a-t-h-a-n J-a-n-u-l-e-w-i-c-z. I'm the legislative aide for Senator Eliot Bostar. I'm here today to present LB382, a bill that would recognize in statute the University of Nebraska Police Department across their systems of four campuses. While the introduced version of the LB382 may appear to be a sizable bill, the bulk of the new language simply adds the University of Nebraska to existing statutes that define state-recognized law enforcement agencies. In Section 34, LB382 creates a new statutory section defining the scope of the University of Nebraska Police Department and officers' power, jurisdiction and university oversight. I highlight this particular section because it contains two of the most important aspects of the bill. First, it allows formal interlocal cooperative agreements between the university and the law enforcement agencies to assist on municipal and county purposes. Second, it requires the University of Nebraska Police Departments to establish and maintain a police oversight committee that is comprised of campus constituencies, including students. Another key purpose behind the genesis of LB382 is the professionalization of University of Nebraska Police Departments and officers. While the university police chiefs will testify behind me to share more on-the-ground feedback and insights, currently no university police officers qualify for state death benefits for those who die in the line of duty, nor do they qualify for the workers' compensation for any mental health impairments suffered in execution of their public service. With this Legislature's past work to recognize the professionalism we demand from law enforcement officers through the passage of the In the Line

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of Duty Act and the mental-- mental workers' compensation legislation, it is only fitting that these university police officers who work side by side with other law enforcement officers receive the same treatment in times of sacrifice and anguish. Like similar proposals in the past that involved the University of Nebraska Police Departments, the university would be required to comply with all existing state reporting and training requirements for law enforcement agencies. And as I have mentioned earlier, the university would also be held to a higher standard of oversight through the requirement of police oversight committee. Lastly, in light at the University of Nebraska wanting their police departments to be recognized and treated as state law enforcement agencies, we have also had a community college approach us and raise similar concerns as the university. The amendment that was distributed would include all public universities and colleges to the section in the green copy of LB382. A representative from Metropolitan Community College will be testifying to highlight the need for some community colleges to have their police departments recognized by state statute in light of interlocal agreements and workforce recruitment challenges. With that, I believe that LB382 and the accompanying amendment to help address key workforce challenges facing the University of Nebraska system and our community colleges, and I would ask the committee to look favorably on the extensive work done over the years to find compromise in this space. I thank the Chair of the committee.

WAYNE: Thank you. Thank you for being here. Will you be here for-- will you be here for closing? Any-- first up, proponents. Proponents. Welcome.

HASSAN RAMZAH: Thank you. Good afternoon, Chairperson Wayne and members of the Judiciary Committee. My name is Hassan Ramzah, H-a-s-s-a-n R-a-m-z-a-h, and I have the honor to serve as the Assistant Vice Chancellor and Chief of Police of the University of Nebraska-Lincoln Police Department. I'm appearing today in an official capacity in support of LB382 on behalf of the University of Nebraska system. And I want to especially thank Lincoln State Senator Eliot Bostar for introducing this needed legislation. LB382 allow University of Nebraska police officers to work as law enforcement officers outside of their primary jurisdiction and provide public safety services on other University of Nebraska campuses. As chief of police for the University of Nebraska-Lincoln, this proposed legislation comes at a crucial time. Currently, law enforcement agencies across the country are experiencing challenges in attracting and finding applicants qualified for the position of police officer. Like law enforcement agencies across the state of Nebraska, the University of

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Nebraska-Lincoln Police Department is experiencing challenges finding police officers to fill existing vacancies. Under current law, University of Nebraska police officers are not defined as police officers, like our law enforcement counterparts in state, county, city and village police departments. As a result, University of Nebraska police departments and police officers are impacted in ways that can be counterproductive to providing the desired level of public safety services in a higher education environment. For example, although police officers that are hired by the University of Nebraska meet the requirements of the Nebraska Law Enforcement Training Center Academy, com-- completing the 15-week basic course in receiving a law enforcement commission, they're currently required to apply and be granted a special deputy state sheriff commission before being allowed to discharge their duties as a law enforcement officer. The approval process for a special deputy state sheriff commission can take several weeks, often resulting in delays in starting field training for new officers, ultimately impacting the assignment of officers needed to fill existing vacancies. Nothing in LB382 would change the current practice of University of Nebraska police departments to adhere to the following training and statutory requirements established by the Nebraska Commission on Law Enforcement and Criminal Justice. University of Nebraska-Lincoln Police Department coordinates safety and security for the largest venue in Nebraska, historic Memorial Stadium, providing a level of safety service required to coordinate and assist our state and local departments and first responders. With the passage of LB382, you will remove the necessity for the University of Nebraska-Lincoln police officers and university officers in the state of Nebraska to obtain special deputy state commissions and grant the same rights and responsibilities afforded law enforcement officers in the state of Nebraska. The proposed statute will support University of Nebraska community policing efforts by establishing legitimacy toward developing collaborative relationships with stakeholders. The enactment of LB382 will provide additional opportunities for coordinating public safety resources among the University of Nebraska campuses and assists efforts to identify our departments as destinations for those seeking career opportunities in law enforcement and public safety.

WAYNE: All right, thank you.

HASSAN RAMZAH: Thank you for your time today. I'd be happy to answer any questions.

WAYNE: Thank you. Any questions from the committee? Senator McKinney.

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McKINNEY: Thank you, Senator Wayne. Thank you for your testimony.

HASSAN RAMZAH: Thank you, Senator.

McKINNEY: What do you-- what would you say to individuals that feel like the university is trying to create a statewide police force and are hesitant about that?

HASSAN RAMZAH: I would-- thank you for that question, Senator. I would say that university police officers in the state of Nebraska are defined within their jurisdictions. The purpose is to serve their particular-- those particular campus communities. The officers will also support other campuses around campus within their jurisdictions and not represent or-- or provide law enforcement services across the state--

McKINNEY: Can you--

HASSAN RAMZAH: --that already have jurisdictions.

McKINNEY: Can you clarify around campus? Are you saying they'll be policing only on campus or would they be policing-- say, for example, if I'm at UNO and there's Elmwood Park or a neighborhood around there, would they be policing those areas too?

HASSAN RAMZAH: They will police-- they will police their campuses specifically. Those are their jurisdictions. If there is a request for assistance or-- and-- and particularly on-- at UNL we have officers that transfers between City Campus and East Campus. If they see something or they're summoned by a citizen or-- or requested by another agency, they will intercede and assist in that particular instance.

McKINNEY: So it's possible that they could be policing areas off-- off of campus.

HASSAN RAMZAH: Only providing assistance, more so if-- if working on-- outside of their jurisdiction, a lot of times those instances are where they're supporting the community, outreach, engagement, those types of activities, not enforcement based, because our-- primarily our jurisdictions are our college campuses.

McKINNEY: OK. How diverse is the university police force?

HASSAN RAMZAH: I don't have the specific breakdown for you today, Senator, but I can get that information for you.

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McKINNEY: All right. Thank you.

HASSAN RAMZAH: Thank you.

WAYNE: Senator Blood.

BLOOD: Thank you, Chair Wayne. Thank you for testifying today. I just have a quick question. So I looked at the fiscal note, of which there really was no fiscal note, and you're telling me that you feel that because there's been a workforce shortage, this is one way that maybe you can better address it. So the question I have is, does this come with a pay increase then? You're kind of amending their titles, because it seems that pay seems to be the number-one reason people aren't coming to jobs, so will there be an increase in pay for these individuals or just increase in-- in title--

HASSAN RAMZAH: It-- this is just--

BLOOD: --and abilities?

HASSAN RAMZAH: Thank you, Senator. That-- this is just changing their classification or their grading on the same status as a police officer, any police officer that's certified in the state of Nebraska and that receives a commission from the state of Nebraska, does not impact their pay or change their pay scale. We-- we'd still serve under the same classifications that we have within our institutions.

BLOOD: So I'm-- I'm curious-- I-- and I'm not saying it's a bad idea or anything, like I think it's a great idea. But what criteria, what-- what research did you-- that brought you to this point? Were there other states that had done it and it was like, oh, this has been very successful in helping us to recruit more people for security? Or is it just kind of get brains together here in Nebraska and decided we thought it was a good idea? Was there any data behind this decision?

HASSAN RAMZAH: Well, thank you for the question, Senator. That's a great question. So there's a number of different layers to some of the challenges this creates. Most states around the country have a similar process that that's been introduced that's part of LB382. So, for example, I came from the state of Kansas. University police officers do not have to seek a separate commission to be able to do their duties, and they still work in-- within their own jurisdictions. They have-- they still have their same responsibilities. We never had-- in the city I came from, we didn't have university police officers coming into the city and, you know-- you know, working, you know, enforcement activities or-- or investigating crimes and those types of activities.

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And so we're looking for a similar model here because of the need-- one, the need to legitimize policing for our officers, also to try to better serve and establish those relationships with our campus community. It also allows us some flexibility to be able to better serve public safety needs, whether it's, you know, adjusting officers, the need for officers from one campus to-- to serve in another campus. We talk about our resources needed for Memorial Stadium on-- on football game days, for example. So it allows us a lot of flexibility to be able to do-- reform public safety, which is, again, very much a priority on our campuses.

BLOOD: Fair enough. Thank you.

WAYNE: Senator DeBoer.

DeBOER: Thank you. So what's the-- you kind of got to some of this with Senator Blood, but what's the sort of driving force that is-- because I remember this bill five years ago. What-- what's the driving force that has required you to make this change?

HASSAN RAMZAH: Thank you for the question, Senator. Right now, as-- as mentioned in my previous testimony, is that we are experiencing challenges in shortages of law enforcement officers. And five years ago, that wasn't the case; today, that is-- that is the case. And I'll just use an example, is that right now I have a-- an officer on my department that is certified, Nebraska State certified. We just hired him on the department. He came from another agency. Right now, he's-- he's sitting at a desk when I actually meet him on the-- on the-- on the campus providing public safety service, but he can't because he's waiting for that special deputy state commission, which usually, again, takes several-- several weeks to be able to obtain that. So when you're--

DeBOER: Well, why is that? Why does it take several weeks?

HASSAN RAMZAH: It-- it has to go through-- it's-- we-- we apply through the Nebraska State Patrol. It has to go through those administrative steps, and then it has to go to the Governor's officer-- Governor's Office for signature and then return to-- return to our department.

DeBOER: So if we made that process more efficient and we, say, could do it in two or three days, would that alleviate the need for the bill?

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HASSAN RAMZAH: No-- no, ma'am, because there are other instances where, again, we need public safety assistance from other campuses. We-- we look at, again, legitimacy of our campus police officers and being able to have the same-- same recognition as their counterparts that they work side by side with every-- every day almost.

DeBOER: Can you explain that legitimacy piece to me, because, you know, I'm a state senator and I'm not sure I would think that a campus officer was less legitimate than-- and I've heard this bill before, and I don't think I would think that a campus officer was less legitimate than another officer. So how does that legitimacy piece play out when I don't think the public recognizes that there's some delegitimacy of campus police?

HASSAN RAMZAH: So I work on a college campus and we-- we serve largely a student population. A lot of times students, when they come to a co-- come to a college campus, they actually try to-- they-- they-- it's their first opportunity to be away from, you know, authority-- authority figures, so to speak, and so they have this newfound independence. And so-- and so in viewing campus police officers, a lot of times students don't see campus police officers as police officers. They see them more as a security guard or somebody that, you know, that is, you know, less-- less authority or has less responsibilities. And so

DeBOER: But I'm not-- I'm not sure this kind of legal change is something that all the college kids are keeping up on. I'm not sure that's going to change their ability to see things one way or the-- I mean, I don't think that's a-- a way that we affect their perspective on that.

HASSAN RAMZAH: It-- it impacts reporting. It impacts the trust that police officers, campus police officers can develop with students, particularly students, but faculty, staff as well-- as well, so we want an environment where--

DeBOER: But why-- why does it impact the trust?

HASSAN RAMZAH: Because of the legitimacy issue and not having that-- students don't see, again, don't see campus police officers as that authority figure, where, like I said, if you want to report a crime--

DeBOER: But how does this change that? I mean, I-- I don't think the perception of students is going to be changed by this bill. Do-- are you contending that--

HASSAN RAMZAH: It--

DeBOER: --that this bill will change how students perceive campus police?

HASSAN RAMZAH: I-- I think-- I believe so. And also-- I also see the other side of that for the campus police officers themselves and how we see ourselves in terms of that legitimacy and being able to better serve our communities. You know, we-- we ascribe to a camp-- a community policing philosophy where we support and build those-- those relationships with our campus community. And so in order to be able to provide those-- those similar services that are provided in a municipal community, a-- a-- a town, we want to be able to offer that same level of service, develop that same level of trust, particularly in today's age of policing, because there's-- there are just a number of layers that we as-- as campus law enforcement officers want to be able to address. We want to stay up with national trends. We want to be able to address issues and be knowledgeable of how to de-escalate, how to deal with use-of-force issues. Those are-- those are critical areas that we as police officers want to be able to address, need to be able to address on our campuses, and that-- that layer of being-- having that equality is important to that.

DeBOER: So those kinds of maybe trainings you're talking about wanting, is that unavailable to you right now?

HASSAN RAMZAH: Actually, we-- we go through these-- we go through these processes because it's best practice. We provide training for officers. Some things are required and then other things are not. But we want to be on the cutting edge. We recognize that policing has a great responsibility, and particularly in a higher education environment, because, again, it is-- it is a student population.

DeBOER: So-- so I'm just trying to understand here the position. Are you saying that you can't get the training, or you can, to be cutting edge, or you can get the training to be cutting edge? Where-- where does the wanting to be cutting edge fit in with what you're trying to do here?

HASSAN RAMZAH: It-- it provides us a-- so it-- in terms of the state of Nebraska itself and in terms of that def-- the definition, there are certain aspects of our-- our responsibilities that-- that we perform on a daily basis. There's certain benefits and certain processes that we may not be able to engage in as part of our-- our responsibilities, just simply by the way we're defined in the-- in the

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statute. And so-- and so that-- that pre-- that itself prevents some-- provides some-- some limitations or can provide some limitations for us. And so--

DeBOER: Is it-- is it more-- I'm sorry to interrupt you.

HASSAN RAMZAH: Oh.

DeBOER: Are you-- go ahead. I didn't mean to interrupt.

HASSAN RAMZAH: no, I'm sorry. Go ahead, Senator.

DeBOER: Is it more then about how you perceive yourselves rather than how other people perceive you? I mean, is this about like a-- you feel the-- the-- the-- officers themselves feel delegitimized and that's why you'd like to be baptized, so to speak, by the-- by the process?

HASSAN RAMZAH: Yeah--

DeBOER: Is there or is or is there some-- I mean, because, if you can get the training now, if you-- like, I guess I'm missing, what is it that you want to be able to do by this change that you can't do now other than feel maybe a sense of legitimacy?

HASSAN RAMZAH: The-- well, the primary reason for us right now is, again, just staying up with recruitment and retention and-- and to competing with other law enforcement agencies. And-- and again, we're not a-- we're not a-- primarily a destination for or viewed as a destination for applicants that want to get into law enforcement. And so if-- if there's an applicant that has a choice in going to the municipal department or another department in a surrounding town, that becomes a lot more attractive in terms of--

DeBOER: Is that be-- is that because of pay or is it because of just the-- the-- this legitimacy issue?

HASSAN RAMZAH: It-- the legitimacy issue. It can be the pay. It can be a number of different issues. But this, this in itself, in terms of legitimacy, it's how we're defined and, again, you know, what resources are available to us as a police department. And again, we're completing-- we're competing with other agencies for applicants, resources, benefits, those things.

DeBOER: Have you found that your ability to recruit has been less than, say, the other agencies around the area? So you've had more--

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HASSAN RAMZAH: Yes.

DeBOER: So everyone's having trouble, but you're having more trouble?

HASSAN RAMZAH: Yeah, yes. Yes, we do. We have more difficulty simply because of how we're situated. And again, we're not as a-- and not viewed as a-- a first option or even a known in terms of being recognized as a police department, again, because a lot of times, you know, whether students or others, approach and view us as security guards.

DeBOER: OK. Thank you.

WAYNE: Sen-- Senator DeKay.

DeKAY: Real quick, I don't know if you can answer this, can you tell me how many officers that you have on campus and what the turnover rate is within those campus police officers are?

HASSAN RAMZAH: Yes, Senator. Specifically for my campus at the University of Lincoln, I'm au-- have a-- I'm authorized right now for 31 police officers. Right now, on staff, we have-- we have 26 and we-- we're having difficulty filling those-- those five open positions. So we usually hover-- over the past couple of years, we've hovered around a-- close to almost a 20 percent loss in-- in personnel.

WAYNE: Any other questions from the committee? Senator McKinney.

McKINNEY: Thank you. What's your level of immunity currently for university police? If, like, say, for example, a university police officer does some type of misconduct and somebody sues, do you have any immunity?

HASSAN RAMZAH: I-- I think I understand the question correctly. You're asking if-- if a university police officer is liable for his or her conduct?

McKINNEY: I'm asking whether you have pretty much qualified immunity currently. Yes or no?

HASSAN RAMZAH: That's-- that's a--

McKINNEY: And I ask this because if this passes with that change.

HASSAN RAMZAH: I don't know the answer to that, specifically, Senator. Right now there's some-- I can't say that the-- based on how we're

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defined right now, that is very difficult to answer because we're not defined as police officers. We're-- we're sort of in a gray area.

McKINNEY: So currently, if somebody is injured by a university police officer and somebody wants to sue, who is liable?

HASSAN RAMZAH: I would leave that to someone from our general counsel to be able to-- to answer that-- that specific question.

McKINNEY: All right. Thank you.

HASSAN RAMZAH: Thank you.

WAYNE: So my problem with this bill starts on page 62, starting with line 16. And so this goes beyond the scope of the university. It says Nebraska police officers and police departments have the authority to aid state and local law enforcement agencies, but then there's a "and" enforce state law, city and village ordinances. And underneath that, even within the university system, on page 62, it starts talking about affiliated athletic associations, events, fraternity, sorority-- I'm assuming houses that may not be on campus-- and then it says, within the city, village or county of where such property is described in 3(a), so pretty much you can go back and forth. And I guess, in a time when there's so much eyes on the police in general, I am very concerned about-- let's take UNO, or even Metro since you introduced an amendment, leaving Metro campus on 30th and Sorensen Parkway and doing a felony stop on 30th Street. What-- what training would they have to do that, to do-- to-- if somebody ran a red light, to pull them over and do that? Because you're also in charge with enforcing all state and city ordinances. So what training do you-- do you currently have for that kind of situation?

HASSAN RAMZAH: So, Senator, thank you for that question. Currently, officers-- police officers go through-- our police off-- campus police officers go through the Nebraska State Academy for-- they-- so they receive their initial 15-week training at that location. And then, after completing their 15-week training session, they go through what's called field training, where they are assigned with a field training officer, and they go through three months of training with that particular officer where they learn and train on topics like car stops, making car stops.

WAYNE: So in Omaha alone, if this were to pass, we would have OPD, Douglas County Sheriff, UNO, Metro Community College. Would Bellevue qualify if they had their own?

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HASSAN RAMZAH: I'm not sure.

WAYNE: So we would have basically four different agencies in the area that could arrest and detain anybody for any city viola-- any city ordinance violation, including State Patrol?

HASSAN RAMZAH: Yeah, I'm not able to answer that question, Senator.

WAYNE: Well, that's what the bill says, so I [INAUDIBLE]. OK, no problem. Thank you. Any other questions? Seeing none, thank you for being here. Welcome. Welcome.

CHARLOTTE EVANS: Good afternoon. Good afternoon, Chairman Wayne and members of the Judiciary Committee. My name is Charlotte Evans, C-h-a-r-l-o-t-t-e E-v-a-n-s. I serve as the associate vice chancellor and chief of police for the department of public safety for the University of Nebraska-Omaha and the University of Nebraska Medical Center. I am appearing today in official capacity in support of LB382 on behalf of the University of Nebraska System and want to thank Senator Bostar for bringing this important legislation proposal forward. LB382 is meant to recognize University of Nebraska Police Department and their local law en-- or-- and their law enforcement officers in the same way it does all other sworn officers within our great state, The University of Nebraska campuses are often compared to small cities. Although their areas of education may be a bit more pronounced since students are a large part of our population and a lot of our buildings have classrooms, it's important to note that these campuses also have housing; they have child care centers, libraries, restaurants, medical facilities, business centers and sporting venues. The professional law enforcement staff of the University of Nebraska Police on each respective campus work hard to maintain the safety of their campus community. The difference is that these University of Nebraska police departments and their officers are not recognized in state statute. These officers are trained and certified by law enforcement training centers approved by the Nebraska Crime Commission. They're granted powers that allow these officers to perform their duties in keeping the University of Nebraska of community, visitors and property safe. These officers patrol, respond to calls for service, conduct criminal investigations, perform threat assessments, and have powers of arrest. They're trained professionals who carry out the same duties and the same obligations as other sworn law enforcement in the state of Nebraska. To be clear, the scope of our officers' powers will not be affected by LB382. They will continue to execute their duties to protect our campus community consistent with their current authority. LB382 will simply codify the

expectations that the University of Nebraska Police will follow state statutes, report state requirements and federally mandated data, and maintain appropriate policies and accreditation. It will also provide our officers the ability to collaborate with the police department on other university campuses and to assist other local law enforcement agencies when requested. LB382 is about recognizing university sworn law enforcement as being accountable to the public like any other sworn agency. I'd like to thank you for your time, and I'd be happy to answer any questions.

WAYNE: Senator DeBoer.

DeBOER: That's me. So is there a difference between campus officers and other officers, like why not just hire a bunch of-- or why not just ask the-- the Omaha Police officers to-- to police your campus at UNO or, you know, the Lincoln ones at Lincoln? Is there a difference between what you want out of campus officers versus other police officers?

CHARLOTTE EVANS: Well, in-- thank you. That's a-- it's a great question. I think that those questions have been raised in the past. Some of you may know that in Omaha we were-- the University of Nebraska-Omaha and the University of Nebraska Medical Center were security only for many years. In 2015, after several years of conversation with the Omaha Police Department, UNO, in agreement with the Omaha Police Department, decided to-- to begin their own police agency, and I think a lot of that wasn't necessarily because of any relationship with OPD. The relationship has always been wonderful. It's more about the-- the commitment to the campus and the ability to have officers there. The decision was made by the university to begin their own officers on campus, but the-- the working relationship with OPD has always maintained. Does that answer your question?

DeBOER: Sort of. So do you have a-- when-- when you were thinking about your police officers in Omaha, Lincoln, wherever, are you expecting that they are the same as other police officers in terms of their duties? Do they have additional sort of expectations because they're dealing with young people, or do you think, no, it doesn't matter that they're on campus? I mean, is there any difference between the expectation for your officers and the expectations for other officers?

CHARLOTTE EVANS: I believe the expectations for attending academies and the basic-level trainings are necessary. The year-long training or

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the year-- yearly trainings are necessary, so that basic level of requirement, I think, should be the same all across the board.

DeBOER: I-- I think I'm asking a different question. What we want out of these officers, is that different than what we want from other traditional officers?

CHARLOTTE EVANS: I think no different than any area. Each-- each agency will want something different from their officers. On a university campus, there is something to be said for the additional training in mental health, the additional training in de-escalation, the additional training in diversity, and the additional training in-- in areas of event management, because of the different sporting events and the types of programs that come in, so, yes, I think that we do have areas of additional need for our officers.

DeBOER: And I would expect there's probably some difference with respect to, you know, young people interacting while drinking, right, and some of those sorts of things that you might have specialty emphasis in for your officers.

CHARLOTTE EVANS: Correct.

DeBOER: OK. So there is kind of a difference. This is not just we want to have carbon copies of Omaha Police officers here-- you know, I think Omaha because I'm from Omaha, but Lincoln, you name it--so there is something different about these officers from other officers.

CHARLOTTE EVANS: I think there's something different. Thank you. That-- the way you put that, I-- I completely agree. There is something different for our officers. I believe there's difference in larger cities and smaller towns, moderate-sized towns, universities; all different departments have a different need and it's equal to their community. The difference here is the cities and the counties are recognized in state statute. Today, university police are not recognized in state statute. And so that does come with some areas of concern. As an example, State Statute 29-215 prohibits us from entering interlo-- entering in interlocal with other agencies and that creates problems. If we were to have a critical incident, doesn't mean we won't gain assistance, but being able to have an interlocal where we discuss and-- and hammer out the-- the needs between the agencies if there were to be critical incidents, the training, the equipment use, such like that, and those interlocals are done between municipalities and counties. We're unable to do that at this point. I'm also from Omaha and that's a perfect example. Today there's an

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interlocal between-- I want to say it's ten agencies. It's right at about ten agencies, in the general area. We're unable to be a part of that interlocal because of 29-215. This change would-- would allow that so that we could become a part of an interlocal.

DeBOER: OK. Thank you.

WAYNE: Yes. Sorry. I'm looking right at you. I was like, I ask the question, but all right. Senator-- Senator Blood.

BLOOD: [LAUGH] Hey, my momma raised me right. I wait until I have permission. So I--I want to build on what Senator DeBoer just said. So if this happens, then basically what you're saying is that, the same as like when the Bellevue Police participate in anything in the ETJ, right, that we can-- can meet with the county and we can work together and-- with Sarpy County sheriffs or whatever, so that would be a benefit for you to be able to do that as well. And then can I ask how long you've been at the Med Center?

CHARLOTTE EVANS: I've been at the Med Center for about three-and-a-half years now. Prior to that, I started at UNO, and then it became a joint department with UNMC.

BLOOD: So I'm going to have a question for you, but I'm going to tell you a quick story, so we're not here all afternoon. So several years ago, I was at the Olson Center and there was a young man, about a foot taller than me and definitely more buff than I, who was physically abusing his pregnant girlfriend in front of my family. And I went over and schooled him and-- to be polite-- and then reported him to security, and the process that was put into place to-- to protect that woman and how quick the response was, was exceptional. I noted when I left that they had him outside of the building and they immediately brought forward resources for the woman. And I want to say that for me, personally, I feel that you guys are already the best of the best and you've done an exceptional job. And so the question I'm going to ask again, because we keep hearing it is, how will this make you, in one sentence, better?

CHARLOTTE EVANS: In all honesty, the-- the legislation does not make us better. I believe our teams are already doing it. And I-- I say that on all campuses. I-- I feel strongly about that. The-- the issue is, there are problems with not being named in state statute, and that problem-- one of those problems is the inability of-- of being a part of interlocals.

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BLOOD: Right, just so that you can share resources--

CHARLOTTE EVANS: Yes.

BLOOD: --in time of crisis.

CHARLOTTE EVANS: Yes. You know, another, it-- it sounds interesting, but if the officers-- if an officer is killed in the line of duty, today, their-- their children can go to the university for free. Our officers are not named. We work for the university. If we were to have a death of an officer, their children would not be able to go to the university we work on for free.

CHARLOTTE EVANS: I think that sounds like a very fair answer. Thank you for sharing that.

CHARLOTTE EVANS: Thank you.

WAYNE: I have a question. What authority right now in statute do you have to enforce city ordinance violations, like traffic?

CHARLOTTE EVANS: We have an MOU with the city police, with the Omaha Police Department, in order to be able to use city ordinance. State statute and city ordinance, sometimes they're-- they're-- they explain differently or they-- the-- the city prosecutor prefers the use of city ordinance rather than the state statute. And so there's value in being able to issue, if you're issuing a citation, to be able to issue off the city ordinance versus the state statute. Without that MOU that we currently have with OPD, anything that we-- if we were to issue a citation or make an arrest, it would have to be on state statute. Does that--

WAYNE: So you're saying the city of Omaha has the ability to contract out their police force?

CHARLOTTE EVANS: I don't know that I-- I'm not sure how best to explain it, but it's granting us authority to use the-- the city ordinances.

WAYNE: So where is the liability in that? Who carries the liability?

CHARLOTTE EVANS: I would have-- I would have to defer to our university counsel.

WAYNE: That opens up a lot more questions that maybe the introducer might want to hold this bill instead of letting me do something with

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it. OK. Any other questions? That's interesting. Thank you for being here. You got me thinking now. Next proponent. Everybody's like, I'm not going up there. [LAUGHTER] Welcome.

JACLYN KLINTOE: Hello. Chairperson Wayne, I-- my name is Jaclyn Klintoe. I am associate general counsel and the director of university records for the University of Nebraska System. I don't have prepared testimony, but all the-- our chiefs, who did, we're-- we're in capable hands with them, but they both reserved a question for our-- our office, so I thought I would address both those, starting first with the question raised by Senator McKinney related to the scope of qualified immunity of our university police force. The answer to your question is this bill does not affect the scope of qualified immunity for our police officers. As state employees, they already have the full [INAUDIBLE] of qualified immunity protection under existing constitutional law. So regardless of the success of this bill, they would continue to have that right and protection under existing law. And then, Chairperson Wayne, I know you had just raised some questions that implicated the MOU between the university and the city of Omaha. I wanted to reserve answering that specific question. I have not personally reviewed the scope of the MOU, though you had some questions about its reach and how that power is delegated. I'm happy to have our office reach out to you after a thorough review to kind of define the-- the contours of how that relationship works between our police department and the City of Omaha.

JACLYN KLINTOE: Any questions from the committee? So walk me through an internal affair complaint. So if a citizen feels that they were not handled in the right way and they want to file a complaint, where do-- where do they go?

JACLYN KLINTOE: If the internal affairs complaint was as to an officer of--

WAYNE: Correct.

JACLYN KLINTOE: --one of our police departments? I'm not sure how the specific process is initiated, and I don't know if it's specific, department to department, though I'm happy to answer that and indicate whether or not it is related to, you know, the capacity and scope of-- of what ordinance or state law they were enforcing at the time of the incident. But I'm happy to answer that question as well.

WAYNE: So part of my hesitation of even moving this bill forward is-- we put a lot of emphasis on community policing, community training,

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community-- there's this whole community around police to try to build relationships. And now we're going to have to go in two entities in Omaha, Metro and university, who haven't-- who haven't, nor probably in their scope, will put in the same type of ti-- like same type of time of going into the community, meeting these folks, etcetera, etcetera, where there is a relationship with the community, but they still have the same authority to pull them over and do all the things that a cop can do. I'm having-- I'm having a hard time understanding to compare putting those two together. Can you kind of explain that for me?

JACLYN KLINTOE: Sure. I think it's-- that's-- that's a great question and I think, you know, a legitimate one as well. I think it's important to remember, though, that the-- the scope and reach of the authority of our police force is-- is really unaltered by this bill. It's-- it's-- the-- the purpose of including us definitionally is to essentially cut the red tape that our police force currently experiences through having to have a state commission and that process and not allowing us the same, you know, commissioning and ability to have kind of an autonomous, you know, force, but really we have and are executing on the powers to the full scope that this bill allows already.

WAYNE: So then back to Senator DeBoer's question, I don't understand what's the purpose of the bill if you're already doing it.

JACLYN KLINTOE: I would-- I think there are a couple of-- of interesting aspects of this bill and to Senator DeBoer's earlier question as well. I think Chief Evans touched extensively on the interlocal agreement aspect. That is a change. That allows us to collaborate with other governmental entities in a way that we do not have a statutory authority to currently. The other, I think, important aspect here to remember is that we didn't, when we inserted the definition-- into the definition of police officer "university police," we did so in every aspect of police oversight and authority. So this will now create state-mandated training obligations, policies that we are now voluntarily enacting and complying with, but we'll now have a state statutory obligation to maintain and update in accordance with state law. It will also-- it also requires state-mandated training as well as state-mandated general reporting requirements that, as I said, we do voluntarily comply with, but now we'll be required by law to continuously. So I would say those are the-- those are the two aspects that are-- are most impactful and why the bill is necessary.

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WAYNE: It's the last today-- it's the last thing I'm going to say because I got a lot-- lot to think about on this one. But I don't know if I would pull over if I'm on 72nd and Dodge and a Metro cop pulled up behind me in the dark. If I looked at it and it wasn't a cop, I'd probably keep driving for my own safety. Now I'm getting charged with resisting arrest because I don't know Metro could go to the 72nd and Dodge and-- and enforce a law enforcement-- a traffic violation. But under the law you could do that. So, I mean, I'm looking at this from a public safety standpoint of somebody pulls up with me-- behind with flashing lights, if I don't know it as a cop car or a State Trooper, I'm not just going to pull over in a dark spot and say, OK. I mean, anyway, don't respond to that. I'm just giving you another scenario of where I'm hesitant. But any other questions from the committee?

DeBOER: I'll ask one.

WAYNE: Yes. Senator DeBoer.

DeBOER: Thank you, Senator Wayne. So is there a way, other than the way that you've outlined this bill, where we could-- first of all, I think it would be a cleanup process to say that your officers, if killed in the line of duty, are-- would get the same benefits than others and some things like that. I think that's-- that makes a lot of sense to me. I think we could-- we could certainly find a way to-- to clean up some of those statutes, particularly if you know what all those omissions are. But the-- the Interlocal agreement, if that's really the thing that is sort of driving all of this, would there be-- and I don't know enough about the structure to know-- would there be a way to allow you to just say, and also you can be in interlocal agreements, without making this entire change, still keeping you where you are structurally, but just adding-- but folks who are structurally like you are, are allowed to get into interlocal agreements. Is that possible legally?

JACLYN KLINTOE: I think, yes, that that is a legally possible way to address that aspect of this. Right? But I think that there are additional considerations. One that was highlighted by Chief Evans, I think, is that this is also-- allows us the ability to collaborate with our other campuses where we are kind of bounded as forces, where we all-- the University of Nebraska System has three police forces who can't collaborate with each other under existing law as well. This would address that issue so that we can, you know, collaborate on enforcement when we have some-- the University of Nebraska-Kearney police force is much closer to operations in Curtis. If we had an issue there, they're actually under the jurisdiction of Lincoln, so

we've kind of got these weird artificial barriers to collaboration just internally that this addresses, as I said, the interlocal piece. So there-- there are aspects of that also that-- as you indicated, the benefits that this gives our officers in alignment with other law enforcement officers in the state, I think, because there's that array of considerations that perhaps only addressing the interlocal problem would leave some of these other issues unaddressed that we-- we believe are equally important.

DeBOER: Is there a way to go through and sort of address all of these issues that you've identified without giving a sort of carte blanche of statewide law enforcement agency, which is essentially, I think, some of the concern that I'm hearing, is that we're sort of creating a statewide law enforcement agency other than the State Troopers, other-- you know, so would there be-- like if-- if we had, OK, we could do interlocal agreements, we got the benefits fixed and we provided some sort of reciprocity between all of your campuses, would that solve the issues, or is-- is there really something about the structural piece that's-- that's going on here?

JACLYN KLINTOE: That's a great question, Senator. I think there's absolutely a way to perhaps structure this in a-- in a limited way that addresses some of those discrete issues that we've addressed here. But as we endeavor to, you know, amend the-- the statutes, it-- it's kind of hard to draw the line where to end, because we wanted to have the accountability piece, too, so we were inserting-- because we do have these expansions of our interlocal ability, our expansions for collaboration, we thought it was important to also bound-- bind our police force to the reporting and training requirements, and then at-- at that point it makes sense from a consistency aspect and-- to amend the definition so that we are broadly defined as a police officer in the same way that other law enforcement agencies are so that-- one, for clarity and-- and for, you know, a clear scope of authority without inserting "and University of Nebraska police" only in certain aspects of the law, we thought that from-- it-- it was better, both logistically and from a compliance perspective and equitably, to just amend the entire scheme to allow for the definitional change.

DeBOER: There might be some benefit that could be had by allowing your officers to retain a distinction from other officers that, if we could get to some of those other discrete issues, might-- even a perceptual issue that was discussed might allow some folks to actually trust your officers more because they don't have the same kinds of maybe baggage or something. I-- I don't know. So that's-- that's all the questions.

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JACLYN KLINTOE: [INAUDIBLE]

DeBOER: Thank you for your--

JACLYN KLINTOE: Thank you.

DeBOER: --your-- your answers.

WAYNE: Any que-- any others from the committee? Senator Blood.

BLOOD: Thank you, Senator Wayne. I'll make this really quick. So listening to this last conversation, didn't I understand this correctly at the beginning that there's going to be-- there assigned basically a jurisdiction. A jurisdiction would be-- because I compare this to what I know from municipalities and counties. So the jurisdiction would be UNL. I know it showed in like one case it was like UNL and housing and-- but they have a jurisdiction, so they're not going to be driving down Dodge Street unless you're in an interlocal agreement and they're asked to come into the ETJ, or whatever they-- they're going to call it, into that area to assist with something. Isn't that accurate?

JACLYN KLINTOE: I think that is an acc-- accurate characterization.

BLOOD: So-- so I hear the concerns from the other senators. But if you go back to the bill and you go back to what-- what's the definition of jurisdiction, those scenarios don't mirror that definition. Would you say that that's accurate?

JACLYN KLINTOE: I would agree with you, Senator.

BLOOD: All right. Thank you.

WAYNE: Just-- just for the-- I'm clear, were we talking about current situations or are you saying underneath this bill, what Senator Blood and you just described is accurate?

JACLYN KLINTOE: I-- I would say under both. Under the-- the new definition of-- of jurisdiction while it is changed so that we can collaborate on-- with our other campuses, it doesn't affect the kind of structure and collaborative aspect Senator Blood just described as far as we are only going to, I think she said, 72nd and Dodge with when to assist. These are engagement law enforcement efforts, not enforcement under-- under both the current law and proposed legislation.

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WAYNE: So you're saying that if-- if-- if somebody from UNL, police officer from UNL is driving to Kearney and there's somebody going 100 miles an hour, they're not pulling them over?

JACLYN KLINTOE: I don't know that I'd want to speak to that type of hyp-- just not being an operational law enforcement officer, but I-- so I suppose I'm-- I'm [INAUDIBLE] answer.

WAYNE: Because it doesn't say-- it doesn't say jurisdiction being on campus. It says you can enforce state law and city-- and ordinances.

JACLYN KLINTOE: Within the defined jurisdiction following that-- that section--

WAYNE: That's not how the bill-- all right, well, if that's what you want the bill to read, then we could help you do that, but that's not what the-- the bill reads, in my opinion, but that's neither here nor there. All right. Thank you.

JACLYN KLINTOE: Thank you.

WAYNE: Any questions? Yeah [INAUDIBLE]. It's the whole county.

_____ : [INAUDIBLE]

WAYNE: Yeah. Well, no, I'm-- no, no, it's just-- it's-- I mean, 6-- page 62, line 30, says within the city, village or county where such property-- that means university property; that means you have authority over the entire county of such property, not-- doesn't limit you to that property, page 62, line 30, 31.

JACLYN KLINTOE: I would agree with that, so the definition of jurisdiction, so we can enforce state law as defined in section (3) (a), --

WAYNE: Which is--

JACLYN KLINTOE: --(b), (c), (d), yeah.

WAYNE: Yeah, which is building-- if you have a building within a county, you can-- you can govern or-- or execute or enforce state law throughout the entire county based off of that definition, not just at that location, the way it's currently written.

JACLYN KLINTOE: Yeah, I-- I agree with that reading.

WAYNE: OK.

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JACLYN KLINTOE: Yeah, that's--

WAYNE: Thank you. That may not be the intent, but that's what we're here to figure out. All right. Appreciate it. Any other questions? Sorry. Thank you for being here today.

JACLYN KLINTOE: Thank you.

WAYNE: Any other proponent? Welcome.

DAVID FRIEND: Thank you, Senator Wayne, Chairperson, Senators. My name is David Friend; it's D-a-v-i-d F-r-i-e-n-d. I'm here to testify in my capacity as the police chief of Metro Community College. We are here to support LB382 with the amendments that we hope occur that would include state colleges and universities, because Metropolitan Community College does have a police department, has had since 2010. We've been an active police department. And in a word, our motivation for this is accountability. If you look at the statutory language for crime and punishment definitions, Narcan, who can administer NARCAN, naloxone; fingerprint cards if you make a felony arrest; protection from domestic abuse orders; the stuff that has already been discussed, like killed-in-the-line-of-duty benefits, those types of things. But ours are basically accountability because right now we comply-- body-worn cameras is another one-- we comply with the statute, even though the statutes elsewhere do not define us as a law enforcement agency. So we voluntarily comply, but we're not required to. This statute, if you change the statutes to include in the areas that we are concerned with, which is not necessarily all of the bill that the university introduced, we want the accountability to go along with the-- the obligations that we are already exercising. So that, in a word, is what we're looking for, is the accountability. DNA Identification Act, there's a number of public health and welfare issues that we deal with, that the statutes do not recognize us as law enforcement officers, as police officers, so we're trying to have the statute with the obligation match what we do or try to do on a regular basis. And we're a little bit different from the university system in that we have four counties that we are responsible for. So on occasion, our officers do travel from location to location within that four-county service area, and on occasion they may run into something that a reasonable and prudent person would say, yeah, the officer should have done something, an intoxicated driver putting people at risk, that kind of thing. And I can tell you, if the last dozen years or any proof, we write about seven tickets a year. Out of the 28 that we write, seven are court appearance, average, 21 are warnings, so we're not out there looking to do traffic. We're more concerned with

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what goes on inside the moat, if you will, our campus locations, than what goes on outside of that. And with that, I will answer any questions.

WAYNE: Thank you. Senator McKinney.

McKINNEY: Thank you, Chairman Wayne. Thank you, Mr. Friend, for your testimony. I have no problem holding y'all accountable to higher standards. I'm all for it. My issue is you have a campus-- well, you have two campuses that are located in probably the most overpoliced areas of the state. And even-- and I live by Metro, and even just the mention of possibly allowing you to be able to cross the street and police is an issue for me. So I'm-- I'm not sure how I feel about that, but it-- I'm all for holding you all accountable. I just don't know if I want y'all to go across the street because it's already overpoliced.

DAVID FRIEND: Well, that's-- that's the example I gave, Senator, of in the last year we-- 28 traffic stops, 7 court appearances, 21 warning tickets, and we made about 20 arrests, of which 5 or 6 of them were for warrants; the rest of them were for things that we can't say no: shoplifting--

McKINNEY: Yeah, but that's my fear, is the-- all that will increase?

DAVID FRIEND: Well, those are all on campus. We--

McKINNEY: Yeah, but the way this bill is written, it's possible that it can increase and you guys will be able to just cross the street and arrest people and hold people accountable for whatever reason. But I-- that's what I would have a problem with. It's already an overpoliced community as is.

DAVID FRIEND: I understand.

McKINNEY: Thank you.

DAVID FRIEND: I understand your point. We-- we off-- have four counties and we have officers in three of the four.

McKINNEY: Thank you.

WAYNE: Any other comments or questions? This is a let-- let-it-out Wednesday. We're going to-- going to talk as we think, do things today. Seeing no more questions, thank you for being here.

DAVID FRIEND: Thank you.

WAYNE: Any other proponent? Proponent? Any opponent? Opponent?

ROSE GODINEZ: Good afternoon. My name is Rose Godinez, spelled R-o-o-s-e G-o-d-i-n-e-z, and I am here to testify on behalf of the ACLU of Nebraska in opposition to LB382. LB382 essentially deputizes University of Nebraska police departments with the full, uninhibited power of being a Nebraska law enforcement agency. And for all intents and purposes, it creates a law enforcement agency under the state to our already overpoliced communities of color and that they already face. The fiscal statement on this bill does not truly reflect the cost of continuing to contribute to the school-to-prison pipeline and racial profiling and searches, arrests and traffic stops. I looked at the UNK and UNL annual campus safety and security reports yesterday and didn't see the alleged crime perpetrators disaggregated by race or ethnicity. As such, I'm unable to present you with that data to know whether campus police, like our local law enforcement agencies, are disproportionately targeting students of color, students with disabilities, but that, in itself, I hope, causes the committee to pause. I can tell you that students of color and students with disabilities in K-12 schools are disproportionately referred to law enforcement, and I do not have reason to believe that it would be any different on our universities or campuses. Across the country, the presence of these law enforcement agencies on and off campus is not welcome, not by students and not by the communities at-large. For example, following demands organized by students, the University of Minnesota recently agreed to cut ties with the Minneapolis Police Department; Northwestern University, Columbia University, and New York University students are also calling on their administrators to cut ties with local police. Despite their intended role as peacekeepers, university police are also-- ready [SIC] responsible for violence against students and local residents alike. And I see my time is coming up, so I will just briefly touch on some questions from Senator McKinney and Senator Wayne about jurisdiction, because we share the same concerns. Specifically, on Section 34, they can enforce, of course, state law and village ordinances. And it-- it applies to not only property which is operated, but also property affiliated, and affiliated is not defined in the bill. It also says it can-- law enforcement can contribute as necessary anywhere students, faculty, staff are present; "as necessary" is also not defined. It also allows jurisdiction wherever University of Nebraska activities are taking place. "Activities" is not defined. And of course, that's not an exhaustive list, but there's a number of concerns with this

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bill. And for those reasons, we urge the committee to indefinitely postpone this bill. Thank you.

WAYNE: Any questions from the committee? Senator McKinney.

McKINNEY: Thank you. And you mentioned-- and-- and this goes to my other concern. In your testimony, you mentioned property affiliated. Metro has a extension of their campus at Seventy Five North in my district.

WAYNE: Correct.

McKINNEY: Would that mean they'd be able-- they'll-- they'll be allowed to police Seventy Five North now? Which causes other issues, in my opinion, but thank you for pointing that out.

ROSE GODINEZ: Completely agree, Senator McKinney. Under the reading of this bill, it would allow for that.

WAYNE: All right. Seeing-- any other questions? Seeing none, thank you for being here today.

ROSE GODINEZ: Thank you.

WAYNE: Any other opponent? Opponent? Opponent? Anybody testifying in the neutral capacity? All right, seeing none, I'm assuming you're going to waive closing. Are you going to close? OK. We have, for the record, one letter in opposition. That'll be closing the hearing on LB382 and opening the hearing on LB777. Welcome back, Nate.

NATHAN JANULEWICZ: Thank you. OK.

WAYNE: Yeah, go ahead.

NATHAN JANULEWICZ: Good afternoon, Chairman Wayne and members of the Judiciary Committee. Senator Bostar wishes he could be here, but he is introducing a bill in another committee. My name is Nathan Janulewicz. For the record, that's N-a-t-h-a-n J-a-n-u-l-e-w-i-c-z. I'm the legislative aide for Senator Eliot Bostar. Today, I'm presenting LB777, a bill that would update provisions of the Automatic License Plate Reader Privacy Act. Automatic license plate readers, or ALPRs, are a computer controlled camera system that are typically mounted on street poles or attached to police vehicles. ALPRs automatically capture all license plate numbers that come into view along with the location, date, and time. The data in real time is checked against the database of license plates the system is actively looking for such as

a stolen vehicle, vehicles associated with missing persons, or vehicles associated with outstanding warrants. If ALPR camera scans a plate that is on the list, the system sends an alert to the police. ALPRs can also be used as an investigative tool since ALPRs collect data, date, time and location. Every plate in the system views-- every plate the system views, investigators can search and analyze historic data. For example, an investigator may enter the location where a serious crime was committed, such as a robbery or a shooting to identify a vehicle at the scene nearby at the time. For example, there were three homicides involving young victims in Omaha that were solved in the last six months with the aid of license plate readers, reader data from Douglas County. Unfortunately, current statute authorizes ALPRs lack clarity, in turn lack-- the lack of transparency and potential abuse of ALPR technology. The purpose of LB777 is to add clarity and-- to the ALPR statute, thereby improving transparency and accountability for our criminal justice system. First, LB777 approves transparency by making it clear that the use of ALPRs can be disclosed in court proceedings. Law enforcement agencies and Nebraska are currently using ALPRs to investigate crimes and make arrests, but there are-- there is uncertainty around whether this can be directly referenced in court proceedings, causing confusion for both the public and law enforcement. LB777 makes a minor adjustment to the Automatic License Plate Reader Privacy Act to make it clear that the use of ALPRs can be directly referenced in court proceedings. Second, LB777 improves accountability to a criminal justice system by prohibiting parking enforcement from the use of ALPRs and providing a penalty for intentional misuse of the ALPR system. The ALPR system collects a lot of information that can cause potential privacy concerns. LB777 adds transparency and accountability by requiring agencies using ALPRs to keep a log of every manual entry or query of the system by an officer. Those logs will be required to undergo an annual audit. LB777 provides a criminal penalty for intentional violation of the Automatic License Plate Reader Privacy Act, such as the use-- such as to use it to track a private citizen unconnected with an active criminal investigation. There are six law enforcement agencies in Nebraska that are currently using ALPRs. We will likely see an expansion of their use in the years to come. LB777 ensures law enforcement has the tools they need to keep our communities safe and installs safeguards to protect Nebraskans against misuse. Before I wrap up, I just want to mention that the distributed letter from former Senator Matt Hansen, who was the original introducer of LB-- or the, the original introducer of the Automatic License Plate Reader Privacy Act, he suggests adding a clarifying language in Section 5, represented in the amendment that

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was also distributed. Senator Bostar supports the amendment and would ask the committee to support LB777.

WAYNE: Thank you. Any questions from the-- oh, sorry. First proponent. I do have one question for you, though. What, what committee did Bostar choose over us?

NATHAN JANULEWICZ: He's in Revenue right now.

WAYNE: Oh, Revenue. I'll make sure to kill all his bills in Revenue. Welcome to your Judiciary.

DAN MARTIN: Hello. My name is Lieutenant Dan Martin, D-a-n M-a-r-t-i-n. I'm here representing the Omaha Police Officers Association. I'm the vice president. I admittedly come here today-- we in Omaha do not have an ALPR system. I have spoken to investigators about this bill, and particularly the uses of this bill. But I do know, I have read through this and I, I tried reading through the Privacy Act that was, I believe it was last year, that was-- it's very confusing for me to even understand and, and other law enforcements to see when can we use this, how can we not use this, and can the evidence that we obtain or data that we obtain be used in court proceedings? So I think that this bill is good because it cleans up a lot of that language and defines when and when we can't use this data or collect it. When it comes to storing and comes to that type of thing, I have no idea about so any of those questions will have to be directed to somebody that's used the system before. I can tell you that LB77 [SIC--LB777], when I've talked to homicide investigators just within the last six months, and he had brought this up, but I wanted to give you a few more examples about how the LPR system assisted in the Omaha Police Department investigating some of these homicides that helped us. Within 24 hours on each of these, we either had a suspect identified or suspects arrested which, in my opinion, can reduce their ability to go out and commit more crimes or, or carnage on the streets. So in December of last year, Omaha police responded to a homicide in the area of 37th and Pratt, and again, I'm not going to able to get into the fine details of any of these because they still have not made it through the court system. So I won't name names of victims or suspects, but I will give you general information about this. A young girl lying in her bed was shot to death multiple times. Within hours, detectives had arrested four individuals for her senseless homicide by using license plate reader data. Quick capture of these violent gunmen likely prevented further shootings, murders, and other crimes on the streets. In August of last year, Omaha police responded to a neighborhood off Sorensen Parkway in north Omaha. A

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young male was found shot to death. Within the same day, Omaha police had identified a potential suspect using license plate reader data. And within a week of that time, the suspect was arrested. Again, in August of last year, Omaha police responded to a south Omaha neighborhood for a person who had been bludgeoned to death. Within 24 hours, a suspect had been identified and tracked all the way to Des Moines, Iowa, using license plate reader systems. And so an arrest was made within 24 hours. The language in this bill make it clear and provide law enforcements the technology, tools, and resources to continue to combat violent crime. With that, I'll answer any questions that I can.

WAYNE: Any questions from the committee? Senator DeBoer.

DeBOER: Thank you. I may have misunderstood. You said they don't have them in Omaha, but then you were--

DAN MARTIN: I'm sorry. We have a-- we've used State Patrol and Douglas County Sheriff assist us with them. We do not have the technology with the police department in Omaha.

DeBOER: Omaha doesn't but the Douglas County and the, and the State Patrol.

DAN MARTIN: State Patrol and other agencies. I think he said six agencies in Nebraska and, I believe, the Iowa State Patrol and agencies across Iowa as well.

DeBOER: And you may not know the answer to this. Can you-- I mean, if I speed or something like that, can you use this for that?

DAN MARTIN: This isn't a speeding camera like-- they have some of those--

DeBOER: I understand that. But I mean, like, like, let's say I do and then now does that mean that I'm sort of-- it opens the floodgates or I, I do some other traffic violation, does that open the floodgates for, for my license plate to now every time I go anywhere it's, it's recorded?

DAN MARTIN: It's, it's recorded. I mean, every time a vehicle passes through an area that has a license plate reader, those digital images of your license plate are captured.

DeBOER: OK. Thank you.

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WAYNE: Senator Geist.

GEIST: I've been very quiet. I have a question.

DAN MARTIN: Yes, ma'am.

GEIST: OK. Just because this reads a license plate doesn't necessarily give you the person, correct?

DAN MARTIN: No.

GEIST: It's a starting place for an investigation.

DAN MARTIN: Correct.

GEIST: But it could always be a stolen vehicle, doesn't necessarily have to match the owner of the vehicle.

DAN MARTIN: Correct.

GEIST: OK. Thank you.

WAYNE: Any other questions? It ain't worth it. Never mind.

DAN MARTIN: Thank you, Senator.

WAYNE: Thank you for being here.

DAN MARTIN: Thank you.

WAYNE: Next proponent. Proponent? Seeing no proponents. Opponent? Welcome.

SPIKE EICKHOLT: Thank you. Good afternoon, members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska and on behalf of the Nebraska Criminal Defense Attorneys Association in opposition to LB777. I'm handing out a sort of a, a pamphlet or some things I'm going to refer to in my three minutes. Senator Bostar's staff mentioned that in 2018 the Legislature did approve the license plate reader bill. It was passed 72 [SIC] votes to 2 with 2 people not voting. If you look at the current law, it is a compromise and it may not mean anything to Senator Bostar, but I would respectfully suggest this body honor that. If you look at the current law and you've heard the people testify, law enforcement can use a license plate reader data now. What LB77 [SIC--LB777] does, respectively, it lets law enforcement use it whenever they want, however they want. This is mass surveillance

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operated by law enforcement with the tech companies. The way that these license plate cameras work, there's not a live stream, it's not a red light camera, these cameras are focused to capture the plate information. They can catch up-- capture up to 100 plates a minute. They can be stationary on poles or they can be moving vehicles. All of that data is harvested, if you will, and collected by the companies that provide the service to the local law enforcement agencies. And there's two companies: one is Vigilant and one is Flock are the two companies that do work in Nebraska. If law enforcement wants to retrieve a specific license plate information, they contact their provider and then information is given. But for 95-plus percent or whatever of the people who are driving around the city, that information is simply retained by the provider. I have selected copies of three contracts for-- and I wrote, handwrote for Lancaster County, Douglas County, and the city of Kearney, which are three of the six jurisdictions. And I've selected those parts and you can clearly see that in the contract it states that the data that they collect is owned by the companies. Why does that matter? And I'm not trying to be paranoid here, but I'm trying to say this one thing, and that is for whatever reason these tech companies collect this data, you see a news article in this material. Last November, we, along with a number of other states, settled a lawsuit with Google because Google was impermissibly tracking people's travel data. In other words, there's some value in this for these companies. And I don't know what it is and it maybe it's just marketing data or whatever, but the reason that they provide this service basically for free for law enforcement, in my opinion, is they collect this information. I say that because you shouldn't facilitate that any more than it's already done. We should not let law enforcement have access to the information. It is highly detailed information. I attached a couple, I attached a news article regarding the Dodge County Attorney who was forced to resign. And I noted something on there that right now under the current data points that law enforcement have access now, there is no consequence whatsoever if law enforcement impermissibly accesses that and uses that. And the last page of the materials I handed out was a portion from the most recent lawsuit against the city of Lincoln and Chief Ewins and others in which the complainant, a fired female Lincoln police officer, noted that male officers regularly accessed databases impermissibly to look up information on attractive girls and females that they contacted. I'll answer any questions if anyone has any. Sorry, I almost went over.

WAYNE: Any questions from-- Senator, Senator Giest followed by Senator McKinney.

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GEIST: I just am a little confused here. So you've spoken to Mr. Bostar-- I'm sorry, Senator Bostar?

SPIKE EICKHOLT: I have not.

GEIST: You have not?

SPIKE EICKHOLT: I have not.

GEIST: OK. So he's not aware of your objection?

SPIKE EICKHOLT: He may be aware of my objection. I've not spoken with him. I generally let senators know if I'm going to oppose their bill. I did not with Senator Bostar.

GEIST: OK. Then-- and that, that's all. Thanks.

McKINNEY: Spike, why doesn't Omaha have automatic license plate readers?

SPIKE EICKHOLT: So I think the earlier testifier mentioned that Douglas County Sheriff does have an agreement with Flock, Flock Security or Flock something. And they had, I think, a, a year-long trial period where the service and the cameras were provided for free. And then Douglas County had a proposal before the Lincoln-- or, I mean, the Omaha City Council to let them install some of their cameras around the city of Omaha to somehow use it. It was not necessarily going to be for the benefit of the Omaha Police Department. I'm not going to-- I, I testified in opposition to it. We did, because we saw that as an expansion. And for whatever reason, the City Council of Omaha did not accommodate Douglas County Sheriff's request. So Douglas County Sheriff still uses it, but it's not necessarily being used with or on Omaha city equipment. I can't speak to why and perhaps-- I raise some of the same issues regarding privacy, data harvesting that were raised as well. I think this is just going to facilitate over surveillance in areas and people who are already overly surveilled is going to intensify over policing for areas of people who are already policed too much in a way that sort of marries these tech companies with law enforcement and it is very intrusive. Admittedly, these things have value. And if you look at the exceptions that were drafted in the original bill, LB93, from 2018, law enforcement can use it and they do. You heard before and I think admittedly we weren't necessarily happy with the final version of the bill. We'd prefer these things not be allowed at all. But I think this body did the right thing and came to some kind of consensus and there is no reason to disturb that.

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McKINNEY: Thank you.

SPIKE EICKHOLT: Thank you.

WAYNE: Next-- any other questions? Seeing none, thank you for being here. Next opponent. Anybody testifying in a neutral capacity? All right, we have-- received one letter of support. And that'll close the hearing on LB777 and open the hearing on LB7-- you're not staying for mine? Oh, man.

DeBOER: OK. With that, we'll open the hearing on LB788. So welcome to your Judiciary Committee, Senator Wayne.

WAYNE: I was just reading the bill to see what it does first. Finally figured out what it does. All right. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I serve as the senator of District 13, which is north Omaha and northeast Douglas County. Today, I'm here to introduce LB788, which is designate-- which will designate the State Patrol as the agency responsible for investigating criminal activity when it occurs within the Department of Corrections. The State Patrol shall provide the results of any investigation conducted to the Inspector General. A summary of these investigations will be provided to the Clerk of the Legislature, along with the Inspector General's annual end of the year Corrections report. I have been informed many years, many times over the course of my tenure about the inherent conflict arise between the Department of Corrections when it's tasked with investigating its own staff. There should be more oversight and since we continue to have oversight conversations in this body, I thought it'd be a good idea to have a conversation about who oversees Department of Corrections as far as any kind of criminal violation. I think it's pretty-- this bill is pretty clear cut, straightforward. I'm not trying to add more responsibility to the State Patrol, but I do think it's hard for police to sometimes police themselves, particularly in the Department of Corrections. So that's the point of this bill, and I would be happy to answer any questions.

DeBOER: Oh, yes, Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. Senator Wayne, doesn't that fall in the county now?

WAYNE: In some of the counties it does. But again, I think part of the issue at the county level is also the cost.

BLOOD: Yeah, it's definitely, again, an unfunded mandate.

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WAYNE: Right.

BLOOD: Like if an inmate dies, they pay for that investigation, they pay for the grand jury investigation.

WAYNE: Correct.

BLOOD: So, so is that mandated in state statute that the counties do it right now or--

WAYNE: I don't believe it is mandated in the state-- I don't, don't know the answer. I'll have to get to you an answer. I don't know the answer for sure.

BLOOD: I mean, it may be not mandated, but they certainly have been paying for it.

WAYNE: Well, they have been. Exactly.

BLOOD: All right. Thank you.

DeBOER: Other questions for Senator Wayne? Thank you, Senator Wayne. First proponent testifier. Welcome.

MATT BARRALL: Hello again, Vice Chair, Senators. My name is Matt Barrall, M-a-t-t B-a-r-r-a-l-l. I am the vice president of Nebraska State Fraternal Order of Police. I'm here to speak in support of Senator Wayne's bill not only to have uniformity in investigation and prosecution for any offenses that may be committed by anyone within the prison system, but on behalf of the State Corrections Lodge, which is Fraternal Order of Police, to also find uniformity in investigation and prosecution for crimes against our members, our Corrections officers who are assaulted on a daily basis. And there has not been uniformity county by county and agency by agency in its investigation. So we do support that not only for the reasons that Senator Wayne has described, but also to protect Corrections officers. I will say that I think that two State Patrol investigators is probably nowhere near enough. I know I'm speaking in, you know, for this bill, but I would find that they probably need to be more and I'm sure the State Patrol would say the same thing. I don't think two investigators would be anywhere near enough for the crimes that, that are committed across the state. So that's all I have to say. Questions?

DeBOER: All right. Are there any questions? Senator Blood.

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BLOOD: Thank you, Vice Chair DeBoer. So, yeah, I'm looking at your fiscal note. Who did your fiscal note for you here? Kenneth Boggs.

MATT BARRALL: I, I have no idea.

BLOOD: OK.

MATT BARRALL: I saw the fiscal note paid for two State Patrol investigators, and that was all. That doesn't seem like enough to me.

BLOOD: Yeah, it doesn't. And so would that money come from your budget then do you know?

MATT BARRALL: For the State Fraternal Order of Police?

BLOOD: No, for the State Patrol?

MATT BARRALL: I have no idea, I don't, so--

BLOOD: OK.

MATT BARRALL: --I'm sorry.

BLOOD: I see someone in here that might know that so I may wait, wait to hear from that. All right. Yeah, I, I have concerns that that would be enough. And we've seen a lot of wonky fiscal notes this session because we've had all-day hearings so it may just not be right. So thank you.

DeBOER: Are there any other questions? Thank you. Next proponent. Is there anyone here who would like to testify in opposition to this bill? Come on down.

JOHN BOLDUC: Good afternoon, Vice Chair DeBoer, members of the Judiciary Committee. My name is Colonel John Bolduc, J-o-h-n B-o-l-d-u-c, superintendent of the Nebraska State Patrol. I'm here to testify in opposition to LB788, which places the responsibility to investigate criminal activity within any Department of Correctional Services facility with the Nebraska State Patrol. Currently, the State Patrol has a positive working relationship with the Department of Corrections and actively investigates criminal activity within their facilities when requested. The State Patrol can continue to assist the Department of Corrections with criminal investigations without legislative changes. LB788 transfers all Department of Corrections investigators to the State Patrol. The investigators employed by the Department of Corrections also conduct a wide variety of noncriminal

investigations, including matters related to violations of institutional policy, personnel issues, and regulation violations. The State Patrol is not the agency best suited to conduct internal policy and regulatory investigations within the correctional facilities. That duty lies most appropriately with the Department of Corrections. Furthermore, the Department of Corrections employees will not automatically be able to serve as Nebraska State Patrol investigators. Should the Department of Corrections investigators meet our minimum qualifications in which to apply, they would be required to successfully graduate from our training academy. They would then begin their career as troopers patrolling Nebraska's roadways. Investigators within the State Patrol assigned to investigate criminal matters are seasoned, certified law enforcement officers with numerous hours of specialized training. They accumulate years of valuable law enforcement experience before being selected to serve as investigators. Allowing the Department of Corrections to continue their internal investigations and to receive assistance from the State Patrol on criminal matters ensures each respective type of investigation is run by those best suited for the task. Thank you for the opportunity to testify. I'd be happy to answer any questions you may have.

DeBOER: Thank you so much. Are there any questions for this testifier? Senator Geist.

GEIST: Thank you for your testimony. I'm curious if you would clarify do you as a State Patrol agency, do you oversee currently crimes that happened within the facility between inmate to inmate and then inmate to officer, officer to inmate? What exactly are you-- is your purview right now?

JOHN BOLDUC: So thank you, Senator, for the question. Right now, we handle all grand jury cases. That means any death associated with the correctional facility. So those could be homicides, those could be natural deaths, those could be accidents. We are required to investigate those, present those findings to the grand jury in the respective county where that facility resides. We are asked to assist the Department of Corrections from time to time on complex investigations, which may involve contraband being smuggled in from the outside. Those investigators are often asking for our assistance with those. We do occasionally assist with assaults that happen within institutions, whether it's against correctional staff members and on occasion inmate-to-inmate violence.

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GEIST: OK. Thank you. So, so your objection is the other internal issues that this would involve?

JOHN BOLDUC: Yes, Senator, to be clear, we already assist when they have a complex case that needs our resources. But those investigators, as I understand it, and certainly someone from Corrections can illuminate that for you, but they do a wide variety of other duties that we would have no expertise in, nor any desire to do those.

GEIST: Understood. Thank you.

JOHN BOLDUC: Thank you.

DeBOER: Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. Quick question. So if you're-- so let's say in the hypothetical, a correctional officer gets busted for bringing contraband into the prisons. Are you saying you would feel comfortable with the department investigating first and then you stepping in?

JOHN BOLDUC: Well, first of all, thank you for the question, Senator. I'm not sure about the internal process within Corrections that first brings those investigations to light. So when they get to us, whatever that process is, we handle those investigations involving a correctional staff member who is alleged to have committed a crime.

McKINNEY: So but if they began the investigation prior to you coming in, you would feel comfortable with that?

JOHN BOLDUC: Well, yes, Senator, our job is to take all investigations wherever the facts lead us.

McKINNEY: So you, you believe that a department that can barely staff the institutions we currently have, a department that has issues with contraband being brought in by their employees can also police themselves properly prior to you stepping in?

JOHN BOLDUC: Well, Senator, again, I'm not sure how the internal process works whereby we're notified of those. So I don't know how much investigation is done by their staff before that's brought to our attention. I'm just not familiar with that process.

McKINNEY: So what if, hypothetically, you come in and you see that somebody from the department interviewed a staff person about the

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introduction of contraband into the prison, you would, you would be OK with that?

JOHN BOLDUC: Well, Senator-- and thanks for illuminating the fact that that's a hypothetical, it really depends on what the facts are. If-- and I, I understand, I believe, what you're getting at. If I can ask you a question about your question. We want to make sure that we're just not taking the word of perhaps a staff member who might be in collusion. Is, is that what you're getting at?

McKINNEY: Yes.

JOHN BOLDUC: Thank you, Senator, for the clarification. You know, clearly no one's more concerned about criminal behavior by state employees than we are. And if we have somebody on the inside who's doing the wrong things, it's our job to figure that out and bring that person to justice and get them out of that facility.

McKINNEY: Thank you.

DeBOER: Other questions? I don't see any. Thank you for being here.

JOHN BOLDUC: Thank you, Vice Chair.

DeBOER: Next opponent.

DIANE SABATKA-RINE: Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Diane Sabatka-Rine, D-i-a-n-e S-a-b-a-t-k-a-R-i-n-e. I'm the interim director of the Nebraska Department of Correctional Services, and I am here today to provide testimony in opposition of LB788. The current investigation system allows the department to safely manage its facilities and gives the State Patrol the information needed to pursue criminal actions. LB788 proposes changes to a system that is working effectively. Our investigative staff conduct intelligence gathering and investigate day-to-day activities within our prisons. This sometimes involves investigating criminal activity, but also involves investigating incidents that may not result in prosecution, but which can influence classification and housing assignment decisions. The current system gives NDCS immediate access to information in situations where time is of the essence. Having internal investigators allows us to be immediately aware of circumstances so that we can make informed decisions to maintain safe operations. As currently constructed, LB788 only requires the State Patrol to provide information on investigations into criminal activity to the Inspector General and not to the department. It is vital for NDCS to have access to this

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information in a timely manner in order to keep staff and inmates safe. We have two investigators who are law enforcement certified. Employing individuals with law enforcement expertise improves communication with outside law enforcement agencies and simplifies the process of referring cases to the State Patrol, local law enforcement, and county attorneys. According to NDCS policy, NDCS investigators conduct investigations into alleged acts by inmates that could constitute misdemeanors or felonies, except for criminal investigations involving murder, attempted murder, in-custody deaths or arson, which are referred directly to the State Patrol. For criminal investigations of NDCS employees, inmate escapes, or incidents involving serious bodily injury, the State Patrol is notified before an investigation begins and our investigators assist in the investigation as directed by the Patrol. We also refer investigations to the State Patrol involving criminal activity on facility property by individuals who are not NDCS staff or inmates. NDCS has developed a good working relationship with the Patrol for when criminal activity occurs in our facilities. We appreciate the quality of the Patrol's work and we hope to continue that relationship going forward. Thank you for the opportunity to testify. I'd be answer-- happy to answer any questions.

DeBOER: Any questions? Senator DeKay.

DeKAY: Yes. In, in my notes here, it says the cost, the estimated cost to the NSP is as follows: the State Patrol investigative officers, including personnel and benefit costs, are \$136,957 for the fiscal year '23-24, and it would jump up to \$273,913 for the fiscal year '24-25. Are my notes correct? And if they are, why would there be almost a double?

DIANE SABATKA-RINE: Well, my fiscal note doesn't include those exact figures. So part of that could be if there's a difference in what our investigators are paid versus what State Patrol investigators are paid. So I don't know, I would, would have to look into the fiscal note.

DeKAY: I was, I was just curious if there was going to be more personnel added to this or not going forward.

DIANE SABATKA-RINE: Again, my understanding of how the bill is written, the two investigators we have, those FTEs would be transferred to the Patrol. So no more additional FTEs.

DeKAY: All right. Thank you.

DIANE SABATKA-RINE: Um-hum.

DeBOER: Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair DeBoer. This is just from my own education being new. You know, when we toured the Penitentiary, we had the Ombudsman with us. And my understanding is that the inmates do have access to her. Is that-- is there a way for someone to report then from an inmate that there's been criminal activity and, and how is that handled? And is, is there a pathway to the State Patrol if the, if the Ombudsman is not satisfied with the action?

DIANE SABATKA-RINE: Certainly. So the entire inmate population has access to the Office of the Public Counsel. There's a number on their inmate calling system that they can contact them at any time. Those calls are not recorded, so they certainly can reach out to the Office of Public Counsel at any point. They also are free to contact any law enforcement agency via U.S. mail that they choose to. We don't interfere with that at all so-- or they can come to us if they believe a criminal activity has occurred. But if they're not comfortable reporting it to us, they have other ways for which they can report that to outside [INAUDIBLE].

HOLDCROFT: And, and the Office of the Public-- what was it, Office of the Public Defender?

DIANE SABATKA-RINE: Public Counsel.

HOLDCROFT: Counsel. Sorry.

DIANE SABATKA-RINE: The Ombudsman.

HOLDCROFT: And she is kind of independent. I mean, she can go to-- she can take that information and go anywhere with it. I mean, she could go to the State Patrol--

DIANE SABATKA-RINE: She could go to Patrol.

HOLDCROFT: --if she doesn't feel like the Department of Corrections is taking proper action.

DIANE SABATKA-RINE: That's correct.

HOLDCROFT: Thank you.

DeBOER: Other questions? Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. And thank you for your testimony. So do you think your department can police itself or investigate itself is what you're saying? You're more suited to investigate yourself.

DIANE SABATKA-RINE: In many situations, yes. And I think that the number of arrests that are made of our employees might be a good indication of our ability to do that.

McKINNEY: Or maybe someone would also argue the fact that you're, you're investigating yourself, maybe it's more. But I guess my, my other part of this question is, we, we hear a lot of things about transparency and accountability and putting systems in place to make the public feel comfortable on how the department or law enforcement is interacting. And when the public comes forward and says, hey, we want the State Patrol to step in instead of allowing you guys to investigate yourselves because of history, because of history of not necessarily doing the best job at it. Do you not understand why people-- the, the distrust, the mistrust and all those things still exist because you guys always come and say, no, we could investigate ourselves?

DIANE SABATKA-RINE: So again, we enjoy a good collaborative working relationship with the State Patrol. So in, in the instance of any staff misconduct, we would consult with them. And at any time if they wish to take the case, they certainly have the opportunity to do that.

McKINNEY: My question is, so do you value the relationship with the State Patrol over the perception from the public and others that you guys aren't doing a great job?

DIANE SABATKA-RINE: In terms of investigations--

McKINNEY: Yourself.

DIANE SABATKA-RINE: --we are not doing a great job?

McKINNEY: Yes.

DIANE SABATKA-RINE: I guess I'm not aware that we're not doing a great job in terms of investigations, Senator McKinney.

McKINNEY: Well, I, I understand you're the interim director and it probably didn't fall in your lap during, during that time Frakes was the director. But the public doesn't believe in the Department of Corrections. They feel like you guys run, run institutions horribly,

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and you guys don't do a great job of policing yourselves. And you, you said that the system is working effectively. Who is it working effectively for?

DIANE SABATKA-RINE: Well, again, I think from our perception we pursue any criminal activity. And if the investigation indicates that there was criminal wrong-- wrongdoing, we refer those to the appropriate county attorneys for review.

McKINNEY: So who is it working effectively for?

DIANE SABATKA-RINE: I think it's working for everyone.

McKINNEY: You sure?

DIANE SABATKA-RINE: I believe so, yes.

McKINNEY: Has it been working effectively during your overcrowding and staffing crisis?

DIANE SABATKA-RINE: So again, I'm speaking specifically to the investigations. I realize that there are other areas.

McKINNEY: No, what I'm asking is, has the ability to investigate within the department been working effectively considering you guys have an overcrowding and staffing crisis?

DIANE SABATKA-RINE: I believe that we are in the process of addressing both of those things effectively.

McKINNEY: So it's not working effectively?

DIANE SABATKA-RINE: I believe it is.

McKINNEY: But you, you try to [INAUDIBLE], but you-- you're probably never going to answer yes or no, but. Thank you.

DeBOER: Other questions for this testifier? I don't see any. Thank you--

DIANE SABATKA-RINE: Thank you.

DeBOER: --for being here. Next opponent. Is there anyone here in the neutral capacity? I don't see any. While Senator Wayne is coming up, I will say we received one letter in support. Senator Wayne to close.

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WAYNE: Thank you. And thank you all. I just want to remind everybody that our Exec Board has just sent a question to the Attorney General regarding inspectors. Depending on how that comes out, that alternative may or may not be there. But the reality is, at the end of the day, I think when you look at what's going on we have to have somebody from the outside even if it's the same branch of government oversee criminal investigations. I think it's too hard to do criminal investigations yourself. That's just what I believe. So that's why I was here. I'll answer any questions. Probably sure there is none because people are ready to go home.

DeBOER: Any questions for Senator Wayne? Somehow no one wants to ask you a question now,--

WAYNE: Got it.

DeBOER: --Senator Wayne. That ends our hearing on LB788 and will end the hearings for the day.