Letter of Transmittal

Nevada Advisory Committee to the
U.S. Commission on Civil Rights

The Nevada Advisory Committee to the U.S. Commission on Civil Rights submits this advisory memorandum regarding the potential for disparate impact on the basis of race, color, or other federally protected category in the enforcement of municipal fines and fees. The Committee submits this advisory memorandum as part of its responsibility to study and report on civil rights issues in the state of Nevada and to supplement the 2017 statutory enforcement report. The contents of this advisory memorandum are primarily based on testimony the Committee heard during public meetings on March 15, 2017 held simultaneously in Las Vegas and Reno.

This advisory memorandum begins with a brief background on the topic to be considered by the Committee. It then presents an overview of the testimony received. To conclude, this memorandum identifies recommendations for addressing civil rights concerns directed to various stakeholders at the federal and state level. In recognition of the Commission's continued study on this topic and in lieu of providing a detailed discussion of each finding presented, the Committee offers findings and recommendations for addressing this problem of national importance.

Nevada Advisory Committee to the
U.S. Commission on Civil Rights

Wendell Blaylock, *Chair, Nevada Advisory Committee*, Las Vegas

Bob Beers, Las Vegas

Kathleen Bergquist, Las Vegas

Sondra Cosgrove, Las Vegas

Carol Del Carlo, Incline Village

Debra Feemster, Sparks

David Fott, Las Vegas

Emma Guzman, Reno

Kara Jenkins, Las Vegas

Kay Kindred, Las Vegas

Theresa Navarro, Reno

Jon Ponder, Las Vegas

Matthew Saltzman, Las Vegas

Ed Williams, Las Vegas

Advisory Memorandum

To: The U.S. Commission on Civil Rights
From: The Nevada Advisory Committee to the U.S. Commission on Civil Rights
Date: June 13, 2017
Subject: Municipal Fines and Fees in the State of Nevada

On March 15, 2017, the Nevada Advisory Committee (Committee) to the U.S. Commission on Civil Rights convened public meetings held simultaneously in Las Vegas and Reno to hear testimony to examine the potential for disparate impact on the basis of race, color, or other federally protected category in the enforcement of municipal fines and fees. The following advisory memorandum results from the following sources: (i) testimony provided during the March 15, 2017 meeting of the Nevada Advisory Committee, (ii) supplementary testimony provided during a March 29, 2017, meeting of the Nevada Advisory Committee, and (iii) written testimony and comment submitted to the Committee during the thirty-day public comment period. It begins with a brief background of the topic to be considered by the Committee. It then presents an overview of the testimony received. To conclude, this memorandum identifies recommendations for addressing civil rights concerns directed to various stakeholders at the federal and state level. This memo, including the recommendations within it, was adopted by the Committee on May 25, 2017.

Background

The shooting death of unarmed teenager Michael Brown by police in Ferguson, Missouri, on August 9, 2014, started a national conversation on policing which led to a report released by the U.S. Department of Justice (DOJ), Civil Rights Division analyzing the practices of the Ferguson Police Department. Among its findings, the report revealed that Ferguson's law enforcement efforts were focused on generating revenue by enforcing municipal fines and fees at the expense of ensuring public safety needs.[1] Further, the report found that the practice of raising revenue through the court system challenges the independent role of the judiciary, shifts the essential functions of the courts, and adversely impacts the most vulnerable communities, especially those living in or near poverty.[2] To address these issues, the DOJ issued five resources, four of which were addressed to chief justices and state court administrators,[3] and one addressed to recipients

[1] U.S. DEP'T OF JUSTICE, C.R. DIVISION, INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 42 (2015), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report_1.pdf [hereafter INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT].
[2] *Ibid.*
[3] Press Release, U.S. Dep't of Justice, Off. of Pub. Aff., Justice Department Announces Resources to Assist State and Local Reform Fine and Fee Practices (Mar. 14, 2016), https://www.justice.gov/opa/pr/justice-department-announces-resources-assist-state-and-local-reform-fine-and-fee-practices (last visited April 10, 2017).

of financial assistance from various federal agencies dealing with juvenile justice matters.[4] These resources are:

1. Dear Colleague Letter[5] from the Civil Rights Division and the Office for Access to Justice to provide greater clarity to state and local courts regarding their legal obligations with respect to the enforcement of court fines and fees.

2. Announcement of $2.5 million in competitive grants[6] through the Bureau of Justice Assistance (BJA) to state, local or tribal jurisdictions that, together with community partners, want to test strategies to restructure the assessment and enforcement of fines and fees.

3. BJA support for the National Task Force on Fines, Fees, and Bail Practices that will be responsible for drafting model statutes, court rules and procedures, and development of an online clearinghouse of best practices.

4. A resource guide compiled by the Office of Justice Programs Diagnostic Center that highlights issue studies and other publications related to the assessment and enforcement of court fines and fees.

5. Advisory letter for recipients of financial assistance to remind them of their constitutional and statutory responsibilities related to collecting fines and fees from youth involved with the juvenile justice system. Akin to the Dear Colleague Letter, this correspondence offers recommendations to improve the administration of juvenile fines and fees.

The U.S. Constitution along with other federal law protect citizens from government systems that raise revenue from its citizens. The Due Process Clause of the Fourteenth Amendment[7] bars criminal adjudication by individuals who have a financial stake in cases they decide.[8] Secondly, the Equal Protection Clause of the Fourteenth Amendment ensures that no state shall deny any persons "the equal protection of the laws."[9] The Eighth Amendment to the U.S. Constitution forbids the excessive levying of fines.[10] Finally, the Title VI of the Civil Rights Act of 1964, as

[4] U.S. DEP'T OF JUSTICE, ADVISORY FOR RECIPIENTS OF FINANCIAL ASSISTANCE FROM THE U.S. DEP'T OF JUSTICE ON LEVYING FINES AND FEES ON JUVENILES (2017), https://ojp.gov/about/ocr/pdfs/AdvisoryJuvFinesFees.pdf.
[5] Letter from the U.S. Dep't of Justice (Mar. 14, 2016), https://www.justice.gov/crt/file/832461/download (last visited April 10, 2017).
[6] U.S. DEP'T OF JUSTICE, OFF. OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE, THE PRICE OF JUSTICE: RETHINKING THE CONSEQUENCES OF JUSTICE FINES AND FEES (2016), https://www.bja.gov/funding/JRIpriceofjustice.pdf (last visited April 10, 2017).
[7] U.S. CONST. amend. XIV, § 1.
[8] *See* Tumey v. Ohio, 273 U.S. 510, 523 (1927) and Caperton v. A.T. Massey Coal Co., 556 U.S. 883-884 (2009).
[9] U.S. CONST. amend. XIV, § 1.
[10] U.S. CONST. amend. VIII.

amended, prohibits discrimination on the basis of race, color, or national origin in programs or activities receiving federal financial assistance.[11]

The Committee is aware that the U.S. Commission on Civil Rights (Commission) is presently studying the issue of municipal fines and fees and the effectiveness of DOJ's enforcement efforts. To fulfill this study, the Commission has invited its advisory committees to consider undertaking studies on the civil rights implications of the enforcement of municipal fines and fees. As such – and in keeping with their duty to inform the Commission of: (ii) matters related to discrimination or a denial of equal protection of the laws and (ii) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress, the Committee submits the following findings and recommendations to the Commission regarding the potential for disparate impact on the basis of race, color, or other federally protected category in the levying of fines and fees Nevada. These findings and recommendations are intended to highlight the most salient civil rights themes as they emerged from the Committee's inquiry. In recognition of the Commission's continued study on this topic and in lieu of providing a detailed discussion of each finding presented, the Committee offers findings and recommendations, along with supplementary resources, as topics of reference for the Commission's 2017 statutory enforcement report. The complete meeting agenda, minutes, and transcripts are included in Appendix A and B for further reference.

Overview of Testimony

The Committee approached this project from a neutral posture and sought input from local, state, and national stakeholders representing various perspectives on the topic. During the March 15, 2017 Committee meetings in Las Vegas and Reno, the Committee heard testimony regarding potential disparities in the administration of fines and fees on the basis of race or color,[12] as well as recommendations to address any related concerns regarding equal protection and the right to due process of law. The Committee heard from government officials and law enforcement who have specific knowledge of the administration of fines and fees; policy experts who offered the national, state, and local trends; and community members directly impacted by municipal fines and fees. The Committee also heard testimony from elected officials and community advocates on their efforts to address disparate impact of fines and fees affecting individuals of federally protected classes. To accommodate a scheduled panelist who was unable to attend the live hearing, the Committee heard from a policy expert who analyzes fines and fees levied on juveniles and their families on March 29, 2017. In addition, the Committee received written statements offering supplemental information on the topic.[13] Notably, despite several outreach attempts, no other State officials or State representatives were able to participate to explain the

[11] 42 U.S.C. § 2000(d). (2012).
[12] Testimony was also heard on the treatment of individuals with mental health issues and their interaction with the law enforcement and the court system.
[13] Written testimony submitted can be found in Appendix D.

fiscal matters related to fines and fees or matters related to potential reform efforts. Additionally, Chief Justice James Hardesty of the Nevada Supreme Court was invited to provide testimony, but due to his involvement with the Nevada Advisory Commission on the Administration of Justice and the National Task Force on Fines and Fees, and Bail Practices, he was unavailable to provide comments related to state efforts. It is within this context that the Committee presents the findings and recommendations that follow.

Findings

The section below provides findings received and reflects views of the cited panelists. While each assertion has not been independently verified by the Committee, panelists were chosen to testify due to their professional experience, academic credentials, subject expertise, and firsthand experience with the topics at hand. A brief biography of each panelist and his or her credentials can be found in Appendix C.

1. Testimony indicated the following concerns regarding a severe deficit of demographic data collection and tracking:

    a. Nevada courts and law enforcement are not required to collect demographic information regarding who utilizes the court system and who interacts with law enforcement. Information is not recorded and readily accessible from the courts regarding who (i) have paid off fines and fees, (ii) are on a payment plan, (iii) were given the alternative to perform community service in lieu of paying off fines and fees, and (iv) was given a hearing and of what type. Similarly, law enforcement do not maintain demographic information for individuals (i) with a bench warrant as a result of the inability to pay, (ii) who are being held in jail as a result of inability to pay and for how long, and (iii) who are being stopped and for what violations.[14] As such, it is not possible to monitor or assess the potential for disparate impact on the basis of race, color, disability, or other federally protected category.

    b. Widely used case management databases by courts and law enforcement are largely outdated and do not have the appropriate fields to enter demographic categories. Efforts to upgrade these systems would require significant funding. This poses a challenge for potential state reform efforts that would require courts and law enforcement to collect demographic information.[15] Additionally, there is concern

[14] Public Meeting: Municipal Fines & Fees in Nev.: Hearing Before the Nevada Advisory Committee to the U.S. Commission on Civil Rights 180 lines 13-20 (Nev. 2017) (statement of Amy Rose, Legal Director, American Civil Liberties Union, Nev.), https://database.faca.gov/committee/meetingdocuments.aspx?flr=147607&cid=261 [hereafter Transcript].
[15] Transcript (statement of Leisa Moseley, Founder, The Action Company) 105 lines 9-23.

regarding how a potential statewide system upgrade would be funded as taxes are largely unpopular among Nevada residents.[16]

c. Incomplete, missing, and inaccurate demographic data shared between courts and law enforcement[17] make it difficult to ascertain the extent to which disparate impact affects a federally protected category. However, an advocate warned that if data driven law enforcement efforts are pursued as a result of collecting demographic information, it may be used to reinforce racial profiling in predominantly minority communities.[18]

2. There is consensus in research and testimony that explains individuals impacted by fines and fees are overwhelmingly poor. While there is insufficient demographic data collected by law enforcement and the courts[19] to assess whether federally protected categories of individuals are impacted, research and testimony indicate there is reason for concern.

   a. In 2015, the Las Vegas Review-Journal investigated law enforcement data and found that residents living in the seven poorest, statistically African-American and Hispanic zip codes account for nearly two-thirds of traffic citations.[20]

   b. According to the Kenny Guinn Center for Policy Priorities, North Las Vegas – a city with a high rate of poverty and high concentration of minority communities – collected $10.7 million in fines, fees, and assessments out of the $13.2 million originally imposed.[21]

   c. A 2002 study, Commissioned by the Nevada Legislature, found that African-American and Hispanic residents in Nevada are more likely to be pulled over for traffic stops than White residents. African-American residents also were more likely to be searched statewide. Across all participating law enforcement agencies, African-American drivers were searched at a high rate, more than twice the rate of White drivers (9.5 percent to 3.9 percent).[22]

---

[16] Transcript (statement of Dustin Marcello, Esq., Def. Att'y, Pitaro & Fumo Law) 218 line 23-219 line 16; Transcript (statement by Hannah Brown, President Emeritus, Urban Chamber of Commerce) 219 lines 17-23.
[17] Transcript (statement of Dana Hlavac, Ct. Adm., L.V. Mun. Ct.) 12 lines 16-20.
[18] Transcript (statement of Marcello) 205.
[19] Transcript (statement of Hlavac) 11 lines 14-13 line 2.
[20] James DeHaven, *Poor Residents Take Brunt of Planned Vegas Muni Court Payments*, L.V. Rev. J, Jun. 15, 2015, https://www.reviewjournal.com/local/local-las-vegas/poor-residents-take-brunt-of-planned-vegas-muni-court-payments/.
[21] Transcript (statement of Megan Rauch, 114 lines 5-14.
[22] RICHARD C. MCCORKLE, NEVADA OFFICE OF THE ATT'Y GEN. & U. OF NEVADA., LAS VEGAS., DEP'T OF CRIM. JUSTICE, A.B. 500 TRAFFIC STOP DATA COLLECTION STUDY: A SUMMARY OF FINDINGS (U. of Nev., Las Vegas, Dept. of Crim. Just. 2003); *Blacks, Hispanics in Nevada More Likely to be Pulled Over for Traffic Stops*, Las Vegas Sun, Jan. 31, 2003, https://lasvegassun.com/news/2003/jan/31/blacks-hispanics-in-nevada-more-likely-to-be-pulle/.

d. According to a report written by the Juvenile Law Center, youth of color were more likely than their White counterparts to have unresolved fines or fees after closed cases, which relate to higher recidivism rates. It notes that the fees structures that include a failure to pay requirement may contribute to racial disparities in the juvenile justice system nationally. [23]

e. The National Council on Crime and Delinquency conducted a study on racial and ethnic disparities in the U.S. Criminal Justice System and found that African-Americans comprise 13 percent of the population but 28 percent of those arrested and 40 percent of those incarcerated. Notably, African-Americans are also almost five times more likely than White defendants to rely on indigent defense counsel.[24]

3. Out of eight possible fines and fees, Nevada youth and their families are required to pay up to six types of fines and fees as they move through the juvenile justice system. Of the six fines and fees, three are mandatory and the remaining are made by judicial determination.[25] Collection of these legal financial obligations raise concerns about (i) its practicability as youth have limited or no access to money, (ii) its rehabilitative purpose, and (iii) its disparate impact on youth of color in the justice system.[26]

4. Testimony indicated the following concerns regarding due process of law in imposing and resolving fines and fees:

   a. The use of counsel to challenge fines and fees is costly. In many cases, the fee amount is significantly more than the actual fine. It is often not logical to hire an attorney to represent the individual, especially if the individual is indigent, because the legal costs would be too expensive.[27] As a result, defense lawyers have turned away individuals dealing with high fines and fees which leave individuals with few options to address their debt.[28]

   b. In some cities, traffic commissioners are appointed by city council members to address minor traffic violations and conduct indigency inquiries. These individuals

---

[23] ALEX R. PIQUERO & WESLEY G. JENNINGS, JUSTICE SYSTEM–IMPOSED FINANCIAL PENALTIES INCREASE THE LIKELIHOOD OF RECIDIVISM IN A SAMPLE OF ADOLESCENT OFFENDERS (Youth Violence and Juvenile Just. 2016).
[24] CHRISTOPHER HARTNEY & LINH VUONG, CREATED EQUAL: RACIAL AND ETHNIC DISPARITIES IN THE U.S. CRIM. JUSTICE SYSTEM (Nat'l Council on Crime and Delinquency 2009), http://www.nccdcrc.org/nccd/pdf/CreatedEqualReport2009.pdf. (last visited April 14, 2017).
[25] Transcript (statement of Rauch) 109 lines 1-24.
[26] Nevada Advisory Committee to the U.S. Commission on Civil Rights Meeting Minutes, March 29, 2017 (Nev. 2017) 5-6 (statement by Jessica Feierman, Associate Director, Juvenile Law Center) https://database.faca.gov/committee/meetingdocuments.aspx?flr=147671&cid=261 [hereafter Transcript 2].
[27] Transcript (statement of Marcello) 195 line 16-196 line 19.
[28] Transcript (statement of Joseph Maridon, Esq., Las Vegas) 245 lines 6-11.

have the authority to waive a defendant's rights to trial and allow him or her to pay for the fine and fee, or determine alternative payment options.[29] Without judicial oversight, it is difficult to ensure that these duties are done in a manner consistent with due process and equal protection. Additionally, this may pose a conflict as there is no political recourse if a defendant feels these individuals dealt with their case unfairly.[30]

c. Data indicating the sources of fines and fees revenue contributing to the operating budgets of courts is limited. The first and only time that the Nevada Judicial Branch produced a report clearly presenting its funding sources and operations was in 2003.[31] Strikingly, 71 percent of collected fines and 100 percent of state-mandated administrative assessments funded municipal courts.[32]

d. State-mandated administrative assessment fees are used to pay for special projects such as upgrading case management systems [33] and operating specialty courts.[34] For the City of Las Vegas, in particular, administrative assessment fees are used to pay for the construction of the Regional Justice Center until the year 2045.[35]

e. To address unsuccessful attempts at recovering originally imposed fines and fees, cities across the state use varying collection methods such as organizing "warrant amnesty" events,[36] offering payment plan options, and outsourcing to private collection agencies.[37] Local media reporting brought attention to the increased revenue flowing into the courts, which advocates warn exacerbates community and police tensions.[38]

---

[29] Transcript (statement of Bill Zihlmann, Ct. Admin., Henderson Muni Ct.) 29 lines 18-22.
[30] Transcript (statement of Marcello) 197 lines 8-10.
[31] SUP. CT. OF NEVADA, CT. FUNDING COMMISSION, NEVADA JUDICIAL BRANCH FUNDING: RESOURCES AND OPERATIONS DURING FISCAL YEAR 2003, A REPORT OF THE SUP. CT. OF NEVADA CT. FUNDING COMMISSION, iv (2005) nvcourts.gov/AOC/Documents/Court_Funding_Commission_Report/ (last visited April 5, 2017).
*The report was created by the Commission of the Supreme Court of Nevada to assess the level of funding and resources in, and services offered by, each court within the Nevada Court system. It noted, "Never before in the history of Nevada has anyone known at any particular point in time, by any estimate, the cost of operating the courts in Nevada or what we get for our money." A Message from Deborah A. Agosti, Senior Justice and Chair of Court Funding Commission.
[32] Transcript (statement of Dr. Nancy E. Brune, Executive Director, Kenny Guinn Center for Pol'y Priorities) 111 line 10-112 line 7.
[33] Transcript (statement of Dexter Thomas, Ct. Admin., Reno Just. Ct.) 45 lines 18-21.
[34] Transcript (statement of Hlavac) 14 lines 17-22.
[35] *Ibid.*, lines 12-16.
[36] Transcript (statement by Thomas Harvey, Executive Director, ArchCity Defenders) 147, line 12 -148 line 11; Transcript (statement by Thomas) 45 line 22-46 line 8.
[37] Transcript (statement by Zihlmann) 30 lines 23-25.
[38] Transcript (statement by Harvey) 147 line 12-149 line 7.

f. As cities struggle to collect from citizens, especially juveniles and/or indigents, panelists questioned the sustainability of the State's long-standing fiscal model to fund city agency operations through fines, fees, and administrative assessment fees.[39]

5. Testimony indicated the following concerns regarding the ability-to-pay determination and equal protection of the law in resolving fines and fees:

   a. *Gilbert v. Nevada*[40] the Nevada Supreme Court ruling held that an individual should be given an opportunity to explain his or her inability to pay before being jailed, in what is known as "Gilbert hearing." However, some judges across the state may still not allow individuals to explain their financial circumstances and are continuing to sentence them to jail for failure to pay.[41]

   b. Nevada law does not provide a grace period for individuals on payment plans. Therefore, individuals who are late on fines and/or fees payments can still be arrested, even if past payments were made on time.[42] Individuals who are arrested in this way may be victims of an unconstitutional deprivation of liberty.

   c. Administrative assessment fees enforced by the State are required to be paid off before fines. For an individual who has committed multiple offenses, each offense is assigned a separate case and consequently, a separate administrative assessment fee is applied.[43] This compounding of fees may cause increased hardship for indigent defendants to pay off fees even before attempting to pay off the remainder of fines associated to each offense. This is particularly challenging as individuals must pay these fees before they can appeal their case before a judge requesting for an alternative payment option.

   d. Community service is not a widely used payment alternative across courts,[44] but if granted, the pay-off for performing community service is paltry. In Las Vegas, one

[39] Transcript (statement by Marcello) 206 line 6 -207 line 1; Transcript 2 (statement by Feierman) 5 ¶ 4.
[40] See Gilbert v. State, 669 P.2d 699 (Nev. Sept. 27, 1983).
[41] Written Testimony before the Nevada Advisory Committee to the U.S. Commission on Civil Rights, March 15, 2017, (Nev. 2017) 13 (statement by Jeffrey Barr, Esq.). https://database.faca.gov/committee/meetingdocuments.aspx?flr=147607&cid=261 [hereafter Written Testimony]; Transcript (statement by Jesiah Dechanel, Las Vegas) 238 line 19- 241 line 13.
* A 73-year-old Nevada woman was jailed for 21 days for failure to pay for fines and fees over a civil lawsuit with her neighbor. She initially was given the option to perform community service to pay down the amount, but due to her health condition and the extreme desert heat, it was out of the question. While in jail, she was among others who faced a similar burden of inability to pay down their fines and fees.
[42] Transcript (statement by Moseley) 85 lines 12-18.
[43] Transcript (statement by Marcello) 201 lines 2-10.
[44] Written Testimony (statement by Michael Bluestein, Las Vegas) 15.

hour of community service equates to ten dollars.[45] This alternative may leave individuals, especially those with unpredictable work schedules and/or are minimum wage earners, struggling to pay off their fines and fees. Similarly, it causes an additional financial and scheduling burden on parents who must pay and arrange for childcare while they perform community service.

6. State officials and lawmakers have been involved in reform efforts that address fines and fees, but little progress has been made to date.

    a. In the last two legislative sessions, lawmakers attempted to address the classification of traffic violations. Thirty-seven states across the country consider these violations civil matters. In Nevada, traffic violations are treated as criminal infractions which are subject to a bench warrant for failure to appear in court. Due to its contentious language surrounding reclassification and its implications regarding the sustainability of court operations, legislation to decriminalize traffic violations into a civil matter was unsuccessful.[46] In its recent legislative session, a concurrent resolution was introduced in the Nevada Assembly that directs the Nevada Legislative Commission to conduct an interim study concerning treating certain traffic and related violations as civil infractions and is awaiting Senate approval.[47]

    b. The Nevada Advisory Commission on the Administration of Justice is currently reviewing the State's administration of fines and fees practices by identifying areas for reform consideration and is an active member of the National Task Force on Fines and Fees, and Bail Practices. At this writing, the Nevada Advisory Commission on the Administration of Justice has not released any official statements or findings related to their review.

Recommendations

The recommendations below are not listed by preference of suggested action.

1. The U.S. Commission on Civil Rights should issue a formal request to the U.S. Department of Justice to:

    a. Require consistent and complete reporting of demographic information by state and local courts and law enforcement. Where possible, such data should include, but are not limited to: (i) race, (ii) color, and (iii) veteran status. Such data should

[45] Transcript (statement by Rauch) 114 lines 23-25.
[46] Transcript (statement by Michele Fiore, Former Assemblywoman, District 4) 78 line 3-80 line 2.
[47] Assemb. Con. Res. 9, 79th Leg., Reg. Sess. (Nev. 2017). https://www.leg.state.nv.us/Session/79th2017/Reports/history.cfm?BillName=ACR9 (last visited May 11, 2017).

reference the zip code where the violation occurred and type of violation. Additionally, this information should be made publicly available, and disaggregated by court cases.

b. Require the Department to keep their commitment to supporting state judges, court administrators, policy makers and advocates in ensuring justice for all people, regardless of their financial circumstance, by upholding its initial guidance and resources. This entails keeping the "Dear Colleague" letter visible and available on the Department of Justice website and recirculating it to state and local courts.

c. Continue funding the grant program, *The Price of Justice: Rethinking the Consequences of Justice Fines and Fees,* administered by the BJA, in the next fiscal year in hopes that Nevada and other states may have the opportunity to compete for funding. In addition, the Committee recommends that grantees are given the opportunity to showcase their strategies to states to support best practice sharing.

d. Require that individuals be afforded the right to court-appointed counsel.

2. The Commission should issue a formal recommendation to the Governor and State of Nevada Legislature urging the state to:

a. Require mandatory annual reporting of revenue generated from fines and fees to be submitted to the Administrative Office of the Courts as was done in 2003.

b. Increase annual funding for the Administrative Office of the Courts grant program[48] to ensure courts can address their infrastructural technology needs.

c. Eliminate the use of failure-to-pay warrants and any associated fees.

d. Institute mandatory training of all judges, court staff, law enforcement, prosecutors and public defenders on the use of the bench card.[49]

[48] Sup. Ct. of Nevada, Admin. Office of the Courts, AOC Grant Program Overview, Projects & Programs Page, http://nvcourts.gov/AOC/Programs_and_Services/AOC_Grant_Program/Overview/ (last visited April 5, 2017).

[49] NATIONAL TASK FORCE ON FINES, FEES AND BAIL PRACTICES, CONFERENCE OF CHIEF JUSTICES & CONFERENCE OF ST. CT. ADMIN., LAWFUL COLLECTION OF LEGAL FINANCIAL OBLIGATIONS: A BENCH CARD FOR JUDGES (2017) http://www.ncsc.org/~/media/Images/Topics/Fines%20Fees/BenchCard_FINAL_Feb2_2017.ashx (last visited April 5, 2017).

e. Develop and implement clear standards for court administrators and judges to determine an individual's inability to pay.

f. Institute a limitation on jail for nonpayment.

g. Commission a state study to identify alternative funding streams which courts may use to operate to reduce the dependency on revenue collected from fines and fees.

h. Submit report to all municipal and justice courts for review.

Appendix

A. Hearing Agenda & Minutes

B. Hearing Transcripts

C. Panelist Profiles

D. Written Testimony

Appendix A

Nevada Advisory Committee to the U.S. Commission on Civil Rights
Municipal Fines and Fees Hearing
March 15, 2017

Opening Remarks and Introductions (9:00 am – 9:15 am)

Government and Law Enforcement Panel (9:15 am – 10:30 am)
Dana Hlavac, Court Administrator, Las Vegas Municipal Court
Bill Zihlmann, Court Administrator, Henderson Municipal Court
Earl Mitchell, Constable, City of Henderson Township
Sam Diaz, Commission Officer and Government Liaison, and Kelly McMahill, Lieutenant, Las Vegas Metropolitan Police Department
* Dexter Thomas, Court Administrator, Reno Justice Court

Elected Officials Panel (10:45 am – 11:45 am)
* Dina Neal (D), Assemblywoman, District 7
Michele Fiore (R), Former Assemblywoman, District 4
* Leisa Moseley, Founder, The Action Company

Break (11:45 am – 1:15 pm)

Policy Experts Panel (1:15 pm – 2:30 pm)
*Egan Walker, Justice, Second Judicial District Court
Jessica Feierman, Associate Director, Juvenile Law Center
Dr. Nancy E. Brune, Executive Director and Megan Rauch, Director of Education Policy, Kenny Guinn Center for Policy Priorities
Nicole Austin-Hillery, Director and Counsel, Brennan Center for Justice at New York University
Thomas Harvey, Executive Director, ArchCity Defenders

Advocates and Community Members Panel (2:45 pm – 4:00 pm)
Amy Rose, Legal Director, American Civil Liberties Union, Nevada
Alex Cherup, Vice President, National Association for The Advancement Of Color People, Las Vegas
Dustin Marcello, Defense Attorney, Pitaro & Fumo Law
Hannah Brown, President Emeritus, Urban Chamber of Commerce

Open Forum (4:15 pm – 5:00 pm)

Closing Remarks (5:00 pm – 5:15 pm)

* Panelists joining via teleconference in Reno, Nevada

NEVADA ADVISORY COMMITTEE TO
THE U.S. COMMISSION ON CIVIL RIGHTS
MEETING MINUTES

March 15, 2017

The Nevada Advisory Committee to the U.S. Commission on Civil Rights (Committee) convened at two locations to hear testimony to determine if the use of municipal fines and fees disproportionately affect members of a federally protected class and to identify what solutions exist to remedy its impact. The primary location was at the Nevada Department of Employment, Training and Rehabilitation at 2800 E. St. Louis Ave., Las Vegas, NV 89104 and at Nevada Department of Employment, Training and Rehabilitation at 1325 Corporate Blvd., Reno, NV 89502 via video conference. Wendell Blaylock chaired the meeting and performed the initial roll call of committee members present. The meeting was open to the public and took place from 9:00 AM to 4:39 PM PDT.

State Advisory Committee Members:

Present:

- Sondra Cosgrove
- Carol Del Carlo
- Wendell Blaylock
- Theresa Navarro (in Reno)
- David Fott
- Kay Kindred
- Jon Ponder
- Kathleen Bergquist
- Kara Jenkins

Absent:

- Emma Guzman
- Bob Beers
- Matthew Saltzman
- Debra Feemster
- Ed Williams

Commission Staff present:

- David Mussatt, Supervisory Chief, Regional Programs Unit
- Ana Victoria Fortes, Civil Rights Analyst
- Angelica Trevino, Support Specialist
- Carolyn Allen (in Reno), Administrative Assistant

Members of the Public present:

- Lonnie Feemster
- Pat Lynch
- Joseph Maridon
- Lucy Hood
- Jo Cato
- Gloria Yasal
- Jesiah Yasal

Meeting Notes/Decisions Made:

The Committee heard testimony from the following individuals according to the agenda noted:
Opening Remarks and Introductions (9:00 am – 9:15 am)

Government and Law Enforcement Panel (9:15 am – 10:30 am)

- Dana Hlavac, Court Administrator, Las Vegas Municipal Court
- Bill Zihlmann, Court Administrator, Henderson Municipal Court
- Earl Mitchell, Constable, City of Henderson Township
- Sam Diaz, Commission Officer and Government Liaison and Kelly McMahill, Lieutenant, Las Vegas Metropolitan Police Department
- *Dexter Thomas, Court Administrator, Reno Justice Court

Elected Officials Panel (10:45 am – 11:45 am)

- *Dina Neal (D), Assemblywoman, District 7
- Michele Fiore (R), Former Assemblywoman, District 4
- *Leisa Moseley, Founder, The Action Company

Policy Experts Panel (1:15 pm – 2:30 pm)

- *Egan Walker, Justice, Second Judicial District Court
- Dr. Nancy E. Brune, Executive Director and Megan Rauch, Director of Education Policy, Kenny Guinn Center for Policy Priorities
- Nicole Austin-Hillery, Director and Counsel, Brennan Center for Justice at New York University
- Thomas Harvey, Executive Director, ArchCity Defenders

Advocates and Community Members Panel (2:45 pm – 4:00 pm)

- Amy Rose, Legal Director, American Civil Liberties Union, Nevada
- Alex Cherup, Vice President, National Association for The Advancement Of Color People, Las Vegas
- Dustin Marcello, Defense Attorney, Pitaro & Fumo Law
- Hannah Brown, President Emeritus, Urban Chamber of Commerce

Open Forum (4:15 pm – 5:00 pm)

Closing Remarks (5:00 pm – 5:15 pm)
* Panelists joining via video conference in Reno, Nevada

Also invited to testify were Nevada Supreme Court Justice James Hardesty, Associate Director for the Juvenile Law Center Jessica Feierman, and Partner for Ashcraft & Barr LLP Jeffrey Barr were unable to attend.

Testimony focused on determining if the use of municipal fines and fees disproportionately affect members of a federally protected class. It also discussed what solutions exist to remedy its impact.

At the conclusion of testimony given on each panel, Committee members had the opportunity to ask questions of the panelists.

No decisions were made and no votes taken. A transcript of the proceedings will be available and included with meeting records within 30 days.

Public Comment:
During the Open Forum session listed on the above agenda, the meeting welcomed for comments from members of the public. During the session, testimony was received from:

- Lonnie Feemster
- Pat Lynch
- Joseph Maridon
- Jesiah Yasal

Written testimony from members of the public will continue to be accepted until April 14, 2017. For more information contact the USCCR Western Regional Office at (213) 894-3437.

Adjournment:
Meeting adjourned at 4:39 PDT.

Appendix B

Nevada Advisory Committee March 15 Briefing Transcript

The full transcript of the Nevada Advisory Committee to the U.S. Commission on Civil Rights Hearing held on March 15, 2017 is available at https://database.faca.gov/committee/meetingdocuments.aspx?flr=147607&cid=261

Nevada Advisory Committee March 29 Briefing Transcript

The full transcript of the Nevada Advisory Committee to the U.S. Commission on Civil Rights Public Meeting held on March 29, 2017 is available at https://database.faca.gov/committee/meetingdocuments.aspx?flr=147671&cid=261

Appendix C

Nevada Advisory Committee March 15 Briefing Panelists Biographies

The Panelists' Biographies of the Nevada Advisory Committee to the U.S. Commission on Civil Rights Hearing held on March 15, 2017 is available at https://database.faca.gov/committee/meetingdocuments.aspx?flr=147607&cid=261

Appendix D

Nevada Advisory Committee March 15 Public Briefing Written Testimony

The full written testimony for the Nevada Advisory Committee to the U.S. Commission on Civil Rights Public Hearing on Municipal Fines and Fees in the State of Nevada, held on March 15, 2017 is available at https://database.faca.gov/committee/meetingdocuments.aspx?flr=147607&cid=261