

ADAM PAUL LAXALT  
*Attorney General*



STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL  
100 North Carson Street  
Carson City, Nevada 89701

J. BRIN GIBSON  
*First Assistant Attorney General*  
NICHOLAS A. TRUTANICH  
*Chief of Staff*  
KETAN D. BHIRUD  
*General Counsel*

August 1, 2018

Via U.S. Mail

Elizabeth L. Walsh

**Re: Nevada Department of Corrections – Open Meeting Law  
Complaint, OAG File No. 13897-275**

Dear Ms. Walsh:

The Office of the Attorney General (“OAG”) is in receipt of your complaints (“Complaints”) filed on April 4, 2018 alleging violations of the Open Meeting Law (“OML”) by David Tristan, Shelia Lambert, and James Dzurenda, on or about February 8, 2018, concerning statements made before the Interim Finance Committee.<sup>1</sup>

The OAG has statutory enforcement powers under the OML, and the authority to investigate and prosecute violations of the OML. Nevada Revised Statutes (“NRS”) 241.037; NRS 241.039; and NRS 241.040. In response to the Complaint, the OAG reviewed the Complaints and the relevant portions of the Nevada Revised Statutes.

**FACTUAL BACKGROUND**

The Complaints allege violations of the OML by three individuals, David Tristan, Shelia Lambert, and James Dzurenda, each of whom are identified as an employee of the Nevada Department of Corrections (“NDOC”). These employees are not identified as part of any collective entity or public body operating under the laws of Nevada.

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<sup>1</sup> The Complaints indicate not only OML violations but also Public Integrity and General Investigations complaints. This letter addresses only the OML related issues raised related to the February 8, 2018 meeting.

### LEGAL ANALYSIS

The OML, as comprised by Chapter 241 of the NRS, applies to meetings of public bodies and it requires that the actions of public bodies “be taken openly and that their deliberations be conducted openly.” NRS 241.010(1); *see McKay v. Bd. Of Supervisors*, 102 Nev. 644, 651 (1986). The OML defines a “public body” as “any administrative, advisory, executive or legislative body of the State or a local government consisting of at least two persons which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue...” if the body is created by the Nevada Constitution, a Nevada statute, a city charter or ordinance or other regulation or order; or as a board, commission, or committee consisting of at least two persons appointed by the Governor, or an entity or public officer in the Executive Department or under the direction of an agency in the Executive Department consisting of members appointed by the Governor. NRS 241.015(4)(a)(b).

Your Complaint does not allege a cognizable OML violation against a public body that requires investigation by the OAG. David Tristan, Sheila Lambert, and James Dzurenda, each of whom is an employee of NDOC, do not, to our knowledge, together comprise a public body, in whole or in part. And even if they did, in some other context, at issue here is their testimony before the Legislative Interim Finance Committee, where each of the three individuals testified as an employee of NDOC and not as part of a separate public body.

Ms. Lambert, Mr. Tristan, and Mr. Dzurenda do not, in the present case, constitute a public body under the OML, as they do not meet the criteria outlined in NRS 241.015(4). It follows that they did not violate the OML.

### CONCLUSION

Upon review of your Complaint, the OAG has determined that no violation of the OML has occurred. The OAG will close the file regarding this matter.

Sincerely,

ADAM PAUL LAXALT,  
Attorney General

By: 

GREGORY D. OTT  
Chief Deputy Attorney General  
Boards and Open Government  
Division