

SB 2107  
Senate Judiciary Committee  
January 11, 2021  
Testimony of Travis W. Finck, Executive Director, NDCLCI

Madam Chair Larson, Vice Chair Dwyer, members of the Senate Judiciary Committee, my name is Travis Finck and I am the executive director for the North Dakota Commission on Legal Counsel for Indigents. The Commission is the state agency responsible for the delivery of indigent defense in North Dakota. I rise today to provide neutral testimony on SB 2107.

Senate Bill 2107 seeks to make exempt certain records of employees for the North Dakota Department of Corrections and Rehabilitation. The only concern the Commission on Legal Counsel has is to make sure any information that may be Brady material would still be required to be disclosed to counsel, when appropriate. Brady v. Maryland, was a landmark U.S. Supreme Court case that requires a prosecutor to turn over all information that may be exculpatory to a defendant. This bill could limit that right. The most pertinent example would be in the case of an assault that occurs on DOCR property. If an inmate wants access to a correctional officer's records to determine if that officer had been investigated for overly aggressive handling of inmates, that information should be provided. If a record is exempt, it would allow the Department of Corrections to determine whether a record is potentially exculpatory.

It is my understanding the Department intends on disclosing any such material when requested by law enforcement or a party to a court action. Therefore, I would respectfully request the committee consider the concern of this bill's impact on Brady material.

Respectfully Submitted this 11<sup>th</sup> day of January 2021:



Travis W. Finck

Executive Director, NDCLCI