



**NEVADA LEGISLATURE  
LEGISLATIVE COMMITTEE ON CHILD WELFARE  
AND JUVENILE JUSTICE'S TASK FORCE  
TO STUDY JUVENILE JUSTICE ISSUES  
(Assembly Bill 202, Chapter 483, *Statutes of Nevada 2013*)**

**SUMMARY MINUTES AND ACTION REPORT**

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The second and final meeting of the Nevada Legislature's Legislative Committee on Child Welfare and Juvenile Justice's Task Force to Study Juvenile Justice Issues was held on Friday, June 27, 2014, at 9 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's website at <http://www.leg.state.nv.us/interim/77th2013/committee/>. In addition, copies of the audio or video record are available through the Legislative Counsel Bureau's Publications Office (e-mail: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775/684-6835).

**COMMITTEE MEMBERS PRESENT IN LAS VEGAS:**

Assemblyman James Ohrenschall, Chair  
Esther Rodriguez Brown, Founder, Executive Director, The Embracing Project  
James G. (Greg) Cox, Director, Department of Corrections (DOC)  
Brigid Duffy, Chief Deputy District Attorney, Juvenile Division, Office of the  
Clark County District Attorney  
Marianne Hamrick, Licensed Clinical Social Worker, Nevada Childhood  
Cancer Foundation  
Shannon C. Richards, Deputy Attorney General (AG), Office of the AG  
Susan D. Roske, Chief Deputy Public Defender, Juvenile Division, Office of the  
Clark County Public Defender  
The Honorable William O. Voy, District Judge, Eighth Judicial District Court,  
Department A, Family Division, Clark County

**COMMITTEE MEMBERS PRESENT IN CARSON CITY:**

Frank Cervantes, Director, Washoe County Juvenile Services  
Steve McBride, Deputy Administrator, Juvenile Services, Division of Child and Family  
Services (DCFS), Department of Health and Human Services (DHHS)

**LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:**

Patrick Guinan, Principal Research Analyst, Research Division  
Bryan Fernley-Gonzalez, Principal Deputy Legislative Counsel, Legal Division  
Karly O’Krent, Deputy Legislative Counsel, Legal Division  
Natalie Pieretti, Senior Research Secretary, Research Division

## **OPENING REMARKS**

- Chair Ohrenschall welcomed the members, staff, and public to the second and final meeting of the Legislative Committee on Child Welfare and Juvenile Justice's Task Force to Study Juvenile Justice Issues (Task Force).

## **PUBLIC COMMENT**

- Chair Ohrenschall called for public comment; however, no testimony was presented.

## **APPROVAL OF MINUTES OF THE MEETING HELD ON MARCH 27, 2014, IN LAS VEGAS, NEVADA**

- The Task Force **APPROVED THE FOLLOWING ACTION:**

MS. ROSKE MOVED TO APPROVE THE "SUMMARY MINUTES AND ACTION REPORT" OF THE MARCH 27, 2014, MEETING HELD IN LAS VEGAS, NEVADA. THE MOTION WAS SECONDED BY MS. DUFFY AND PASSED UNANIMOUSLY.

## **UPDATE FROM THE REGIONAL FACILITY PLANNING SUBCOMMITTEE OF THE SUPREME COURT OF NEVADA'S COMMISSION ON STATEWIDE JUVENILE JUSTICE REFORM**

- Frank Cervantes, previously identified, introduced Scott J. Shick, Chief Juvenile Probation Officer, Juvenile Probation Department, Douglas County. Mr. Cervantes presented an overview of Nevada's current youth correctional system. He discussed the proposals under review by the Regional Facility Planning Subcommittee of the Supreme Court of Nevada's Commission on Statewide Juvenile Justice Reform (Commission) that will help regionalize northern and southern Nevada. (Please see [Exhibit B](#).)
- Mr. Shick discussed Nevada's model for juvenile justice, which is developing community-based programs to help youths stay in their homes and schools, contribute to their communities, and stay out of the juvenile justice system. He acknowledged the grant support received by the Juvenile Justice Programs Office of the DCFS and encouraged the Task Force to recognize that evidence-based programs practiced by each jurisdiction are working. Even though the Commission supports incorporating certified juveniles into juvenile programs, Mr. Shick recommended that the Task Force be cautious and not corner-in required programs. He suggested the program at Red Rock Academy (Red Rock) is feasible.

Chair Ohrenschall and Mr. Shick discussed the Red Rock proposal. Mr. Shick indicated that changes at Red Rock would occur, in addition to a new co-located facility. He explained the Red Rock proposal is driven by the Prison Rape Elimination Act of 2003 (PREA), issued by the United States Department of Justice (DOJ).

- James G. (Greg) Cox, previously identified, testified that PREA's sight and sound mandates explain why 12 youths are housed in the Lovelock Correctional Center (Lovelock). He discussed the DOC's intake process of identifying programming and services for inmates. To accomplish this for juvenile offenders, Director Cox suggested the first step is to construct a building at Red Rock, which will cost approximately \$15 million.

Ms. Brown and Director Cox discussed whether the proposed facility at Red Rock would house youths currently at the Clark County Detention Center (CCDC) or only direct file youths. Director Cox explained the DOC provides services and housing for the 12 certified youths at Lovelock, but regional housing would provide the necessary programs and services in addition to keeping these youths close to their homes and communities.

- Judge Voy identified attempted murder cases by 15- or 16-year-olds with prior felonies in the juvenile system and who now have armed robbery cases as examples of direct file cases.

Discussion ensued regarding what happens when the 12 youths at Lovelock turn 18 years old. Director Cox stated most of them would go to High Desert State Prison in Clark County, which has two schools through the Clark County School District for inmates under 21 years old and federal educational programs for inmates up to 24 years old.

Responding to a question by Chair Ohrenschall regarding whether the youths housed at the future building at Red Rock would participate in programs or be separated entirely because of PREA mandates, Director Cox replied the new building would provide space for education, counseling, and other services determined to meet the needs of the youths.

- Mr. Shick added that certified youths would be assessed for their ability to blend or co-locate with the commitment population. He noted that incorporating those youths into the normal juvenile programming based on their individualized assessment and treatment plan is up for policy discussion. Mr. Shick suggested more discussion is necessary regarding whether those youths who turn 18 years old can or should remain on that campus.
- Mr. Cervantes expressed his support for the DOC and the juvenile-related programs having access to the same adolescent-driven resources, such as mental health and education.

Responding to Ms. Duffy's request for clarification that under the new proposal, 16-year-olds convicted of murder, for example, would spend the first two years of their sentence possibly at Red Rock and then transfer into the adult system at 18 years old, Mr. Shick commented this idea needs further discussion. He questioned how Nevada's model would handle certified youths at Red Rock turning 18 years old.

A conversation took place regarding security enhancements at Red Rock. Ms. Duffy stressed the need for security if Red Rock is going to house high-level offenders over 18 years old. Director Cox assured the Task Force that he and his staff would be directly involved with the security and perimeter enhancements of Red Rock.

Responding to an inquiry by Ms. Richards, Director Cox said the Red Rock design calls for 56 to 60 beds.

Discussion ensued regarding whether the youths currently at the CCDC would be housed at Red Rock. Director Cox said he could only address the 12 youths sentenced to Lovelock. Judge Voy suggested combining the youths at Lovelock with the 14 youths at the CCDC's juvenile pod to financially justify a stand-alone program.

There was discussion among Chair Ohrenschall, Ms. Brown, and Director Cox about using an existing building rather than constructing a new one. Director Cox asserted the current buildings and structures do not provide for the security and safety mandated by PREA. Chair Ohrenschall asked whether any statutes would prohibit housing preadjudicated youths at Red Rock as opposed to the juvenile pod at the CCDC. Director Cox reiterated that the DOC must have a judgment, conviction, and a presentence investigation in order to accept anyone.

Responding to an inquiry by Chair Ohrenschall, Director Cox replied it might be possible for the CCDC to enter into an agreement to house those youths pending trial at the new facility at Red Rock.

A discussion took place about who would run the proposed facility at Red Rock. Director Cox said that has not yet been determined, but he offered his support for whatever the State pursues.

Chair Ohrenschall and Director Cox engaged in a discussion regarding the security of the youths at Lovelock. Director Cox said the State is undergoing an outside audit of its PREA process, but he does not have the final report yet. Chair Ohrenschall asked Director Cox to share the report with the Task Force when it becomes available.

- Ms. Brown acknowledged that many of the youths discussed today are the victims of severe sexual and physical abuse whose mental health needs are not being met. She did not justify their actions but strongly urged consideration of their humanity.

- Additional discussion took place regarding the security of Red Rock’s proposed facility. Director Cox said he does not envision weapons inside the facility, but security enhancements must provide for public safety on the perimeter and inside the building. Mr. Cervantes stated the goal is to develop a culture conducive to teenagers and adolescents while striking a balance of security. Mr. Shick suggested weapons would not be necessary because this population normally responds favorably to well-trained, respectful staff.
- Mr. McBride addressed pre- and postconvictions. He said the DOC’s adult system is not so different from the juvenile system because the DCFS receives youths for State correctional facilities postadjudication. Mr. McBride stated the “one size fits all” concept of housing pre- and postadjudicated youths within these facilities is worthy of further investigation and discussion, but stressed he does not want to lose focus of regionalization.

A conversation took place about using existing housing units within the adult system. Director Cox declared the beds at Lovelock are the only ones that comply with PREA regulations. Judge Voy opined that constructing a new building for no more than 15 youths on a campus designed for juveniles does not make sense to him. Agreeing with Judge Voy, Ms. Brown expressed concern that the cost of the new building would keep the regional plan from moving forward; she suggested utilizing empty cottages at Red Rock as a pilot project. Director Cox reiterated that no DOC buildings other than Lovelock meet PREA requirements. In his opinion, a new building must be constructed at Red Rock for regional juvenile justice to provide a continuum of care and services.

A discussion about PREA requirements followed. Mr. McBride explained that PREA does not require convicted felons under 18 years old to be sight and sound separated from other youths under 18 years old. He said the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Office of Justice Programs, U.S. DOJ, requires sight and sound separation between juveniles under 18 years old and those convicted as adults over 18 years old. Mr. McBride added he has requested an opinion from the PREA Resource Center regarding this matter.

- Mr. Shick remarked that further discussion is necessary regarding an assessment of the level of risk and mental health, educational, and treatment needs at the time of certification in order to determine whether a juvenile can operate within the norm of the commitment population, while still guaranteeing the safety, health, and welfare of all youths on that campus. He stressed the importance of considering the opinion of the Rite of Passage’s staff regarding the policy and development of a new facility at Red Rock.

## **FOLLOW-UP ON QUESTIONS POSED AND INFORMATION REQUESTED CONCERNING THE APPROPRIATE HOUSING OF YOUTHFUL OFFENDERS WHO ARE CONVICTED OF CRIMES AS ADULTS**

- Rebecca Gasca, Campaign for Youth Justice, provided a list of follow-up questions and answers to her presentation made at the March 27, 2014, meeting of the Task Force. (Please see [Exhibit C.](#)) She pointed out that Colorado reviews the individual cases of youths regarding reverse transfer hearings. Ms. Gasca identified various criteria that Colorado uses to determine whether youths and their communities would be better served by adjudicating proceedings pursuant to the youths' code or as an adult.

Ms. Duffy and Ms. Gasca discussed whether Colorado would allow the review of previously sealed records of a 17-year-old who commits a violent sexual assault or murder. Ms. Duffy wondered how proposed legislation regarding record sealing and reverse waivers or transfers might work together. Ms. Gasca offered to find out the answer to her question regarding record sealing.

- Continuing, Ms. Gasca declared her support for recommendations regarding reverse waivers, in addition to amending the “once an adult, always an adult” provision. She offered to come back to the next meeting of the Legislative Committee on Child Welfare and Juvenile Justice (Committee) to discuss statutory language if the Task Force decides to move forward with these recommendations. Ms. Gasca also submitted a report about trying juveniles as adults and a second report regarding the outcomes and impacts of Measure 11 on Oregon's youth. (Please see [Exhibit C-1](#) and [Exhibit C-2.](#))
- Vanessa Spinazola, Legislative and Advocacy Director, American Civil Liberties Union (ACLU) of Nevada, shared a presentation titled “Appropriate Housing for Youth in State Custody.” (Please see [Exhibit D.](#)) She identified her concerns with “co-location” and discussed why she prefers “comingling” juvenile and youthful offenders in Red Rock rather than building a separate DOC facility. Ms. Spinazola reminded the Task Force that Oregon and Washington made their changes regarding transfer provisions through an interagency memorandum between their DOCs and youth authorities. She discussed the main points of a 2008 memorandum from the OJJDP regarding compliance monitoring. (Please see [Exhibit D-1.](#)) Ms. Spinazola added the ACLU defers to PREA requirements because it defers to state law, even though PREA makes interpretation difficult. She provided updates on the Washington and Oregon models.

A discussion about Washington's model followed. Ms. Spinazola confirmed that youths who are 21 years old and 6 months transition into an adult facility, and that youths sentenced as delinquent in a safe facility come up until the time they turn 21 years old.

Discussion ensued regarding Ms. Spinazola's recommendation of housing youthful offenders in juvenile facilities until they are 21 years old and then transferring them to the adult system. Ms. Brown questioned whether this violates PREA regulations. Ms. Spinazola repeated the ACLU's interpretation that PREA defers to state law. Pointing out that Washington comingles youths up to 21 years old, Ms. Spinazola opined this proves there is no PREA violation since Washington is PREA compliant. She offered to obtain a specific opinion from the OJJDP.

Responding to a question from Ms. Duffy regarding whether Washington has passed a PREA audit, Ms. Spinazola answered that a memorandum from the National PREA Resource Center lists all the compliant states. She surmised that Washington was on the list and offered to provide a copy of the memorandum.

Judge Voy and Ms. Spinazola discussed her recommendations. Ms. Spinazola clarified that her recommendations relate to postadjudication only for 16- through 19-year-olds, adjudicated through the juvenile system, direct file, or any other process through the adult system. She also clarified her recommendation that a 16-year-old adjudicated in the juvenile system can be housed in the same unit with an 18-year-old adjudicated in the adult system. However, she said this practice should only occur on an individual basis through an agreement between juvenile services and a state's DOC. Ms. Spinazola shared that if an 18-year-old youth is not appropriately assessed for juvenile services, then that youth could be sent back to a DOC facility. She noted that every state using this model provides for this type of provision. Ms. Spinazola stated her opinion that this provision complies with PREA, but added she has requested official clarification.

A conversation took place regarding whether the Nevada Youth Training Center and Red Rock could house 17-, 18-, and 19-year-olds adjudicated as delinquent in the same facility. Mr. McBride confirmed they could if the youths were adjudicated as juveniles and placed in the facilities as juveniles. He added that statute requires the youths no longer be in a juvenile correctional facility by the time they are 20 years old. Mr. McBride said the standard is six months after they turn 19 years old. Ms. Duffy questioned whether the standard was nine months beyond 18 years old. Mr. McBride offered to provide clarification.

- Continuing her presentation, Ms. Spinazola discussed the funding of Washington's model, shared updated information regarding the models from Oregon and Indiana, and submitted a copy of Indiana House Bill No. 1108. (Please see [Exhibit D-2.](#)) Ms. Spinazola also shared information regarding the models from Idaho and Missouri.
- Claiming that Idaho has stated it does not intend to follow PREA requirements, Ms. Duffy contended the Task Force should know whether the states identified by Ms. Spinazola are PREA compliant. Ms. Duffy wondered what happens to a facility if the state is not PREA compliant and what financial ramifications the state might incur.

- Ms. Spinazola acknowledged Ms. Duffy's concerns and offered to provide this information to the Task Force.

Responding to Chair Ohrenschall's question regarding whether the states identified comingle direct file youths with adjudicated delinquent youths and whether any of them have a separate facility that maintains sight and sound separation, Ms. Spinazola replied they all comingle.

Mr. Cervantes and Ms. Spinazola discussed the level of security in the facilities of the states she identified as models. He asked whether the facilities were similar to campuses or detention centers. Ms. Spinazola replied that because Oregon and Washington have more youths, they have more facilities, which allows for more options. She offered to follow up with these states.

Further discussion followed between Mr. Cervantes and Ms. Spinazola regarding Oregon's model. She explained that initially, the youths in Oregon went to the DOC for their assessment; however, since Oregon changed its law last year, all 750 youths went to the Oregon Youth Authority (OYA), and their risk assessment determines whether they can stay at the OYA. Ms. Spinazola offered to contact Oregon for further information.

- Ms. Spinazola submitted additional information regarding Missouri's model from a report titled *The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders*. (Please see [Exhibit D-3](#)). She also discussed a program in Colorado called the Youthful Offender System.

Responding to Ms. Duffy's request for a definition of a medium security prison, Director Cox explained that medium secured facilities generally have internal and perimeter fences, with razor wire on each fence in addition to between the fences. He said the enhanced perimeters normally require multiple intrusions and usually have more staffing posts due to the crimes and classifications of the individuals housed in the facilities.

Responding to Chair Ohrenschall's question, Director Cox indicated the level of Red Rock's security is not up to the level of a medium secured facility.

- Continuing, Ms. Spinazola discussed Maryland's bed space forecast, and she provided a report titled *Advancing the Quality of Cost-Benefit Analysis for Justice Programs* from the Vera Institute of Justice (Please see [Exhibit D-4](#).)

She concluded her presentation with the following recommendations: (1) engage in a cost-benefit analysis of all current juvenile detention facilities, in tandem with potential reforms; (2) visit facilities in other states to understand policies and application; (3) draft a Memorandum of Understanding (MOU) between the DOC and the juvenile facilities to allow the transfer of youthful offenders out of adult corrections; (4) draft legislation that offers more alternatives to detention and lessens the State's commitment population and the need for future bed space; and (5) invest in

programming and staff training at a higher rate than infrastructure. Ms. Spinazola provided two research briefs regarding recidivism risk assessment from the OYA. (Please see [Exhibit D-5](#) and [Exhibit D-6](#).)

- Judge Voy questioned whether any research exists regarding how comingling affects the programming, rehabilitation, and recidivism rates of youths under 18 years old not adjudicated as adults. Concerned about the cost of comingling preadjudicated youths at the CCDC, he suggested comingling would be more practical for postadjudication because those facilities can house youths for up to one year.
- Ms. Spinazola expressed concern that when a separate DOC facility with different security levels and programming is co-located on the same property as a juvenile facility, the DOC's officers' guns and the perimeter built around the DOC building could affect the youths in the juvenile facility. She offered to find examples of the research requested by Judge Voy, but emphasized the co-location concept has not worked well in other places. Ms. Spinazola reiterated the importance of assessment, reinforcing that some of the 12 youths at Lovelock are first-time offenders.
- Ms. Duffy agreed with individual assessment, but she questioned what happens if a 13-year-old, for example, is deemed not appropriate for Red Rock, which means the DOC must open a sight and sound separated facility for one youth. She claimed the State could not handle the financial burden.
- Ms. Spinazola agreed the State must consider finances. She explained Oregon initially had higher transfers back to its DOC, but as the state learned more about the process and policies were developed, the number of youths transferred back to the DOC decreased dramatically. Ms. Spinazola surmised that how Nevada chooses to deal with the youths at Lovelock would cost less than the \$15 million needed for a new co-located facility.

Answering Chair Ohrenschall's request for a detailed explanation of Maryland's model, Ms. Spinazola discussed the Thomas J.S. Waxter Detention Center in Laurel, Maryland. She explained the co-located facility had three units with different levels of offenders segregated into each unit, and it operated on the same site but with separate rules and policies. Ms. Spinazola said the confusion of the staff and youths regarding the rules, in addition to staffing shortages, led to the closure of the center.

- Bryan Fernley-Gonzalez, Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau (LCB), addressed a question brought up at the Task Force's March 27, 2014, meeting regarding whether current law grants the DOC the authority to enter into an intergovernmental agreement with the DCFS to transfer juveniles convicted as adults to a State detention facility. He said the combination of *Nevada Revised Statutes* (NRS) 209.301 and NRS 209.141 provides the DOC the authority to transfer juveniles convicted as adults to a State detention facility with

the approval of the superintendent of the State facility, and no statutory changes were necessary at this time to allow a transfer.

Discussion ensued between Chair Ohrenschall and Director Cox regarding usage of NRS 209.301. Director Cox shared that when he was a deputy director, he recommended to then Director Howard Skolnik that two youths transfer to a State facility. He said one youth transferred to Summit View Correctional Center but returned to the DOC at 18 years old.

A conversation took place about transferring youths from a county jail to a State correctional facility prior to conviction. Mr. Fernley-Gonzales verified the DOC only has the authority to receive an offender after conviction. Ms. Roske clarified that under current law, youths in the adult system preadjudication can petition the juvenile court for housing in the juvenile detention facility.

Responding to Chair Ohrenschall's question regarding whether DOC facilities can house an overflow from county jails, Director Cox replied the DOC has housed, at times, inmates who have attempted to escape from a county jail.

- Judge Voy called attention to the current certification process. He explained situations where youths are adjudicated on charges as a juvenile but adjudication on adult charges has been withheld. In this instance, Judge Voy said the offenders are sent to Red Rock with the understanding that if they successfully complete the program there, they will be released on juvenile probation; if they successfully complete their probationary program, he said the adult charges withheld may be dismissed or renegotiated for further probation. Judge Voy noted, however, if probation is violated, the adult judge will sentence the youths on the adult charges.
- Repeating Director Cox's statement that county facilities experiencing attempted escapes may send inmates to the State facilities, Ms. Duffy stressed the importance of the security of these facilities when youths are facing certification or direct file as an adult.
- Ms. Brown asked whether any models in the country provide security based on the mental health and behavior of the youths, designed to keep the youths in the same juvenile facility rather than transfer them back to the DOC facilities.
- Ms. Duffy suggested one facility should provide all the necessary programs to be cost effective.

A discussion of the comingling model ensued. Commenting that the model seems to be working in other states, Chair Ohrenschall asked whether a study exists on how comingling affects youths adjudicated as delinquent. Reiterating the model must occur in one facility, Ms. Spinazola said there are concerns about programming and the amount of staff provided

for youths with mental health issues. She encouraged Task Force members to speak with Oregon and Washington for additional information.

- Mr. Cervantes remarked that co-location would stop the transferring of youths between State correctional facilities operated outside the juvenile property and keep the youths closer to their homes. He identified the advantages and disadvantages of co-located facilities. However, he suggested there is a potential risk to comingle youths without proper classification and assessment.

Responding to Chair Ohrenschall's question of whether he would be comfortable moving the 12 youths at Lovelock to Red Rock, absent of a new facility, Mr. Cervantes opined he is not comfortable with transferring them to Red Rock at this time. He suggested the State consider input from the administrators at Red Rock as well as Director Cox.

## **DISCUSSION AND POSSIBLE ACTION ON RECOMMENDATIONS TO THE LEGISLATIVE COMMITTEE ON CHILD WELFARE AND JUVENILE JUSTICE**

- Chair Ohrenschall informed the Task Force that it does not have to act on all the recommendations. He explained there is no guarantee that the full Committee will accept the Task Force's recommendations as bill draft requests (BDRs).

### *Transfer and Certification Practices*

A. **Recommend drafting of legislation** to expand the "reverse waiver" mechanism whereby the court would have greater discretion to decide whether a youth should be prosecuted in adult criminal court.

- Judge Voy suggested amending the reverse waiver language regarding youths who are direct filed at 16 and 17 years old with severe offenses, such as murder cases. He said he does not see those cases because those youths automatically go to the adult system.
- Ms. Roske agreed with Judge Voy. She suggested changing the statute to allow for juvenile court jurisdiction of youths who are direct filed, and allow the juvenile court judge the discretion to accept jurisdiction on those cases.
- The Task Force **APPROVED THE FOLLOWING ACTION:**

**MS. ROSKE MOVED TO APPROVE RECOMMENDATION A AS STATED. THE MOTION WAS SECONDED BY MS. BROWN AND PASSED UNANIMOUSLY.**

**B. Recommend drafting of legislation** to revise or remove “once an adult, always an adult” provisions in the NRS to allow the court greater discretion to determine when it is appropriate to transfer a youth’s case from adult criminal court to juvenile court based on the “best interest of the child.”

- Judge Voy commented this language and scenario has never been an issue in his court.
- Ms. Roske confirmed this scenario does not come before the juvenile court system, but she opined the recommendation should be considered because there are exceptions of youths who should go back to juvenile court even though they have adult convictions.
- Ms. Duffy voiced she does not see the need for the recommendation because the 2013 Legislature increased the age of direct files on the most serious offenses to 16 years old.
- Ms. Brown agreed with Ms. Roske.
- Judge Voy suggested if a 17-year-old juvenile adjudicated in the adult system is arrested on a new charge before turning 18 years old, the youth would most likely be booked at juvenile detention because the system would probably not be current regarding the youth’s adjudication in the adult system.
- Chair Ohrenschall asked whether Recommendation B addresses Ms. Roske’s example regarding the lesser charge being included when the youth was certified on a more severe charge.
- Bryan Fernley-Gonzalez, previously identified, said Recommendation B addresses the “once an adult, always an adult” provision, which means a juvenile convicted of a crime is then considered an adult in future proceedings. He explained that under the recommended bill draft, juveniles convicted of any type of criminal offenses would be able to petition a juvenile court for a future proceeding.
- Ms. Roske insisted the BDR would need to delete subsection 3(f) of NRS 62B.330 to remove the “once an adult, always an adult” provision. She suggested the situation she mentioned earlier, in which a person is direct filed and acquitted of the adult offense but found guilty of a lesser offense and the judge has the discretion to decide whether to sentence the youth as an adult or a juvenile, would require a separate BDR.
- Mr. Fernley-Gonzalez confirmed Ms. Roske’s recommendation would be separate from the “once an adult, always an adult” provision.

- Chair Ohrenschall called for a motion to remove the “once an adult, always an adult” provision from NRS 62B.330.
- The Task Force **APPROVED THE FOLLOWING ACTION:**

MS. ROSKE MOVED TO APPROVE THE DRAFTING OF LEGISLATION TO REMOVE THE “ONCE AN ADULT, ALWAYS AN ADULT” PROVISION BY DELETING SUBSECTION 3(F) OF NRS 62B.330. THE MOTION WAS SECONDED BY MS. HAMRICK AND PASSED. MS. DUFFY VOTED NO.

- Chair Ohrenschall called for a motion to consider Ms. Roske’s recommendation that will allow a judge the discretion to decide whether to sentence youths, who have been direct filed or certified up and convicted of a lesser charge, as an adult or a juvenile.
- JUDGE VOY MOVED TO APPROVE THE DRAFTING OF LEGISLATION THAT WILL ALLOW A JUDGE THE DISCRETION TO SENTENCE YOUTHS, WHO HAVE BEEN DIRECT FILED OR CERTIFIED AND CONVICTED OF A LESSER CHARGE, AS AN ADULT OR A JUVENILE. THE MOTION WAS SECONDED BY MS. ROSKE.

Before voting, discussion about the recommendation followed. Judge Voy stated his reasons why this provision is necessary. Chair Ohrenschall asked Judge Voy whether he felt comfortable with the adult judge having the discretion to send the youths back to a juvenile judge, to which Judge Voy opined the discretion should be with the district court judge.

- Pointing out the distinction between certified and direct file cases, Ms. Duffy shared her concern that the adult court system might not be aware of the resources and services the juvenile system can provide.

Responding to Chair Ohrenschall’s request to limit her recommendation to only direct file cases, Ms. Roske acknowledged that direct file cases were her main concern and suggested a revised motion.

- The Task Force **APPROVED THE FOLLOWING ACTION:**

MS. ROSKE MOVED TO APPROVE THE DRAFTING OF LEGISLATION THAT GIVES DISCRETION TO THE CRIMINAL JUDGE TO SEND YOUTHS WHO HAVE BEEN DIRECT FILED AND CONVICTED OF A LESSER OFFENSE BACK TO A JUVENILE JUDGE. THE MOTION WAS SECONDED BY MS. BROWN AND PASSED UNANIMOUSLY.

*Appropriate Housing for Youthful Offenders in State Custody*

C. **Recommend** that the Legislative Committee on Child Welfare and Juvenile Justice consider support for the following:

1. Pursue development of an MOU between the DOC and various juvenile justice facilities that would allow for the transfer of all youthful offenders from DOC facilities to juvenile facilities;
  2. Consider legislation mandating the transfer of youthful offenders under 18 years old to juvenile facilities;
  3. Visit co-located facilities, MOU-based facilities, and facilities under statutory juvenile series management;
  4. Conduct further study prior to moving forward with a Capital Improvement Program for the building of a co-located facility; and
  5. Conduct a “trial period” of housing youths from the Nevada Youth Training Center at the Jan Evans Juvenile Justice Center.
- Patrick Guinan, Principal Research Analyst, Research Division, LCB, explained that Recommendation C-1 would be a letter from the Committee to the agencies involved.
  - Acknowledging that the Commission and its subcommittees have studied all five recommendations, Ms. Richards asked whether the Task Force could defer them to the Commission.
  - Chair Ohrenschall confirmed the Task Force could recommend to the full Committee that it continue working with the Commission and its subcommittees regarding the issues of appropriate housing. He said the Task Force could also recommend that the Committee write a letter of support regarding the MOU.
  - Ms. Duffy stressed the importance of clarifying the Task Force’s definition of “youthful offender.”
  - Chair Ohrenschall agreed that specificity is important. He suggested recommending that the full Committee continue working with the Commission on Recommendations C-1 through C-5 and consider writing a letter of support regarding an MOU that would allow for the transfer of all youthful offenders from DOC facilities to juvenile facilities.
  - Ms. Roske agreed with Chair Ohrenschall’s recommendation, noting her strong approval for Recommendation C-3.

- Judge Voy agreed with Ms. Roske. He offered to ask Stephanie Heying, Court Services Analyst, Court Services, Judicial Programs and Services, Administrative Office of the Courts, Supreme Court of Nevada, to arrange site visits before the full Commission’s next meeting.
- The Task Force **APPROVED THE FOLLOWING ACTION:**

MS. RICHARDS MOVED TO APPROVE THAT THE TASK FORCE REQUEST THE COMMITTEE CONTINUE WORKING WITH THE COMMISSION ON RECOMMENDATIONS C-1 THROUGH C-5 AND WRITE A LETTER OF SUPPORT FOR AN MOU THAT WOULD ALLOW FOR THE TRANSFER OF YOUTHFUL OFFENDERS FROM DOC FACILITIES TO JUVENILE FACILITIES. THE MOTION WAS SECONDED BY JUDGE VOY AND PASSED UNANIMOUSLY.

*Recommendations offered by Chair Ohrenschall*

D. **Recommend that the Committee request legislation** to amend Chapter 62C.030(4) of NRS to make housing a juvenile in a juvenile detention facility the “default” regardless of the charge and require the State to petition the court to transfer the juvenile to an adult facility pending the upcoming court process if the State so chooses.

- Ms. Roske expressed her support for amending subsection 4 of NRS 62C.030. (Please see [Exhibit E.](#)) She explained that youths in Clark County arrested on a direct file charge are housed at the juvenile facility until a prosecutorial decision is made that they belong in the adult system. She supported changing the statute to allow the youths to stay in the juvenile facility, unless and until the court determines it is unsafe to hold them there.

Responding to Chair Ohrenschall’s request for clarification that the current default is to house the youths in the adult facility and that they must petition to transfer back to the juvenile detention facility, Ms. Roske confirmed that is correct.

A discussion about the fiscal impact of Recommendation D ensued. Ms. Duffy expressed concern that the current average stay at juvenile facilities is about two weeks and no long-term rehabilitative services are offered. Chair Ohrenschall remarked if Recommendation D becomes a BDR, it would have to go before the money committees for an evaluation of its fiscal impact.

- According to current statute, Ms. Roske stated the juvenile court could agree to place the youths in a juvenile detention facility after a petition is made. She questioned whether the default position could be placing these youths in a State correctional facility, such as Red Rock, since it is secure and provides on-going services for up to one year, pending their adjudication in the adult system.

- Chair Ohrenschall requested an LCB opinion as to whether Red Rock could qualify as a facility for the detention of these youths.
- Mr. Fernley-Gonzalez explained that subsection 4 of NRS 62C.030 ([Exhibit E](#)) provides that during the pendency of a proceeding involving a criminal offense excluded from juvenile court jurisdiction, or a child certified for criminal proceedings as an adult, the child may petition the juvenile court for temporary placement in a facility for the detention of children. He suggested this would include a State facility, which is defined in NRS 62A.330 as “a state facility for the detention or commitment of children.” Mr. Fernley-Gonzalez said the default under current law is that a child charged as an adult is housed in an adult jail and may petition the juvenile court to be placed in a detention facility. He understands that Recommendation D would change the default to house the child in a juvenile facility and the State could petition to transfer the child to an adult facility.
- Ms. Brown opined the CCDC does not meet the developmental needs of its teenagers and suggested it needs a trained staff rather than correctional officers. Ms. Brown agreed with Ms. Roske that Red Rock offers a possible solution.
- Ms. Duffy mentioned the CCDC’s juvenile pod offers Ms. Brown’s “The Embracing Project” in addition to a cognitive-behavioral curriculum called “Thinking for a Change.” She expressed her concern that Red Rock is not secure enough to house these youths.
- Mr. Cervantes suggested Recommendation D might be appropriate for the Commission because this type of statutory change would affect not only Clark County but also the rural areas in Washoe County, having different implications for each.
- Chair Ohrenschall said the Task Force could recommend the Committee continue working with the Commission to address this issue. He asked LCB for a formal opinion verifying that a potential facility for children could include a DCFS facility or one that is run by a nonprofit organization, such as Rite of Passage.
- Mr. Fernley-Gonzalez offered to provide a formal opinion.
- JUDGE VOY MOVED TO APPROVE THE ADDITION OF RECOMMENDATION D TO RECOMMENDATIONS C-1 THROUGH C-5 TO BE PRESENTED TO THE COMMITTEE FOR CONTINUED WORK WITH THE COMMISSION. MS. RICHARDS SECONDED THE MOTION.
- Judge Voy expressed his support for a holistic plan to include all the issues to be reviewed by the Commission.

- Chair Ohrenschall pointed out that this recommendation does not take any authority away from the juvenile court judge in any of the counties; it still lets the judge decide the safest place for the youths and the communities.
- The Task Force **APPROVED THE FOLLOWING ACTION:**

THE PREVIOUS MOTION BY JUDGE VOY AND SECONDED BY MS. RICHARDS PASSED UNANIMOUSLY.

E. **Recommend that the Committee request legislation** to amend the NRS to allow early parole eligibility for youthful offenders who have been certified into the adult system, convicted, and are serving time in an adult facility of the DOC.

- Chair Ohrenschall remarked this issue came to his attention because of recent changes in California statutes.
- Judge Voy stated his support for Recommendation E, especially for youths coming through the system for the first time who exhibit a low risk of future violence.
- Ms. Roske commented this recommendation was deferred to the Task Force via Assembly Bill 202 (Chapter 483, *Statutes of Nevada 2013*), which was patterned after a statute providing mandatory parole for youthful offenders if they met the following criteria: (1) not being the member of any identified gang; (2) having no disciplinary action during the two years prior to reaching parole eligibility; and (3) completing an educational program. She said Recommendation E would provide no guarantee of parole, but it would provide the possibility of parole for youthful offenders, both certified and direct filed, who have met the specified criteria, upon reaching 25 years old.

Responding to Chair Ohrenschall's request for clarification that there would be no mandatory parole based on this potential legislation and the final decision would be up to the Parole Board, Ms. Roske verified that was correct.

- Pointing out the proposed language was deleted from A.B. 202, Ms. Roske said the Task Force must decide whether Recommendation E would be good for Nevada.
- Director Cox requested parole eligibility information from Connie S. Bisbee, Chair, State Board of Parole Commissioners, Department of Public Safety.
- Chair Ohrenschall suggested the Task Force could recommend the Committee ask Chair Bisbee to make a presentation at its next meeting regarding youths who are good candidates for parole supervision but are not eligible because of direct file or certification. He reported the original draft of A.B. 202 deleted Section 4.

- Ms. Duffy confirmed the last reprint of A.B. 202 deleted Section 4. Identifying the issues the Task Force was to review, she noted that early parole was not on the list. Ms. Duffy recognized that some members of the Task Force, who were not part of the 2013 Legislative Session discussions, would be voting on early parole without having heard a full presentation. Therefore, she declined to support Recommendation E at this time.
- Chair Ohrenschall maintained the Task Force has the authority to review the issue of parole. He suggested recommending that the full Committee discuss Section 4 of the original version of A.B. 202 with Chair Bisbee. Chair Ohrenschall pointed out there might be instances where 16- or 17-year-olds in the adult system have been compliant, are now 25 years old, and would be good candidates for parole. However, he said the Parole Board is not able to give those youths that opportunity, forcing the candidates to wait until they are 30 years old for the possibility of parole.
- Ms. Roske agreed with Chair Ohrenschall, adding that Recommendation E might motivate those youthful offenders to get an education, stay away from identified gangs, and demonstrate good behavior if there is a possibility for parole.
- The Task Force **APPROVED THE FOLLOWING ACTION:**

MS. ROSKE MOVED TO APPROVE THAT THE COMMITTEE DISCUSS SECTION 4 OF A.B. 202 WITH THE CHAIR OF THE STATE BOARD OF PAROLE COMMISSIONERS. THE MOTION WAS SECONDED BY MS. BROWN AND PASSED. JUDGE VOY WAS NOT PRESENT FOR THE VOTE.

F. **Recommend that the Committee request legislation** extending the provision of Section 1.7 of A.B. 155 (Chapter 253, *Statutes of Nevada 2013*) concerning mandated reporting among child advocacy attorneys to a similarly situated child's defense attorney in a juvenile delinquency proceeding. (Please see [Exhibit F](#).)

- Ms. Roske explained that defense attorneys of adults have protected communications regarding child abuse, and the changes to Section 1.7 of A.B. 155 protect the conversations between attorneys of the Children's Attorneys Project (CAP) and their child clients. She is of the opinion that A.B. 155 should include all attorneys of all child clients.
- Ms. Duffy contended that testimony provided during the 2013 Session indicated Section 1.7 of A.B. 202 would apply only to foster children. She mentioned previous conversations where the DCFS and Child Protective Services expressed their concern about confidentiality being extended to all attorneys, fearful that doctors, nurses, and therapists would also be excluded from mandated reporting.

Ms. Duffy vehemently objected to eliminating attorneys as mandated reporters of child abuse and neglect because this action would not protect children.

- Ms. Roske questioned the rationale for excluding attorneys whose clients have admitted to child abuse from mandated reporting. She said an attorney representing a juvenile delinquent has a protected communication that is excluded for the criminal defendant and CAP attorneys, and should be excluded for the attorney representing a child client in delinquency court.
- Ms. Duffy responded that testimony from the 2013 Session identified CAP attorneys as the only people who children in the foster system trusted, and mandating them to report abuse and neglect would damage that relationship. She opined it is not a good idea for the State to exclude more people from mandated reporting.
- Ms. Richards affirmed the conversations and testimony mentioned by Ms. Duffy were specific to CAP attorneys only. She discussed the privileges of mandated reporters provided for in Chapter 49, “Privileges,” and Chapter 432B, “Protection of Children From Abuse and Neglect,” of NRS that help maintain relationships with child clients. Ms. Richards explained that mandated reporting is recognizing what is happening in children’s homes and delivering that information to the appropriate agencies for help; it is not about finding guilt, turning somebody in, or taking children out of their homes.
- Ms. Brown commented that as an advocate, when children share their abuse with her and she explains why she must report the abuse, they understand her reasons. Ms. Brown strongly agreed with Ms. Duffy that it is the State’s responsibility to protect the children since they cannot protect themselves.
- Chair Ohrenschall proposed not to take a motion on Recommendation F since there was no consensus among Task Force members.

#### *Further Recommendations*

G. **Consideration of recommendations** concerning juvenile justice issues offered at this meeting.

- Chair Ohrenschall asked for discussion; however, the Task Force members did not propose any additional recommendations.

## **PUBLIC COMMENTS**

- Chair Ohrenschall called for public comment; however, no testimony was presented.
- Mr. Guinan, previously identified, announced that the Committee has a Solicitation of Recommendations posted on its webpage in preparation for its July 18, 2014, meeting and work session.

**ADJOURNMENT**

There being no further business to come before the Committee, the meeting was adjourned at 12:16.

Respectfully submitted,

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Janet Coons  
Senior Research Secretary

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Patrick Guinan  
Principal Research Analyst

APPROVED BY:

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Assemblyman James Ohrenschall, Chair

Date: \_\_\_\_\_

## LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda” provided by Patrick Guinan, Principal Research Analyst, Research Division, Legislative Council Bureau (LCB).

[Exhibit B](#) is a Microsoft PowerPoint presentation titled “Regional Facility Planning Subcommittee,” furnished by Co-Chairs Frank Cervantes, Director, Washoe County Juvenile Services, and Scott J. Shick, Chief Juvenile Probation Officer, Juvenile Probation Department, Douglas County.

[Exhibit C](#) is a list of questions and answers related to the March 27, 2014, meeting of the Legislative Committee on Child Welfare and Juvenile Justice’s Task Force to Study Juvenile Justice Issues, submitted by Rebecca Gasca, Campaign for Youth Justice (CYJ).

[Exhibit C-1](#) is a report titled *Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting*, from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Office of Justice Programs, United States Department of Justice (DOJ), furnished by Rebecca Gasca, CYJ.

[Exhibit C-2](#) is a report titled *Misguided Measures: The Outcomes and Impacts of Measure 11 on Oregon’s Youth*, submitted by Rebecca Gasca, CYJ.

[Exhibit D](#) is a Microsoft PowerPoint presentation titled “Appropriate Housing for Youth in State Custody,” dated June 27, 2014, furnished by Vanessa Spinazola, Legislative and Advocacy Director, American Civil Liberties Union (ACLU) of Nevada.

[Exhibit D-1](#) is a copy of a memorandum dated February 13, 2008, to State Agency Directors, Juvenile Justice Specialists, and State Advisory Group Chairs, from J. Robert Flores, Administrator, OJJDP, Office of Justice Programs, U.S. DOJ, regarding Compliance Monitoring Guidance, furnished by Vanessa Spinazola, Legislative and Advocacy Director, ACLU of Nevada.

[Exhibit D-2](#) is a copy of Indiana House Bill No. 1108, First Regular Session 118th General Assembly, 2013, presented by Vanessa Spinazola, Legislative and Advocacy Director, ACLU of Nevada.

[Exhibit D-3](#) is a report titled *The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders*, from The Annie E. Casey Foundation, furnished by Vanessa Spinazola, Legislative and Advocacy Director, ACLU of Nevada.

[Exhibit D-4](#) is a report titled *Advancing the Quality of Cost-Benefit Analysis for Justice Programs*, dated March 2014, by Carl Matthies, Vera Institute of Justice, submitted by Vanessa Spinazola, Legislative and Advocacy Director, ACLU of Nevada.

[Exhibit D-5](#) is a research brief from the Oregon Youth Authority (OYA) titled *OYA Recidivism Risk Assessment*, shared by Vanessa Spinazola, Legislative and Advocacy Director, ACLU of Nevada.

[Exhibit D-6](#) is a research brief from the OYA titled *OYA Recidivism Risk Assessment—Violent Crime*, furnished by Vanessa Spinazola, Legislative and Advocacy Director, ACLU of Nevada.

[Exhibit E](#) is a copy of *Nevada Revised Statutes* 62C.030 furnished by Patrick Guinan, Principal Research Analyst, Research Division, LCB.

[Exhibit F](#) is a copy of Assembly Bill 155 (Chapter 253, *Statutes of Nevada 2013*), submitted by Patrick Guinan, Principal Research Analyst, Research Division, LCB.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits and other materials distributed at the meeting are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at [www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm](http://www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm) or telephone: 775/684-6827.