

MINUTES OF THE MEETING OF THE
AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION
JANUARY 17, 2018

This is the first meeting of the 2017–2018 Interim.

A meeting of the Audit Subcommittee of the Legislative Commission (NRS 218E.240) was called to order by Chair Benitez-Thompson, at 9:12 a.m., Wednesday, January 17, 2018, in Room 4100 of the Legislative Building, Carson City, Nevada, with a simultaneous video conference to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada.

AUDIT SUBCOMMITTEE MEMBERS PRESENT:

Carson City:

Assemblywoman Teresa Benitez-Thompson, Chair
Senator Ben Kieckhefer
Assemblyman Jim Wheeler

Las Vegas:

Senator David R. Parks, Vice Chair
Assemblywoman Maggie Carlton

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Rocky Cooper, Legislative Auditor
Daniel L. Crossman, Chief Deputy Legislative Auditor
Jane E. Giovacchini, Audit Supervisor
Tammy A. Goetze, Audit Supervisor
Richard A. Neil, Audit Supervisor
S. Douglas Peterson, Information Systems Audit Supervisor
Todd C. Peterson, Audit Supervisor
Shannon Ryan, Audit Supervisor
Jordan Anderson, Deputy Legislative Auditor
Harman Bains, Deputy Legislative Auditor
Paul E. Casey, Deputy Legislative Auditor
Shirlee Eitel-Bingham, Deputy Legislative Auditor
Zackary Fourgis, Deputy Legislative Auditor
Sarah R. Gasporra, Deputy Legislative Auditor
Diana Giovannoni, Deputy Legislative Auditor
Katrina Humlick, Deputy Legislative Auditor
Sandra T. McGuirk, Deputy Legislative Auditor
Jennifer M. Otto, Deputy Legislative Auditor
James T. Thorne, Deputy Legislative Auditor
Susan M. Young, Office Manager

Chair Benitez-Thompson called the meeting to order. The roll was taken and a quorum was present. Agenda items taken out of order have been placed in the proper agenda order in the minutes for purposes of continuity.

Item 2 — Public Comment

Chair Benitez-Thompson called for public comment. There was none.

Item 3 — Approval of minutes from January 18, 2017

Chair Benitez-Thompson called for a motion.

SENATOR KIECKHEFER MOVED TO APPROVE THE AUDIT SUBCOMMITTEE MINUTES OF JANUARY 18, 2017, MEETING. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN CARLTON AND CARRIED UNANIMOUSLY.

Item 4 — Selection of Vice Chair of Audit Subcommittee of the Legislative Commission

Chair Benitez-Thompson opened the item for discussion and called for a motion to nominate Senator Parks to serve as Vice Chair of the Audit Subcommittee of the Legislative Commission.

SENATOR KIECKHEFER MOVED TO NOMINATE SENATOR PARKS AS VICE CHAIR OF THE AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION. THE MOTION WAS SECONDED BY ASSEMBLYMAN WHEELER AND CARRIED UNANIMOUSLY.

For the purposes of continuity, the minutes appear in order of the agenda.

Item 5 — Presentation of audit report (NRS 218G.240)

Mr. Cooper stated there were five audit reports performed pursuant NRS 218G.240. The audit reports are kept confidential until presented to the Legislative Commission's Audit Subcommittee. Mr. Cooper noted that the audit reports presented at the meeting would be available online shortly after the meeting.

a. Department of Business and Industry, Housing Division

Jennifer Otto, Deputy Legislative Auditor, began her presentation with a brief overview and background information on the Department of Business and Industry, Housing Division (Division). Ms. Otto stated the Division was created in 1975 to diminish the shortage of safe, decent, and sanitary housing throughout the State for persons and families of low to moderate income. The mission of the Division is to provide affordable housing opportunities, improving the quality of life for Nevada residents. Chapter 319 of NRS authorizes the Division to develop financing mechanisms that encourage the investment of private capital and stimulate governmental entities in the creation of affordable housing for low- and moderate-income Nevadans. These efforts were made possible through the Division's Low-Income Housing Tax Credit (LIHTC) and Multi-Family Bond (MFBP) programs. The Internal Revenue Service (IRS) governs these tax

credit programs. Two other Division programs are: 1) the HOME Investment Partnership Program (HOME) and 2) the Low-Income Housing Trust Fund Program (LIHTF). These two programs, which are governed by the US Department of Housing and Urban Development (HUD), provide funds to State recipients, subrecipients, community housing development organizations, developers, owners, and contractors to support affordable housing initiatives.

Continuing her presentation, Ms. Otto noted that in addition to its financing efforts, the Division has the responsibility to ensure these projects comply with applicable program rules found in federal and state statutes and regulations, and the Division's policies. These rules require the Division to monitor periodically each recipient to ensure tenant incomes meet applicable eligibility requirements, appropriate rents are charged, and decent, safe, and sanitary conditions are maintained at each project, and various other requirements. The Division currently monitors 273 properties with 23,093 units designated for low-income and moderate-income individuals and families.

Ms. Otto stated the audit scope and objectives were to determine whether the Division effectively monitored grant and tax credit recipients to ensure compliance with applicable laws and regulations, and to evaluate the internal controls, usefulness, and accuracy of the Division's performance measures.

Our findings and recommendations regarding the monitoring of low-income housing properties begin on page 4. We found that the Division effectively monitored low-income housing properties funded by federal tax credit and grant programs to ensure significant program, project, and financial requirements were met. We tested 50 of 273 properties the Division currently monitors and found the Division timely and thoroughly monitored them in calendar year 2016. The thoroughness and quality of the Division's monitoring provide assurance that families are housed in safe conditions, charged appropriate rent, and are eligible for the programs.

In the audit report, auditors described the Division's compliance monitoring process. The process includes a physical inspection of the buildings and grounds and individual housing units, as well as an inspection of tenant records and other required documents.

The findings and recommendations from the auditors found that the Division needs to improve its performance measures used in the state's budget process. Specifically, better controls are needed to ensure the measures reported in the Executive Budget are accurate and reliable. In addition, the Division's measures used in the budget process need to be revised to better reflect the accomplishments of the Division's programs and key activities. Ex. 1 in the audit report depicts the Housing Division performance measures auditors reviewed and the results reported for fiscal year 2016.

Furthermore, auditors found that sufficient records did not support the Division's performance measures. Management did not retain adequate documentation for measures included in the 2017-2019 Executive Budget. Additionally, program managers could not recreate the performance measure data. State administrative policies require the Division to retain records used in computing performance measures for at least 3 fiscal years. Auditors also found that performance measure data was not

reviewed in accordance with the Division's policies and procedures. In addition, auditors found that the Division's written procedures do not provide adequate guidance to assist staff with collecting performance measures. For example, during interviews with program managers, auditors found that some managers did not recognize the measures reported, nor were they familiar with the purpose of them in the state budget process. Program managers were also not aware of any procedures for performance measures and did not have guidelines for calculating measures. Moreover, some Division staff were not aware of expectations regarding document retention. Although the Division updated their performance measurement policies and procedures during the audit, the updated version does not outline exactly how each measure is computed, nor detail which report is used to compile each measure, nor who is responsible to compile the information for each measure.

Ms. Otto stated the auditors found that the usefulness of the Division's performance measures used in the state budget process could be improved. Specifically, five of six measures included in the 2017–2019 Executive Budget did not fully reflect the impact of the Division's efforts. For example, one of the Division's measures is titled, "Number of Units of Housing Created." However, this measure only reports the number of housing units created specifically for homeless individuals using Emergency Solutions Grant (ESG) funds. Since the program is not mentioned in the measure's description, a reader could assume the program reflects all housing units created from all of the Division's programs.

Auditors made two recommendations to improve the accuracy and usefulness of the Division's performance measures.

Concluding her presentation, Ms. Otto stated Appendix A describes the audit procedures, and Appendix B contains the Division's response. The Division accepted both of the recommendations in the report.

Chair Benitez-Thompson called for questions. There were none.

Chair Benitez-Thompson called for agency representatives.

Stephen Aichroth, Administrator, Housing Division, Department of Business and Industry, stated the Division accepted all the recommendations presented in the audit report.

Chair Benitez-Thompson called for further questions.

Senator Kieckhefer commented on the quality of the audit and complimented the Housing Division for its efforts to run a quality program.

There being no further questions, Chair Benitez-Thompson called for a motion.

ASSEMBLYMAN WHEELER MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE DEPARTMENT OF BUSINESS AND INDUSTRY, HOUSING DIVISION. THE MOTION WAS SECONDED BY SENATOR PARKS AND CARRIED UNANIMOUSLY.

b. Department of Administration, Hearings Division

Jennifer Otto, Deputy Legislative Auditor, began her presentation with a brief overview and background information on the Department of Administration, Hearings Division (Division). The Division was established in 1979 within the Department of Administration. The Division is responsible for conducting all hearings in disputed workers compensation cases, Victims of Crime Program appeals, state bid award disputes, and Department of Education disciplinary disputes. In addition, the Division conducts hearings via inter-agency agreements with several state agencies.

Ms. Otto pointed out auditors noted the different state agencies with which the Division has inter-agency agreements for conducting hearings. After a hearing is conducted for such agencies and the case is closed, the agency is billed for time dedicated by the Hearings or Appeals Officer, Clerical Assistant, costs for mailings, et cetera. In the report, auditors summarized the Division's revenue and expenditures. The Division is primarily funded through transfers from the Fund for Workers Compensation and Safety Administration by the Department of Business and Industry's Division of Industrial Relations.

The audit objectives were to determine whether the Division has adequate controls to protect personally identifiable information and sensitive health information, and to determine whether the Division has adequate controls related to performance measures, accounts receivable and revenue tracking, and employee performance evaluations. Some findings and recommendations by the auditors are regarding the protection of sensitive information. The auditors found that the Division's controls related to the protection of personally identifiable information and sensitive health information needed improvement. First, auditors found sensitive information was collected unnecessarily. The Division collected and maintained nonessential personal information in hardcopy format, including Social Security numbers (SSNs). Furthermore, the Division stored unencrypted Social Security information on the hearings information management system. The workers compensation employers' representatives licensing section in the information system contains the SSNs of 435 licensees. This information was accessible to six Division employees who did not need the information to carry out their assigned duties.

Continuing her presentation, Ms. Otto stated that the auditors found the case management information system was not properly protected. The Division used its own server for its hearings management system. The Division's case management system contained the case information for all of the Division's hearings, including scheduling information, case information, and data regarding operations. Although the Department of Administration's Enterprise Information Technology Services (EITS) set up and installed the server, Division staff stated the security settings for the server had not been reviewed by EITS. A security review of the Division's server will help reduce the risk of a third-party security breach. The auditors made two recommendations to improve the protection of sensitive information.

In addition, auditors had findings and recommendations regarding certain administrative

and financial practices. Auditors found controls were needed to ensure performance measure results were reliable. The Division had three performance measures: 1) average number of days from filing to case resolution; 2) cases resolved by the Division without an appeal to District Court; and 3) customer ratings of Hearings and Appeals Officers.

Auditors found that due to the Division's lack of supporting records, they could not determine the accuracy of its three performance measures. When the auditors asked the Division to provide supporting documentation for all reported performance measures since fiscal year 2014, management responded that the Division did not consistently retain supporting records for its performance measures. Additionally, information systems staff indicated the data could not be recreated.

Moreover, Ms. Otto stated the Division could enhance controls over the reliability of its performance measures by improving policies and procedures and making sure staff are following the guidelines. The Division's policies and procedures assert documentation was maintained describing how performance measures were monitored and calculated, including formulas. However, only one staff person knew how to obtain the performance measure information from the information system, and there were no instructions on how the measures were calculated, as required by the policies and procedures. The auditors found the performance measures section of the Division's policies and procedures was derived directly from a template, and was not tailored to the Division. For example, the measures were not indicated, who was responsible for the compilation and review of the measures, nor how often and to whom that information was reported.

Furthermore, auditors found the descriptions of the measures in the Executive Budget were not clear or accurate. To help ensure the performance measures are useful to decision makers, the definitions and purpose of the Division's performance measures should be clarified and evaluated to determine if the correct information was being measured. For example, the last of the Division's performance measures was a customer rating of Hearings and Appeals Officers. However, information systems personnel indicated these surveys were mainly for Appeals Officers. The name of the reported measure is misleading, as it appears the rating applies to both Hearing Officers and Appeals Officers.

Ms. Otto reported that the auditors found the Division did not have an adequate process to ensure it bills and collects amounts due for conducting hearings for state agencies. In fiscal year 2016, the Division had 333 billable hearings. Auditors found problems with 13 of 50 (26%) of the cases tested. Nine cases were not billed and four cases, totaling \$995, were billed but not collected. The Governor's Finance Office offered internal control guidelines that addressed responsible parties, backup positions, how often billings were sent, supervisory approvals, collection efforts, and reconciliations. Nonetheless, the Division's procedures did not address all responsible parties, did not give specific timelines for when invoices were to be completed, did not mention a tracking system to ensure all billable hearings were invoiced, did not address verifying a payment was received, and did not mention collection procedures for past due amounts.

Ms. Otto noted that the auditors found the Division did not deposit revenue timely and staff were not following written policies and procedures regarding revenue collection. Auditors sampled a total of 29 receipts from the Las Vegas and Carson City offices in fiscal year 2016. Auditors found all monies in their sample was deposited. Nonetheless, auditors also found the following:

- Staff deposited 19 of 29 (66%) receipts totaling \$1,213, an average of 4 days later than required by state law;
- Staff accepted cash as a form of payment on two occasions at the Carson City office location, although this practice is against the Division's policies and procedures; and
- Management did not reconcile check logs with the state's accounting system on a monthly basis, as required by the Division's policies and procedures, to verify receipts were deposited and recorded correctly.

The auditors found similar issues when the prior audit was conducted in 2007.

Ms. Otto stated auditors found the Division did not evaluate employees' performance as required by state law. In fiscal years 2015 to 2016, there were 69 employee evaluations due. The testing performed by the auditors found 56 evaluations were not conducted, and some employees never had an evaluation. This same issue was found in the prior audit in 2007. Auditors recommended procedures include management tools to monitor compliance with performance evaluations required by law. Although this recommendation was implemented after the 2007 audit, management did not sustain the implementation. Auditors made seven recommendations to improve controls over performance measures, accounts receivable and revenue tracking, and employee evaluations.

Concluding her presentation, Ms. Otto stated Appendix A in the audit report contained the audit methodology and Appendix B contained the Division's response. The Division accepted all nine recommendations.

Chair Benitez-Thompson called for questions.

Assemblyman Wheeler queried as to any possible leaks of SSNs, if the SSNs were found outside of the Division, and if there were any complaints as a result of the lack of controls over sensitive information.

Ms. Otto stated that no complaints had been received regarding the potential unauthorized access to SSNs.

Chair Benitez-Thompson called for agency representatives.

Michelle Morgando, Acting Administrator, Hearings Division (Division), Department of Administration, stated that the Division accepted all of the recommendations contained in the audit report.

Senator Kieckhefer queried as to Recommendation No. 4 to develop policies and procedures on the methodology used to obtain each performance measure and

distribute to all affected staff and if those responsibilities were assigned to an individual person or with a job description of a specific position.

Ms. Morgando replied that these duties were assigned to Paul Trepanier's position as a supervisor. Mr. Trepanier works closely with information technology (IT) control systems and other employees at the agency.

Senator Kieckhefer clarified that the duties were assigned to a position, not an individual.

Assemblywoman Carlton inquired about the evaluation process. She pointed out that when step raises were stopped a few years ago, many employees were of the opinion evaluations were not needed. She further inquired about the turnover rate and if it was part of an underlying issue for the lack of completed employee evaluations.

Ms. Morgando replied that there was not very much of turnover except with the administrative assistant positions. The Division went through reorganization in the past 6 months to better allocate employees' talents and resources. She acknowledged the evaluations in certain cases were not completed in a timely manner. Furthermore, the Division did not have a calendar schedule for those who are due to be evaluated with a 30-day advance notice for those employees who are due for an evaluation to supervisors.

Senator Parks queried as to the numbers of collections that were delayed and not recorded on a timely basis and to the number of different collection point located throughout the state.

Ms. Morgando replied there is a collection point at each office where there is internal review before the billing is submitted. The bills paid by the Division pursuant to an inter-local agreement are for special appeals officers who are not full-time employees. These employees are contracted at an hourly rate and are gubernatorial appointees, as are the appeals officers for a 2-year period, and are responsible for submitting the bill to the Division. There are provisions in each agreement that provides for a monetary penalty should the bill be submitted late. At that point, the Division works with the Administrative Services Division to process the bill as a skilled claim. Concluding her reply, Ms. Morgando stated she had contacted appeals officers to warn them to submit bills timely for payment.

Chair Benitez-Thompson called for additional questions. There were none.

There being no further questions, Chair Benitez-Thompson called for a motion.

SENATOR KIECKHEFER MOVED TO ACCEPT THE PERFORMANCE
AUDIT ON THE DEPARTMENT OF ADMINISTRATION, HEARINGS
DIVISION. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN
CARLTON AND CARRIED UNANIMOUSLY.

c. Department of Administration, Victims of Crime Program

Jennifer Otto, Deputy Legislative Auditor, began her presentation with a brief overview and background information on the Department of Administration, Victims of Crime

Program (Program). The Program was established in 1969 to assist victims who suffer injuries from violent crimes that occur in Nevada. The Program provides payment of crime related medical expenses, counseling, lost income, and other approved benefits. The Program's mission is to provide financial assistance to victims of crime in a timely, cost efficient, and compassionate manner. The State Board of Examiners is the governing authority for the Program and adopts rules and regulations for the payment of compensation to victims. The Hearings Division's Senior Appeals Officer serves as the Program Coordinator. The Program is funded primarily from court assessments and a federal grant. Other sources of funding include fines, penalties, restitution, and forfeitures imposed by Nevada courts, and prisoner wage assessments. Fiscal year 2016 expenditures totaled \$6.1 million. Ms. Otto stated Ex. 1 in the report shows the Program's revenues and expenditures for the 3 fiscal years ending June 30, 2016.

Continuing, Ms. Otto stated the Program contracts with a company to provide an internet-based claims management system, which allows authorized users access anytime. The Program stores data and communicates information in electronic form so the system can create and store electronic images of all documents contained in a claim file. The contractor provides data storage, payment processing, check printing and mailing, vendor management, and claims administration, including medical bill review. Data is stored on the contractor's server, and backup copies were provided to the Program every month.

The audit objectives were to determine whether the Program has adequate controls to protect personally identifiable information and sensitive health information, and whether the Program had adequate controls related to performance measures, revenue and subrogation tracking, and employee performance evaluations. The auditors found that documents containing sensitive information were stored in an insecure manner. Boxes containing victim medical records and various other documents that are waiting to be shred were located in an open area that is accessible by all Program employees and janitorial staff provided by the building owner.

According to the Program's policies, all documents scanned and uploaded into the information system are stored for a minimum of 30 days after being scanned. The documents should be destroyed by shredding. In the Program's Las Vegas office, documents were not properly secured during the 30-day retention time. Auditors observed boxes containing victim information in an open area accessible to anyone who had access to the office. In addition, in this same open area, there were bins that contained case information waiting to be picked up by the contractor. The bins also contained victim medical information, name, address, date of birth, and tax information, including victims', SSNs. When this information was left open to all employees and the building owner's janitorial staff increases, there was an increased risk for personally identifiable information or personal health information to be misused or stolen. The Program's policies did not address how to secure the documents until the time of shredding or the security of victim information.

Furthermore, auditors found the contractor's server security needed further evaluation. According to Program staff, neither the Program, EITS, nor any other independent entity

had reviewed the contractor's server security settings. The contract did not address protecting the victims' data from unauthorized access by an outside party. The contractor's server contained case information for thousands of Program applicants dating back to 2004. According to state security policies, standards, and procedures, system administrators should have implemented security practices to protect their systems from attack and should have conducted periodic security evaluations, which should be documented. The contract addressed user-level security, but did not contain any provisions protecting the Program from a third-party security breach. This created a high-level of risk for the Program and the victims on the internet-based platform. The Auditors made two recommendations to improve the protection of personal and sensitive victim information within the Program.

Additional audit findings and recommendations in the report relate to certain administrative and financial practices. Auditors found the Program's controls over collecting information and calculating performance measures did not provide assurance that the measures were accurate and reliable. Moreover, the Program did not retain underlying records to support its reported performance measure numbers. Staff could not re-create the original reports to match the numbers reported. Therefore, auditors could not verify the accuracy of the measures. The State Administrative Manual requires agencies to retain underlying records to support reported measures for 3 fiscal years. For one of the Program's two measures, the Program Manager did not keep copies of the reports generated from the information system. For the second measure of claims cost reduction, the contractor provided the amount. However, the contractor did not provide supporting documentation, nor did the Program Manager know how the contractor calculated the measure. Furthermore, there is no evidence that anyone reviewed the performance measures to ensure consistency with budget instructions. Program policies require that both fiscal and program staff are responsible for reviewing the measures.

Ms. Otto testified that the Program had not developed adequate policies and procedures to help ensure reliable and consistent reporting of performance measures. The policies and procedures did not indicate how the measures are calculated, who made the calculations, how often the measures were calculated, who reviewed the calculations, and to whom the measures were reported. Although the Program's policies and procedures state the performance measures were monitored and calculated, the policies and procedures were copied from the Governor's Finance Office template and were not been tailored to the Program.

The auditors found the Program had not established a process to track known subrogation opportunities. There was no guarantee that all subrogation funds were paid to the Program. The Program had the right to seek reimbursement from victims for money paid by the Program if the victims obtained any recoveries. The Program regularly received subrogation funds, mainly from cases involving driving under the influence claims. The amount reclaimed by subrogation in fiscal year 2016 totaled about \$75,000. The Program's policies placed responsibility on the applicant for notifying the Program of any potential for recovery. When the Program was notified that

the applicant had retained an attorney, Program staff noted the information in the victim's claim file and sent the attorney a subrogation lien, which informs the attorney of the State's right to subrogation for amounts paid for the victim. When a settlement was reached, the attorney had a legal responsibility to notify all parties of the settlement amount.

Management stated there was no follow-up with victims' lawyers to inquire about recoveries after being notified of a possible settlement, and periodic letters were not sent to victims or their attorneys. In addition, other states have developed methods to track and recover subrogation funds. Four of the five states contacted by the auditors have a process to identify, monitor, and collect subrogation liens.

Auditors found the Program's revenue collection and tracking processes needed improvement. Staff were not following certain revenue procedures, such as performing reconciliations. Policies and procedures indicated staff should reconcile the check log with the state accounting system's budget status report on a monthly basis, which was not done. Policies and procedures also required for checks be kept in a locked office. However, auditors found that checks were kept in an unlocked desk drawer in a room with no locks.

In the audit report, auditors reported that the Program continued to have problems completing timely employee evaluations. In fiscal years 2015 and 2016, 16 evaluations were due, but only 9 were conducted. Further, seven of the nine evaluations conducted were past due by an average of 109 days. One employee's file did not contain any evaluations conducted since 2011. This issue was found in the prior audit in 2007. Auditors made five recommendations to improve controls over performance measures, receipts, subrogation tracking, and employee evaluations.

Concluding her presentation, Ms. Otto stated Appendix A in the audit report contained the audit methodology, and Appendix B contained the Division's response. The Division accepted all seven recommendations.

Chair Benitez-Thompson called for questions. She then requested Ms. Otto to describe how the subrogation process was intended to work.

Replying to the Chair's request, Ms. Otto stated that when the Division is notified that the victim has retained an attorney, the Program enters that information into its system; however, the Program was not able to run a report to access or track on a spreadsheet cases where victims have or do not have an attorney. In addition, the Program did not have a report to track when a settlement amount was received from the attorney, if the case was closed, and settlement amount obtained by the victim.

Chair Benitez-Thompson surmised that the idea is that the fund is intended to pay for costs now while the case is worked through the legal system, and if there is some type of settlement, then those costs are to be repaid. However, a tracking method for these amounts is lacking.

Ms. Otto affirmed the Chair's statement and added that the Program has the ability to reduce the recovery amount when a settlement is reached.

Senator Kieckhefer pointed out the timeliness of the audit considering the volume of applications the Program could receive following the Las Vegas shooting. He noted the agency's response identified certain recommendations were already implemented. He queried as to if audit staff had taken any steps to verify that those recommendations have been implemented. Furthermore, he queried if audit staff was confident that as the volume of applications increases, those victims' information would be secure.

Jane Giovacchini, Audit Supervisor, remarked that auditors had not yet performed any follow-up on this audit. However, part of the audit follow-up process is with the 60-day plan and 6-month report.

In response to Senator Kieckhefer's question regarding if the Program had continued to operate under the same contractor since 2004 or had a bidding process taken place during this timeframe, Ms. Otto replied that it had been the same contractor. This contractor has provided specialty services for the Program.

Mr. Cooper commented on Senator Kieckhefer's concerns and stated that the Audit Division has staff travel to Las Vegas on a regular basis and can stop by the office to ensure the sensitive information has been secured and the recommendation is being followed.

Assemblywoman Carlton referred to Ex. 1 in the audit report and commented that the prisoner wage assessments appear to have consistently increased, restitution collections have been up and down, while the subrogation recoveries dipped extremely low. She queried as to if there was an amount of subrogation recoveries still available or if there was tracking information available.

Ms. Otto replied that the subrogation revenues were not tracked after a victim is known to have retained an attorney, if there was a possible settlement, or a possible settlement for a lawsuit. At the time of the audit, there were not any available methods to obtain that information from the system to be able to determine which ones had information regarding attorney contact information or subrogation loans.

Assemblywoman Carlton requested the agency to provide further explanation and clarification.

Chair Benitez-Thompson called for agency representatives.

Michelle Morando, Acting Victims of Crime Coordinator, Hearings Division, Department of Administration, stated the Program accepted the recommendations

Rebecca Salazar, Program Manager, Victims of Crime Program, offered to answer questions.

Chair Benitez-Thompson noted some of the Subcommittee members were looking for clarification on the subrogation process and requested the Program provide explanation as to how the process works.

Ms. Salazar replied the Program will make changes to the system that will allow the Program to identify when a victim has retained an attorney. Certain changes will be made that will either allow Program to pull a report or have that information on a list.

Then, allow for follow-up with each step, which could include notifying the attorney of a subrogation lien, additional follow-up letters to determine if the attorney is still representing the victim and continue to notify the attorneys of their responsibilities to notify the program once a settlement has been reached.

Chair Benitez-Thompson queried as to the Program's discussions if settlements were taking place with the victims' attorneys and relying on the attorney to report back to the victim.

Ms. Salazar affirmed that the Program generally works with the attorney and the victims generally do not participate in the subrogation process, including negotiating the settlement.

Assemblywoman Carlton expressed concerns that the victim is not aware of what is happening during the subrogation process. She queried as to how the system would work to verify if an attorney is involved in the subrogation process to ensure the victims are aware of the subrogation process.

Responding to Assemblywoman Carlton's questions, Ms. Salazar stated there is statement on the application the victim signs, which cites the appropriate NRS if there is any recovery. Part of the process could be to copy the victim in correspondence the attorney is receiving. She expressed that the Program wants to ensure the victim is aware of all happenings with their attorney and the process.

Following up to Senator Kieckhefer's comment regarding the Program's contractor, Senator Parks queried as to the role the contractor has in the overall process.

Ms. Salazar replied the contractor is a bid every 4 years. The contractor is similar to a third-party administrator. The contractor provides tax reporting, check printing, enter and scan applications, creating and maintaining the Program's database. She noted the services provided by the contractor have allowed the Program's staff to remain small.

There being no further questions, Chair Benitez-Thompson called for a motion.

SENATOR PARKS MOVED TO ACCEPT THE PERFORMANCE AUDIT
ON THE DEPARTMENT OF ADMINISTRATION, VICTIMS OF CRIME
PROGRAM. THE MOTION WAS SECONDED BY ASSEMBLYMAN
WHEELER AND CARRIED UNANIMOUSLY.

**d. Department of Public Safety, Records, Communications and Compliance
Division, Information Security**

Shirlee Eitel-Bingham, Deputy Legislative Auditor, began her presentation with a brief overview and background information on the Department of Public Safety, Records, Communications and Compliance Division, Information Security (Division). The Division was renamed to the Records, Communications, and Compliance Division during the 2017 Legislative Session. The Division's mission is to support Nevada's criminal justice community and its citizens by providing complete, timely, and accurate information in a manner that balances the need for public safety and individuals' rights to privacy and

ensures a positive customer service experience. The Division has four office locations statewide with two in Carson City and two in Las Vegas. For fiscal year 2017, the Division was authorized 185 full-time employees statewide. In addition, the Division's primary funding source of \$15.4 million comes from licenses and fees. The Division relies on EITS for its information technology support.

Ms. Eitel-Bingham stated the objective of the audit was to determine if the Division had adequate information security controls in place to protect the confidentiality, integrity, and availability of its information and information processing systems.

Continuing her presentation, Ms. Eitel-Bingham stated the auditors found weaknesses in managing network users. Auditors found former staff had network access. Of the Division's 234 network user accounts, auditors identified 63 user accounts of former employees whose network access had not been disabled or removed in a timely manner. Thirteen of these accounts were over 3 years old. Furthermore, staff did not completing their annual security awareness training. Forty-one of the Division's 179 staff and vendors had not completed their annual security awareness training. Fifteen of the 41 were vendors and contractors with no evidence that security awareness training had been completed. Auditors found problems with the Division's review process for its mission critical applications. The Division did not maintain a master list of authorized users or review system access privileges for several of its mission critical applications. State security standards indicated a master user list of all users shall be maintained and reflected all systems to which they have access. The auditors made five recommendations in regards to management of network users.

Furthermore, the audit report indicated the Division did not have a disaster recovery plan in place. A disaster recovery plan ensures the prioritization of mission critical services for restoration in the event of an emergency. Without a current disaster recovery plan, there is a greater risk that some unforeseeable event or disaster could jeopardize access to sensitive criminal justice information contained in the Division's systems. The auditors made two recommendations to develop a disaster recovery plan for the Division's systems, applications, and data.

Ms. Eitel-Bingham stated that the auditors found a service level agreement (SLA) was not completed. A completed agreement between the Division and EITS should detail server hosting as well as document the services EITS will furnish. Without a completed and signed SLA between the Division and EITS, operations continue without a clear commitment in place to clarify the scope, quality, and responsibility of each party. The Division did not have a SLA in place to communicate the backup requirements of its systems hosted with EITS. A completed SLA between the Division and EITS should clearly define backup terms of its systems hosted with EITS. Auditors made three recommendations for the Division to complete a SLA, ensure its backup requirements are defined, and to periodically review for adequacy.

Concluding her presentation, Ms. Eitel-Bingham stated Appendix A contained the audit methodology and Appendix B contained the Division's response to the audit recommendations. The Division accepted all 10 of the audit recommendations.

Chair Benitez-Thompson called for questions and there were none.

Chair Benitez-Thompson called for agency representatives.

Julie Butler, Administrator, Records, Communications and Compliance Division, Department of Public Safety, stated the Division accepted the 10 recommendations.

Chair Benitez-Thompson called for questions.

Senator Kieckhefer queried about Recommendation No. 3 regarding annual security awareness training as to which training employees should have taken and whether the Division had decided to utilize the federal training that was offered to bring employees into compliance with both state and federal regulations.

Ms. Butler stated the Division is required to take state security awareness training annually and Federal Bureau of Investigations (FBI) training every 2 years. There was some confusion by the staff as to which training to take. Recently, an email was sent out reminding employees to take the training. Employees will be encouraged to take the FBI training annually, because it satisfies the state requirement as well.

Chair Benitez-Thompson commented on the philosophical discrepancy with leadership in the Division regarding whether SLAs should include backups and details that are more specific; however, that had been resolved. EITS and the Division will have detailed SLAs.

Ms. Butler affirmed Chair Benitez-Thompson's comments and stated that since the audit, the Division had executed an SLA with EITS. She noted modifications would be made to ensure the backup issues and backup schedule requirements were included within that SLA.

Assemblywoman Carlton queried as to when the Division merged with EITS and if any of the issues found in the audit were a result.

Ms. Butler replied that the merger was a result of legislation from the 2013 Session that took effect July 1, 2013. She was of the opinion that the merger and a lack of plan in place contributed to some of the issues found in the audit report. She expressed gratitude to the auditors for the audit. In addition, the Division would work in partnership with EITS to correct these deficiencies.

There being no further questions, Chair Benitez-Thompson called for a motion.

ASSEMBLYMAN WHEELER MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE DEPARTMENT OF PUBLIC SAFETY, RECORDS, COMMUNICATIONS AND COMPLIANCE DIVISION, INFORMATION SECURITY. THE MOTION WAS SECONDED BY SENATOR PARKS AND CARRIED UNANIMOUSLY.

e. Department of Health and Human Services, Division of Public and Behavioral Health, Adult Mental Health Services, Community-Based Living Arrangement Homes

Todd C. Peterson, Audit Supervisor, began his presentation with a brief overview of the Department of Health and Human Services (DHHS), Division of Public and Behavioral Health (DPBH), Adult Mental Health Services, Community-Based Living Arrangement Homes (CBLA). In July 2013, the former Health Division and the Mental Health portion of the Division of Mental Health and Developmental Services merged to form the Division of Public and Behavioral Health (Division). Within the Division, the Clinical Services Branch provides statewide inpatient, outpatient, and community-based public and behavioral health services to Nevadans. The four agencies within the Clinical Services Branch that provide adult mental health services are: 1) Lake's Crossing Center, a forensic psychiatric maximum facility; 2) Northern Nevada Adult Mental Health Services (NNAMHS); 3) Rural Counseling and Supportive Services (Rural Clinics); and 4) Southern Nevada Adult Mental Health Services (SNAMHS).

Mr. Peterson pointed out that Ex. 1 in the audit report shows the average caseload per month for adult mental health services statewide. Ex. 2 shows fiscal year 2017 revenues and the sources of funding for the Division's four adult mental health agencies. Ex. 3 and Ex. 4 show fiscal year 2017 expenditures for adult mental health agencies and a comparison of those expenditures by facility. Expenditures for adult mental health services were about \$134 million in fiscal year 2017.

In addition to other services, auditors explain in the audit report that NNAMHS and SNAMHS provide housing and residential services to the adult mental health clients through contracted providers who operate CBLA homes. The Division pays providers for rent, utilities, and staff service hours up to a predetermined number of hours per month, per client, for supervision and assistance with activities of daily living and behavioral management. Based on unaudited information provided by the Division, the State pays an average of \$1,450 per month, per CBLA client. This amount does not include client payments to CBLA providers from the Social Security Administration or other income. For the CBLA homes inspected during this audit, the average number of clients in each home was four.

Continuing his presentation, Mr. Peterson discussed recent legislation related to adult mental health. Specifically in 2017, the Legislature passed Assembly Bill 46, which required the creation of regulations governing the certification of CBLA providers and homes. Because of Assembly Bill 46, the State Board of Health adopted regulations governing CBLAs, which became effective July 2017.

In addition, the Legislature passed Assembly Bill 343 in 2017. This bill requires the Legislative Committee on Health Care to conduct an interim study concerning the rates paid to group homes contracted by Southern Nevada Adult Mental Health Services. Although the interim study concerns group homes which are not the same as CBLA homes, several of the providers we examined in southern Nevada also operate group homes that contract with Southern Nevada Adult Mental Health Services. In some

instances, deficient conditions described later in this report were applicable to those providers that also operate group homes.

The audit objective in the report was to determine if controls for monitoring providers of CBLA services were adequate to ensure the safety and welfare of adult mental health clients at NNAMHS and SNAMHS.

Mr. Peterson stated that the auditors found adults in need of mental health care live in dismal conditions at many CBLA provider homes. Serious, deficient conditions were prevalent at most of the homes tested. Although the Division developed policies and procedures to inspect provider homes, staff implementation of procedures was inadequate. He noted that when home inspections are not performed properly, deficiencies go undocumented, corrective action is not taken, and unsafe and unhealthy conditions may continue and proliferate. Without a strong inspection and certification process, auditors expressed serious concerns with the current model for funding CBLA provider homes. Providers operate a business that inherently is driven by a profit motive. In the absence of adequate inspection and certification activities, providers may limit their level of care to maximize profits at the detriment of client services.

Audit staff performed unannounced visits at 37 of 105 CBLA provider homes that serve NNAMHS' and SNAMHS' clients. The inspections auditors performed used the evaluation criteria developed by the Division. Because providers typically operate more than one home, the number of providers included in the inspections exceeded 70% of the total providers. Auditors took over 2,000 pictures to document the types of conditions that were prevalent at CBLA homes during their inspections. The pictures in the audit report include examples of some of the worst conditions captured by a clear photograph. Based on auditor judgement, auditors did not count their observations as exceptions unless corrective action was needed to provide a safe, healthy, and reasonable living environment.

For 36 of 37 homes inspected, auditors observed numerous unsanitary conditions. Conditions such as excessively dirty floors, ceilings, and walls; mold and mildew; rodent and insect infestations; human waste; and no hand soap or toilet paper in bathrooms. Although clients' behavior may contribute to occurrences of unsanitary conditions, observations indicated that these unsanitary conditions had not been addressed for some time. Furthermore, auditors observed at 34 of 37 homes inspected numerous conditions that could impact the personal health and safety of clients living in the homes. Personal health and safety hazards are those that expose a client to serious injuries and illnesses. Although it may be impossible to anticipate and control all potentially hazardous events from occurring, personal health and safety hazards at CBLA homes could be mitigated. Conditions observed at CBLA homes included no disaster response plan in the home; expired, spoiled, or improperly stored food; broken bathroom and bedroom doors and locks; and broken and exposed glass. The audit report provides photographs and additional details regarding the conditions and number of homes where these conditions were observed.

Continuing with his presentation, Mr. Peterson stated in 33 of 37 homes inspected,

auditors observed conditions that increased the danger of fire for the clients, such as smoking, use of candles inside bedrooms, and missing or disabled smoke detectors. The combination of multiple unsafe conditions in a home, coupled with residents with varying degrees of mental illness, has made these conditions unacceptable. The audit report contains a bulleted list to provide additional details regarding the conditions and number of homes where these conditions were observed and photographs showing examples of the conditions observed.

Moreover, for 28 of 37 homes inspected, auditors observed inadequate medication management practices. Proper medication management should include giving the prescribed medication and dose at the right time, and accurately documenting its administration. When medications are not administered correctly, the client's physical or mental health can be significantly affected. A bulleted list in the audit report provides additional details regarding the conditions and number of homes where these conditions were observed. In addition, auditors provided two photographs showing examples of the conditions observed.

The auditors indicated more could be done to provide greater quality of life for clients. For 36 of 37 homes inspected, auditors observed conditions that contributed to bleak living environments for clients. Conditions such as inadequate lighting, water damage, holes in walls or floors, and leaking or clogged plumbing. These depressing conditions can indirectly affect the well-being of clients. The bulleted list in the audit report provides additional details regarding the conditions and number of homes where these conditions were observed. In addition, auditors provided two photographs showing examples of the conditions observed.

Audits also indicated non-certified provider homes had more deficiencies. Seven of the 37 homes auditors inspected were of CBLA providers that were not certified by SNAMHS. On average, twice as many deficiencies were observed at these homes. Non-certified providers were used by an organization that gives case management services outside of SNAMHS; however, SNAMHS paid some of the CBLA costs for the clients. SNAMHS did not regularly inspect the non-certified provider homes. According to staff, SNAMHS was required to give non-certified provider homes 2 to 4 weeks notice before performing inspections. Legislation passed in 2017 requires all providers of CBLA services be certified. According to SNAMHS, non-certified CBLA providers have been made aware of the new law.

The cause of the deficient conditions observed at CBLA homes was detailed in the audit report. Although the Division developed policies and procedures to inspect provider homes, staff implementation of procedures is inadequate. For example, for 12 of 37 homes inspected, agency staff performed home inspections within 5 days of the audit inspections and did not document most of the deficiencies observed by the auditors.

Auditors indicated other conditions observed at some of the CBLA homes inspected. During their inspections of CBLA homes, auditors observed young children of the caregivers living in 2 of 37 homes. In one home, the child's parent was not present and the mentally ill clients provided child care while the parent worked another full-time job

outside the home. Because the child's parent was not present and mentally ill clients were caring for the child, auditors contacted the Clark County Department of Family Services (DFS), who responded promptly and arrived at the home to assess the situation. DFS began an investigation and as of September 2017 reported the child still lived in the home, but was attending day care while the mother worked at the other job. The Division did not have policies and procedures addressing the presence of children in CBLA homes.

There was questionable provider staffing practices. For 11 of 20 CBLA homes inspected in southern Nevada, the staff member identified as the caregiver spoke little to no English, which was the language of the clients living in the home. When auditors encountered these individuals, management often interceded to translate and help answer the auditors' questions. Caregivers are responsible for tasks that necessitate client interaction such as administering medications and supervising client activities. When auditors later questioned a provider as to how caregivers could adequately provide for clients' needs if they could not communicate with them, the provider indicated the employees the auditors spoke with were housekeepers or repair people, but not the caregiver. However, this explanation did not agree with the auditors' observations and discussions during the site visits.

In addition to the quality of care given the clients, auditors expressed serious concerns with the arrangement of caregivers living in the homes. These concerns included potentially oppressive working conditions that may circumvent labor laws and payroll requirements. For example, during the audit, auditors also visited the offices of CBLA providers and reviewed provider records. For 3 of 11 providers, payroll records were not provided for the caregiver who was in the home during the inspections. For many of the homes visited in southern Nevada, one caregiver lived in the home. When auditors asked these caregivers as to what they do when they need to leave the home, some responded they only leave occasionally and call the provider to arrange for temporary care while gone. Mr. Peterson reiterated that the auditors have serious concerns with the working arrangement of caregivers living in CBLA homes. Due to the need to address concerns over client safety and welfare, this audit report only included one audit objective to facilitate a timely release of the audit. Additional work concerning labor laws and payroll practices would be conducted as part of a future audit that is in progress. The auditors made six recommendations in the audit report related to improving controls to ensure the Division effectively inspects CBLA homes.

Mr. Peterson addressed the section regarding the certification of CBLA providers. Although the Division is responsible for certifying providers of community-based living arrangements, certification activities performed by the Division are inadequate. Specifically, reviews and assessments required for certifying providers were not performed for most of the 20 CBLA providers tested, and were untimely for others, by up to 5 years. Auditors indicated that in 2014 the Division developed certification standards for CBLA providers, which describe in detail the operational structure CBLA home providers should maintain. In addition, a standardized checklist was provided to Division staff as a tool for review and assessment of providers' compliance. However,

the Division indicated these standards were not consistently implemented because providers were having difficulty meeting the 2014 certification standards and staff was awaiting the development of new regulations.

During the 2017 Legislative Session, new legislation was enacted that provided for the certification and regulation of all CBLA providers. Newly passed regulation provided a process for initial certification of providers. The audit report contains a bulleted list that depicts what will be reviewed and assessed during the initial certification of providers. The new regulation gave the Division authority to issue, renew, deny, or revoke CBLA provider certification. In addition, certification periods may not exceed 2 years for renewal. The Division indicated it was in the process of developing new policies and procedures for certifying CBLA providers. Auditors made one recommendation to help ensure the Division properly certifies CBLA providers.

Concluding his presentation, Mr. Peterson stated Appendix A in the audit report provides additional details of the home conditions observed during the auditors' inspections by type and region. Appendix B shows the number of conditions observed at each home inspected. In addition, Appendix C provides additional photographs of conditions observed at CBLA homes. Appendix D contains the audit methodology and Appendix E contains the Division's response. The Division accepted all seven recommendations. Mr. Peterson noted for members of the Legislative Commission's Audit Subcommittee, that DPBH had already submitted it 60-day plan for corrective action pursuant to NRS 218G.250.

Chair Benitez-Thompson called for questions.

Senator Parks pointed out that the audit report referenced 20 CBLA providers and asked Mr. Peterson if there was a total number of CBLA providers among these 37 facilities.

Mr. Peterson stated the auditors did have a total number; however, it was not included in the audit report but could be provided after the meeting. He pointed out that the 20 CBLA providers represent the majority of the providers with NNAMHS and SNAMHS.

Senator Parks commented that if 37 were divided by 20, the quotient would be approximately 2 homes a piece. He asked if that number was consistent for the providers or did some providers have more homes and facilities.

Mr. Peterson replied that the number of homes varied by provider and there was a wide range of homes for each provider. Some providers had more than seven homes while others had just one home.

Following up to his previous question, Senator Parks asked if the auditors found any indications that one provider was worse than another.

Mr. Peterson stated there were indications that there was a culture with some providers where there was less-than-adequate care and deplorable conditions in their homes.

Chair Benitez-Thompson remarked that if anyone in the public was streaming the meeting, the audit report would be made available online shortly after the conclusion of

the meeting. During the meeting, only the Subcommittee members and those attending the meeting at either location had access to paper copies of the audit report. She pointed out there were pictures in the report that could be upsetting.

Senator Kieckhefer was of the opinion that taxpayers were essentially paying slumlords to warehouse people with mental illness in unsafe and filthy conditions. He commented that he would never want one of his relatives living in these homes. He asked when the auditors walked through these facilities, outlined the deficiencies, and cross-referenced that information with the inspections that had, in some cases, had taken place just days before by the state agency, if those deficiencies were captured in the state inspection reports.

Mr. Peterson replied he could not indicate if there was a specific area, because it varied. The state's inspectors had not noted the unsanitary and unsafe conditions multiple times after different inspections. It seemed to run the whole gambit of inspected items.

Senator Kieckhefer inquired if there were checklists for the inspections and if those checklists were sufficient or was it possible that the inspectors had become immune to the prevalent deplorable conditions.

Mr. Peterson opined that there were many contributing factors; however, the checklists were sufficient and very detailed. Some of the contributing factors could include lack of training for staff, failure to implement and correctly use the checklists, and desensitization to the different condition as the inspectors go from home to home.

Senator Kieckhefer surmised that if the Bureau of Health Care Quality and Compliance inspected these homes, in some of these instances, residents would have been removed and the homes would have been shut down. He asked if the Division had that type of authority.

Mr. Peterson replied that the Division does have the authority to remove clients from the home and place them in a different environment.

Responding to Senator Kieckhefer's question regarding if the auditors had found any evidence where a client was removed, Mr. Peterson noted the auditors did not personally witness this happening; however, there was evidence of some cases where this had occurred.

Assemblywoman Carlton queried as to the complaint process and if the auditors had analyzed any complaints. She wanted to know if the auditors had compared any received complaints to some of the horrible things that these patients have had to live in and employees had to experience.

Mr. Peterson expressed that early on in the audit process, the auditors did examine the complaint process and found there were few complaints and it was not related to the objective of the audit.

Assemblywoman Carlton opined that it is legislators' responsibility to protect these clients and a complaint-driven process should not be used. She commented more needs to be done, including inspections. She referenced the \$1,450 per month, per

resident, and referred to the report where there was an average of four clients in each home and queried as to what homes had the greatest number of clients.

Mr. Peterson was of the opinion the largest number of clients in a home was approximately six or seven, which was one of the noncertified CBLA provider homes. In most cases, there was anywhere from two to four clients in a home.

Assemblywoman Carlton questioned if there was a way to “claw back” the funds that were not spent on clients from these providers.

Mr. Peterson replied the agency would be best suited to answer that question.

Assemblywoman Carlton appreciated the auditors' hard work and thanked Mr. Peterson.

Assemblyman Wheeler also thanked the auditors for the incredible work. He noted that without these audits, conditions like this would not be brought to attention. He expressed that he hoped everyone was as disgusted as he was, because he would not even put his dog in these conditions. He queried as to if there were any criminal penalties available for subjecting people to these conditions.

Mr. Peterson stated he would need to research if there were any criminal penalties; however, with the passage of Assembly Bill 46 (Chapter 269, Statutes of Nevada 2017), provisions were enacted to sanction providers.

Assemblyman Wheeler was of the opinion this arose to the level of criminality. He acknowledged that Audit Division staff were not medical professionals, but he mentioned these conditions could actually exasperate the medical and mental problems these clients already have. These clients should be helped and not have their problems exacerbated.

Mr. Peterson affirmed that Audit Division staff were not medical professionals; however, auditors witnessed some clients with marked depression. For example, in one home the auditors observed clients who just sat on their beds and were not engaged in discussions. There were also some instances where clients mentioned they had complained to the providers and had not received any resolutions to their complaints, which caused aggravation based on auditors' discussions with those clients.

Chair Benitez-Thompson referenced Appendix A on page 30 in the audit report and the number of inspected homes that had filthy conditions throughout the home including: excessively dirty floors, ceilings, walls, mattresses, bedding, appliances, vents, and air filters. She asked for verification that it was nearly 96% of the inspected homes were reported to be filthy and excessively dirty.

Mr. Peterson affirmed that 96% of the homes inspected in Southern Nevada had deplorable conditions and he noted that 80% of the homes inspected in Northern Nevada had similar conditions.

Chair Benitez-Thompson restated from the report that there was evidence of human waste in 40% of the inspected homes in Northern Nevada and in 26% of the homes inspected in Southern Nevada. She then referenced the medical administration records

(MARs), which is the documentation of the administered medications to the clients in the homes. In Northern Nevada, 50% of the MARs were either blank or not up-to-date and 70% of the MARs in Southern Nevada were either blank or not up-to-date.

Mr. Peterson affirmed the Chair's statements regarding the percentages of human waste and MARs in the homes.

Chair Benitez-Thompson stated that the auditors inspected 37 homes and there were 105 CBLA homes statewide, based on the key findings in the audit report. She hypothesized that if there was an average of four clients in each home, there is potential for approximately 450 souls living in these homes. She noted that from the sampling, the audit report shows there was an incredible percentage of the homes with excessive filth, fire hazards, and personal health and safety hazards. She reiterated the incredible finding the auditors made in the audit report.

Senator Kieckhefer referenced the employment conditions for the caregivers in the homes. He queried about another audit Mr. Peterson mentioned that was in process, and if that would address concerns regarding potential violations of labor laws, and if that audit had been initiated by the Legislative Commission.

Mr. Peterson replied the audit Senator Kieckhefer reference was a continuation of the audit presented today. When the auditors began the audit of Adult Mental Health Services, they realized that there would be three objectives to address in the audit report, which would be too much for one report. The three objectives were then broken out into three audits. This report was the first one to be issued and the other two are currently in progress where the auditors have completed a reasonable amount of the audit work with respect to fieldwork.

Senator Kieckhefer asked what the other two audit subjects were.

Mr. Peterson answered the other two subjects were the contracts and the contacting process at Northern Nevada and Southern Nevada Adult Developmental Health, and provider payments controls to ensure provider payments were accurate at Northern Nevada and Southern Nevada Adult Developmental Health.

Senator Kieckhefer mentioned the children that were living in a few of these homes. One of the homes had mentally ill clients babysitting the child. In a second home, the mother had only arrived in the country the night prior to the inspection according to the provider. He pondered if the caregiver had been out of the country on travel or if she had immigrated to the country the day before the inspection. Furthermore, he questioned if she was employed as the supervisor.

Mr. Peterson noted that at this time that could not be confirmed; however, that would be addressed in the audit currently being performed to determine the residence status of the individual. When at the home during the inspection, it was indicated to the auditors that the caregiver would live in the home and help provide services to the clients in that home.

Following up to Senator Kieckhefer's questions regarding if the child would live in that

home full-time and if that caregiver was to speak the language of the clients she provided services, Mr. Peterson stated it was indicated to the auditors that the child would be living full-time in the home and the caregiver did not speak the clients' language.

Chair Benitez-Thompson called for agency representatives.

Amy Roukie, Administrator, DBPH, DHHS, testified that DBPH and Adult Mental Health Services accepted all of the audit findings and recommendations. She stated the Division was working diligently to create improvement in these areas. In many cases, the Division was as shocked as the Subcommittee members were regarding the findings in the report. The Division put a significant corrective action in place and worked towards certification of all providers. The noncertified providers would no longer be able to contract with the agency.

Chair Benitez-Thompson pointed to the recommendations and the Division's responses. She referred to the passage of A.B. 46 and to the adoption of recent regulations. She expressed dismay over Division employees having conducted inspections shortly before Audit staff inspected the homes. She pondered as to how those employees did not see or document any issues or concerns that the auditors found.

Ms. Roukie clarified that several of those provider homes that were reviewed were not under the Division's supervision, as Audit staff mentioned it. She testified that Division staff would not have been the agency to provide those environmental checks; however, the other agency that had a large number of these homes, specifically in southern Nevada, would conduct the inspections. Nonetheless, some of these homes where these conditions were discovered, were under Division oversight for service coordinators to provide environmental checks. The Division now created quality assurance residential teams for both Northern and Southern Nevada, and those teams are responsible for the oversight and reporting of all issues. Some of these providers were also on a corrective plan of action based on their environmental checklist audit and the Division did note where there were situations of concern.

Chair Benitez-Thompson queried as to when the residential quality assurance teams for Northern and Southern Nevada were created.

Ms. Roukie clarified that upon the passage of A.B. 46 it was incumbent upon the Division to define a mechanism by which the Division would be managing this process moving forward and ensure that all providers become certified. The Division developed teams in both northern and southern Nevada to increase accountability with the accountability checks rather than leaving it at a staff level. The Division heightened this to a leadership responsibility and requires reporting responsibilities.

Chair Benitez-Thompson noted the Division's policies and the teams that have been put into place. She asked Ms. Roukie what changes were going to be made in the field. She commented that the auditors testified the checklists were adequate; however, the checklists did not appear to capture clearly what the pictures in the audit report have. She further questioned what would be the functional difference and functional change.

Ms. Roukie commented there were several things that were different. Moving forward, the Division drafted policies, several of which will be going before the Behavioral Health Commission on March 15, 2018, for approval. This process is required by the Division to institute new policies statewide for these homes. In addition, the Division has a new certification process, which requires that each one of these providers, even providers with multiple homes, participate in the monthly educational sessions to become certified provided by the Division. Providers are also submitting their binders, which include all of the required documents that they are reporting issues of concern and compliance. Requiring all providers to be certified will engage them on a level of higher accountability.

Chair Benitez-Thompson expressed frustration due to the fact that these issues with CBLA homes had previously been reported in the news and there was legislation passed to address it. She opined that the news reports should have put everyone involved with these on notice and to be on their best behavior, especially when a legislative audit was going to be performed. She pointed out to Ms. Roukie that the public was watching and yet there were no changes in the homes. Even with the policies, procedures, and checklists actual physical changes to the homes was eluded. These homes were filthy, had excessive fire hazards, and had received nuisance calls to local licensing departments. She questioned what else could be done.

Continuing, Chair Benitez-Thompson stressed the need for a call to action to ensure that there is real change in these homes. For instance, actions and sanctions, notification for corrective action, mandated training, removal of an individual service provider, and termination of contractual relationships were mentioned by the Division to address Recommendation No. 4. She wanted to know if discussions had ensued with providers and if there were "claw back" regulations or fines. She queried as to if those items were not in place, should the Legislature address it.

Ms. Roukie testified that subsequent to the audit, the Division had begun inspecting every CBLA home once per month, which the Division had not been doing previously.

Chair Benitez-Thompson restated she would like to know if there would be actual change in the homes. Some of the pictures of the homes resembled a dumpster fire, but at least a dumpster fire would have heat where some of the homes did not have a heat source.

Ms. Roukie replied that subsequent to those inspections, in the past the other provider had refused to perform environmental checklists. As of November 2017, they are all providing environmental checklists to which the Division is holding them accountable to perform those inspections. The Division's inspections are being done by their service coordinators who are now held accountable to ensure that these are not the conditions in those homes. The living conditions in the homes were completely inexcusable and the Division had difficulty working with the providers to ensure compliance. She agreed that those providers who are not in compliance should not receive payment for services.

Continuing her testimony, Ms. Roukie referenced language in NRS that allowed for some requirement of the providers to perform the services for which they receive

payment. The Division could examine that portion of NRS and possible sanctions. Contracts from at least two providers were withdrawn, because of their unwillingness to accept the changes. Fifty-four of our 110 group homes and provider homes were currently in the process of moving towards being certified as CBLA provider homes with the condition to be compliant with Division requirements. If a provider does not become certified, then the contracts will be terminated.

Furthermore, Ms. Roukie stated that losing a provider has created an unfortunate problem of placement for the clients with housing being an enormous problem. The Division needs to ensure that housing meets safety standards, quality, and cleanliness. Moving forward, the Division will ensure all homes will be required to be certified and inspected at least once a month by service coordinators, with follow-ups and unannounced inspections, complaint investigations. The Division is thinking of moving the inspection function from the clinical service area to the Bureau of Health Care Quality and Compliance (Bureau), because the Bureau already has inspectors who regularly perform inspections for other types of facilities. Ms. Roukie noted the Division would be open to guidance to make that change. Currently, the clinical services area has service coordinators who are working to help individuals with doctors' appointments, and reviewing their housing. She stated there was no excuse for the clients to live in these deplorable conditions.

Assemblyman Wheeler hoped for nonpartisan legislation to address this problem and he expressed his displeasure for the Division leadership's lack of action. He queried as to what the Division was going to do to make corrections to address concerns.

Ms. Roukie was of the opinion that the best solution would be a proactive solution; however, in the past the Division had been reactionary, which exacerbated the situation. She stated she worked very closely with Division staff and that a Deputy Administrator had been replaced partially due to the significant concerns.

[Note: Subsequent to the meeting, Richard Whitley, MS, Director, DHHS, submitted a letter dated January 19, 2018, to the Chair of the Legislative Commission's Audit Subcommittee that stated a portion of Ms. Roukie's testimony, regarding replacing a Deputy Administrator, was inaccurate and incorrect. Please see Attachment A on page 42.]

Additionally, the Division wanted to stress with providers that housing mentally ill clients should not be treated like just a paycheck. Providers expressed concerns over their homes being destroyed; however, that is no excuse for this behavior. Ms. Roukie was of the opinion that the providers should be held to a higher standard because of the amount of money paid to them each month for services and for the amount of hours they were supposed to spend working with the clients to help them become independent. She stated if housing providers are lost, then the Division will need to develop a different solution for the housing. She testified for the record that the Division will close these providers' homes if compliance does not occur.

Assemblyman Wheeler reiterated that the question has already been asked and answered as to why have these homes not been closed. He restated his question for Ms. Roukie regarding if there were any criminal penalties for treating people in this

manner. He had hoped that additional legislation would not be necessary, but did not see how that would be possible to correct the problems.

Ms. Roukie replied that she was not aware if there have been any criminal complaints. However, the Division could involve law enforcement. Elder Protective Services or Adult Protective Services could be engaged in the neglectful treatment of people with disabilities who are vulnerable. She was not opposed to exploring criminal penalties under patient protection based on this audit and working with the Audit Division staff.

Assemblywoman Carlton wanted to know what the Division was going to do to address these providers who turned our mentally ill family members into a profit center. She expressed great displeasure toward the privatization of CBLA providers. She cautioned that our family members will have to bear the burden if something is not done. She was of the opinion that there has to be penalties and consequences, because people should not be treated in this manner. The fact that mentally ill people were living in these conditions and legislators were not aware of it is abhorrent. The State needs to have its own system so it does not have to rely on these terrible companies who abused the mentally ill patients. She expressed disbelief over the fact that the State paid these providers who got away with treating people in this manner.

Continuing, Ms. Carlton was of the opinion that there needed to be a "claw back" system. She reexpressed dismay that this was allowed to happen and that something needed to be done, even if it meant the State had to set up its own system to take care of it and hold itself accountable. She further expressed that it was a shame private businesses were not held just as accountable. She wanted to know what the consequences were going to be for their actions. She was of the opinion that none of these private businesses should be allowed to receive any further payment from the State for the way these clients were treated. She commented that the thought that her daughter or her mother could have ended up in a place like that kept her awake last night.

Senator Kieckhefer referenced the U.S. Supreme Court's Olmstead decision. He was of the opinion more options need to be considered going forward on a structured and permanent basis. He queried as to what the industry standards were in other states for supportive living arrangements and in the private community based settings.

Furthermore, Senator Kieckhefer pointed out that Ms. Roukie mentioned the Bureau could potentially be a more fitting agency to conduct inspections of these homes. Based on his experience with the Bureau, he was of the opinion the Bureau would be more appropriate for these inspections because of the Bureau's ability to pinpoint areas during an inspection. He asked if the change to have the Bureau conduct the inspections could be done internally within the Division and if it was something that could be completed immediately.

Responding to Senator Kieckhefer's query regarding industry standards among other states, Ms. Roukie stated these homes were called supportive living arrangements (SLAs). The intent was based on the Olmstead Act of deinstitutionalizing homes for the mentally ill. The clients were placed in apartment settings where they lived

independently and service providers would go in to work with them on daily basis, help with activities of daily living, or get them to appointments. The supportive living arrangements, prior to being called CBLAs, were homes where multiple individual living arrangement clientele would live together, which morphed into group home type settings. Group homes are regulated under the Bureau. She would need to research if that fell under the purview of AB 439, where group home facilities for groups are currently under those standards. The Division would need to evaluate to determine if regulation changes to the Nevada Administrative Code could be conducted through the State Board of Health without requiring legislation. She was in agreement with Senator Kieckhefer that the Bureau's inspectors do a good job in holding the community standards high, and the inspectors and not service coordinators would be better suited to inspect CBLA homes.

Ms. Roukie commented that in other states, these are operationalized very similarly with the communities and not large institutions for group home settings. It just has been moved to the communities. She was of the understanding that other states also struggled with similar communities where inspectors find squalor and horrible conditions.

Senator Kieckhefer was of the opinion that the Bureau inspectors would be surprised to find the horrible conditions in some of the homes.

Senator Parks queried as to how long conditions found in these homes has occurred and if there was any benchmark as to how long this activity had been taking place. He then commented that if a CBLA provider is paid \$1,450 per month per client, and has an average of four clients that would add the revenue to the extent of \$5,800 a month. When divided that out, it would be \$200 a day in revenue, which could be incentive for a provider to have homes with squalid conditions.

Ms. Roukie replied that she did not have anecdotal information as to how long these conditions have existed; however, she believed it has been happening for quite some time. She could not speak to the fact if it had intentionally been kept a secret, or if the Division lowered its standards in order to place clients. Ms. Roukie agreed that this had gone on for too long and appreciated Mr. Peterson and his team for bringing this forward so that the Division can make necessary improvements.

Chair Benitez-Thompson referred to the provider certification process and asked if it was a contracted process or does a provider have to get certified and then the contract is a separate document.

Ms. Roukie replied that it is a separate process. The contracting process was examined uniquely. The Division was moving towards the use of grants from the prior practice, which was to provide agreements contracting with the Purchasing Division, Department of Administration. This move was to increase the level of accountability for the fiscal transactions; however, certification would be one of the requirements to be qualified as a provider.

Ms. Roukie affirmed Chair Benitez-Thompson's statement that those provider

agreements are transitioning to contracts, where the providers of the CBLA homes are operating under provider agreements.

Chair Benitez-Thompson queried if the contracts were renewed annually or biannually.

Ms. Roukie surmised the contracts needed to be renewed annually; however, she would need to check to be certain. The renewal process has improved over time and will require a new level of scrutiny to those agreements.

Chair Benitez-Thompson expressed that if the agreements were not renewed annually, but rather every 6 months, it would increase flexibility for the Division. This way, the Division could sit face-to-face every 6 months with a provider to review everything at the home before determining to renew a contract. She asked if the Division had the ability to include language in a provider agreement where a person under the age of 18 years old could not live in the home. She referred to two specific instances in the report where children were living in the home and to wait for legislation to pass could take too long.

Ms. Roukie stated language of that nature could be included. The Division's hesitation to include the language would be that it could prevent a caregiver from caring for his or her own mentally ill family member if under the age of 18 on future contracts. She was inclined to support a family member caring for a mentally ill family member under a CBLA contract. The Division could include language where a caregiver providing care for a mentally ill family could have visits from family members including minor children. Oftentimes, children come to visit their family members who are the mentally ill, come in for visiting during certain times, and then they leave again.

Chair Benitez-Thompson opined there was a way for policy to distinguish between a provider home without family members under its care and homes where mentally ill family members are under a caregiver's care. Nonetheless, it does not make sense for children to be living in a CBLA home. She would like the Division to take action on that, because waiting until a legislative session to mitigate the problem would take too long.

Chair Benitez-Thompson requested clarification if all of the clients living in the CBLA homes were Medicaid recipients.

Ms. Roukie replied most of the clients are Medicaid recipients and receive services that are billed to Medicaid. A majority of the clients in the homes receive Social Security Disability Insurance because they are considered disabled adults, which is another qualifier for Medicaid. Medicaid is not paying for room and board. Rather, Medicaid is paying for eligible services such as medical appointments and medications by an eligible provider, which is generally not the home-based services.

Chair Benitez-Thompson called for additional questions.

Senator Kieckhefer asked if the Division could state whether anyone was still living in these conditions subsequent to the audit.

Ms. Roukie stated the conditions had greatly improved; however, she could not verify that the conditions in the homes that are not certified by the Division had improved. The

Division is having all providers become certified. The noncertified providers have now agreed to perform the environmental checks, which they previously had not allowed, and the noncertified providers were resistant to do it. The Division is now holding those providers more accountable.

Senator Kieckhefer recognized the Division did not have supervision over noncertified CBLA provider homes; however, the Division's position is clear.

Chair Benitez-Thompson noted 7 of the 37 homes inspected during the audit were noncertified CBLA provider homes; however, 30 provider homes were certified. She hoped the certification process will demonstrate the importance to hold that certification. She was of the opinion that at the moment, for certified and noncertified providers, there seemed to be an indistinguishable product they produce.

Mr. Cooper outlined the next steps in the audit process as provided in NRS. The Division will provide a 60-day plan for correction action, which is due on April 12, 2018. The Audit Division already received the plan for correction action on January 9, 2018, and the Division had begun to take action to address the issues. In addition, there is a 6-month process where the Director in the Governor's Office of Finance has the Division of Internal Audit perform follow-up work. This can include taking test samples, reviewing policies and procedures, and verifying the implementation status of the recommendations at that point in time. The Governor's Finance Office provides the Legislative Auditor with a letter on the status of the recommendations. The 6-month report for the Division is due to the Audit Division on October 12, 2018. Then, the 6-month report is presented to the Audit Subcommittee for review and approval. The agency can return to that meeting to answer questions, if any, on its 6-month report.

Chair Benitez-Thompson suggested continual follow-up on this subject at subsequent meetings to receive updates on these issues.

There being no further questions, Chair Benitez-Thompson called for a motion.

ASSEMBLYMAN WHEELER MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, ADULT MENTAL HEALTH SERVICES, COMMUNITY-BASED LIVING ARRANGEMENT HOMES. THE MOTION WAS SECONDED BY SENATOR KIECKHEFER AND CARRIED UNANIMOUSLY.

***Item 6 — Review of Guidelines for Licensing Children's Facilities
(NRS 218G.575)***

Mr. Cooper, previously identified, provided background information on the review of governmental and private facilities for children that the auditors conduct pursuant to NRS 218G.575. Auditors began conducting these reviews based on legislation passed in 2007, which became a permanent function of the Audit Division with legislation passed in 2009. The need for the reviews arose from incidents that occurred at a state juvenile detention facility in 2001. The audit staff's role is to review the facilities for children on an ongoing basis. The reports provide information to assist in legislative

oversight. Without the reviews, the Legislature may not be aware of problems occurring at the children's facilities. The ultimate goal is to ensure adequate protection for the children that live in these facilities. Agenda Item 6, is a review of guidelines for licensing children's facilities, which is not part of a typical for review of facilities for children. The purpose was to review the licensing agencies' policies and procedures and strengthen the process to prevent problems from occurring. At the last Audit Subcommittee meeting, concerns were expressed because auditors frequently identify the same issues on a regular basis when inspections of children's facilities are conducted. Therefore, the Subcommittee was of the opinion proactive measures should be taken regarding the licensing agencies and to help prevent problems from occurring.

Jane Giovacchini, Audit Supervisor, presented the results of the review of guidelines for licensing children's facilities. This review was conducted to address common and recurring issues found during our reviews of children's facilities as authorized by NRS 218G.570 through 218G.585. There are four governmental agencies that license children's facilities in Nevada. The Bureau of Health Care Quality and Compliance (Bureau) licenses child care facilities and institutions, psychiatric hospitals, and residential facilities for the treatment of abuse of alcohol or drugs. The Washoe County Human Services Agency (HSA) licenses foster homes, including specialized and group foster homes, and foster care agencies located in Washoe County. The Clark County Department of Family Services (DFS) licenses foster homes, including specialized and group foster homes, and foster care agencies located in Clark County. In addition, the Division of Child and Family Services (DCFS), DHHS, licenses foster homes and foster care agencies in the 15 rural counties.

Ms. Giovacchini stated the report describes the number and types of facilities auditors have identified as of June 30, 2017, and the licensing agencies for each type of facility. Ex. 1 in the audit report shows there are a total of 55 facilities that house children pursuant to the order of a court. Of the 55, 15 are either not licensed or not required to be licensed. Ex. 2 lists the frequency of the most common or significant observations made during 13 reviews conducted between January 2014 and July 2016 by type of facility. Six facilities had issues with missing physicians' orders, eight had issues related to background screening of employees or personnel record retention, and nine had issues related to preparing timely treatment plans.

The audit report describes the scope, purpose, and methodology for this review. The purpose of the review was to determine if the guidelines used by the agencies that license facilities where children may be placed by a court are reasonably adequate to help ensure the facilities protect the health, safety, welfare, and civil and other rights of the children in the facilities. In addition, auditors reviewed child welfare agencies' policies and procedures to determine if the agencies have adequate processes to ensure children in their custody have the consents of the persons legally responsible for the psychiatric care of the children before psychotropic medications are administered to the children.

Auditors found the tools and written guidance licensing agencies provide to staff need to be updated and provide more explanatory detail. Key areas are sometimes missing

from the guidance, such as informing youths of their rights, having established grievance processes, or policies and procedures for mandatory reporting of known or suspected instances of abuse or neglect of a child. Licensing agencies generally use checklists, which refer to the applicable regulation or statute, rather than written policies and procedures. Most checklists reviewed were not dated and did not contain evidence of management approval or review. In addition, the checklists did not address the facilities' policies and procedures, with the exception of foster care agencies.

The report addresses child care facilities and institutions, which are licensed by the Bureau in the Division of Public and Behavioral Health. The Bureau does not have policies and procedures to help guide staff reviewing facilities or institutions. Instead, staff use checklists, which are referenced to NAC 432A. In the report, auditors list the most significant weaknesses found in the guidance provided by the checklists. For example, the checklists did not mention that residents who are over the age of 18 and not under the jurisdiction of a court must pass a background investigation, as required by NRS 432A. In addition, the checklists did not require the facilities to obtain consent from the person legally responsible for the psychiatric care of a child prior to administering psychotropic medication to a child in the custody of a child welfare agency. Checklists also did not address notifying children of their rights, a complaint or grievance process, or the timeframe to prepare or update treatment plans.

After most sections in the report, auditors included a portion of the licensing agency's comments along with the auditor's response to some comments. Furthermore, the report addresses psychiatric hospitals, which are also licensed by the Bureau. Again, Bureau staff use a checklist for licensing hospitals, which contains additional steps for psychiatric services. However, the checklist was not specific to youths and did not include certain items listed in the report. For example, the checklist did not contain any requirements for background checks of staff who care for youths as required by NRS 449. In addition, the checklist did not contain any requirements for obtaining consent from the person legally responsible prior to administering psychotropic medication, or informing youths of their rights.

Licensing of facilities for the treatment of abuse of alcohol or drugs is addressed in the report. While the Substance Abuse, Prevention and Treatment Agency licenses the treatment aspects of these facilities, the Bureau licenses the residential aspects. Bureau staff use checklists for licensing reviews, and the Bureau did not provide any additional policies and procedures or other guidance for staff. The most significant weaknesses noted on the checklist included: no requirements for documentation of physician's orders or written consent from the person legally responsible prior to administering psychotropic medications; no requirement for facilities to have policies on the use of force, restraints, or isolation and room confinement; no timeframes for developing or updating treatment plans; and no requirements related to assessing or handling suicide risks.

Continuing her presentation, Ms. Giovacchini discussed the licensing of foster care agencies, which are licensed by DCFS, HSA, and DFS. The three child welfare agencies contract with approved foster care agencies for the placement of children in

the custody of the child welfare agencies. The foster care agencies then place the children with either contracted foster parents or in homes they own and staff with foster parents. Each foster home must be licensed separately prior to accepting children placed by the foster care agency.

DCFS reported using the requirements in NRS 424 to review foster care agencies, but had no written guidance for staff. The HSA and the DFS both use checklists and application reviews to screen foster care agencies before approving them for a contract.

The most significant issues auditors noted in their review of the HSA were that checklists did not contain specific background check requirements for foster care agency staff or specific requirements for the use of volunteers. In addition, the checklists did not require documentation that complaint procedures and a statement of youths' rights were provided to the child or guardian.

The auditors' analysis of DFS' checklists and contracts found nothing in their checklists that contained specific background check requirements for foster care agency staff. Neither the checklists nor the contract mentions having first aid kits, notifying youths of their right to file a grievance, or a timeline for developing or updating treatment plans.

In the report, the auditors explain that the three child welfare agencies license specialized and group foster homes and use essentially the same checklists and questionnaires to inspect the homes. However, the checklists and questionnaires generally do not include a review of the homes' policies and procedures. For example, the checklists ask licensing staff to conclude whether unused prescribed medications are destroyed. It does not ask the licensing staff to review the homes' procedures for destroying medication, such as when it should be destroyed, how it should be destroyed, by whom it should be destroyed, and how the destruction should be documented.

Ms. Giovacchini stated auditors found that the checklists contained little or no guidance concerning complaints or rights, medications, and mental health screening or treatment. The checklists and questionnaires were not complete regarding background investigations of employees or residents in the home over 18 years old and not under the jurisdiction of a court. The DFS issued memos to staff clarifying some background investigation statutory requirements; however, the memos were not complete. Nothing in the checklists or questionnaires included whether the homes had policies and procedures on medication administration, as required by NRS 424. While some items in NRS are included, other items are not. For example, documenting the orders of the treating physician, documenting errors, minimizing errors, or addressing errors were not included. Furthermore, the checklists and questionnaires did not include determining whether the foster homes had a process to ensure the homes had a copy of an appropriate consent from the person legally responsible prior to administering psychotropic medications to a child. The auditors made a recommendation to all licensing agencies to review, revise, and update their guidelines for licensing children's facilities.

In the report, the auditors addressed gaps in enforcing the requirement for facilities to

obtain consent prior to administering psychotropic medications to children in the custody of a child welfare agency. First, some facilities licensed by the Bureau may not be aware of the requirements to obtain consent because the Bureau does not review facilities it licenses for compliance with NRS 432B. These facilities include child care facilities and institutions, psychiatric hospitals, and facilities for the treatment of abuse of alcohol or drugs. These facilities are licensed under various other statutes, and NRS 432B puts responsibility for appointing the person legally responsible and reviewing compliance with the consent requirements on the child welfare agencies.

Second, two of the three child welfare agencies' procedures did not ensure all facilities were informed of consents, withdrawal of consent, or denied consent. For example, the HSA policy requires the person legally responsible to complete the consent forms and provide it to the HSA, which inputs the information and provides a copy to the caseworker. However, nothing in the policy states a copy will be given to the temporary care provider. DCFS's policy requires the person legally responsible to provide a copy of the consent to the substitute care provider; however, it requires the person legally responsible to provide a denial of consent only to the child welfare agency. The auditors made the recommendation to the Bureau and the child welfare agencies to coordinate efforts to ensure all licensed facilities comply with NRS 432B.

Concluding her presentation, Ms. Giovacchini stated Appendix C in the report provides a summary of our observations at the 13 facilities reviewed from January 2014 through July 2016 by type of facility. Appendix D contains a list of facilities that may care for children under the jurisdiction of a court, including their licensing agency, location, and average population for the fiscal year ended June 30, 2017, and Appendix E contains the audit methodology.

Chair Benitez-Thompson asked if the agencies at the conclusion of the report had a consensus for obtaining written consent from the person legally responsible for the psychiatric care of a child (PLR).

Ms. Giovacchini was of the opinion that the agencies were in agreement to work with each other on the PLRs. The Bureau was not familiar with NRS 432B and the requirement to obtain consent, which is why it had not been included in its guidelines. She opined the Bureau would communicate that information to its facilities, and the child welfare agencies agreed to help ensure that its facilities are also aware of the requirement.

Senator Kieckhefer commented that this report was different from previous children's facilities reports. He appreciated the outline of reoccurring findings from the various inspections of children's facilities over the years in Ex. 2 of the report. The same problems occurred repeatedly. This review intended to determine if the guidelines used by the agencies were adequate given the repeated findings.

Senator Kieckhefer asked the auditors if they observed whether it was the policies and procedures in place that needed minor adjustments or did the policies and procedures used by the agencies need significant revisions to ensure protections were in place for these children.

Ms. Giovacchini was of the opinion that in many instances, the agencies just needed to make minor adjustments to its policies and procedures; however, most of the policies and procedures need updating since some of the laws have changed, particularly with obtaining consent. In some cases, the checklists were adequate, but did not contain enough detail as to what was acceptable and unacceptable. In addition, the checklists need to address the process for unused prescribed medication in greater detail and with documentation. She was of the understanding that the licensing agencies did not always look for that process. The agencies just looked to see that there were not boxes of medications sitting around.

Senator Kieckhefer thanked Ms. Giovacchini.

Chair Benitez-Thompson called for agency representatives.

Reesha Powell, MPA, Deputy Administrator, Child Welfare, DCFS, DHHS, introduced herself.

Ross Armstrong, Deputy Administrator of Regulatory and Planning Services, Division of Public and Behavioral Health, DHHS, introduced himself and stated his agency oversees the Bureau.

Jill Marano, Assistant Director, Clark County DFS, introduced herself.

Alice LeDesma, Division Director, Washoe County HSA, introduced herself.

Chair Benitez-Thompson called for questions.

Mr. Armstrong thanked the auditors for their work on the report. The Division was working to revise some of its checklists. He was of the opinion it was greatly beneficial to add youth items to the psychiatric hospital checklists and that collaborating with the other child welfare agencies would be valuable, especially with PLRs. He surmised that the Bureau should use protocol models for issues involving youth for the facilities licensed by the Bureau. He noted the Division looked forward to making the changes recommended in the report and improving oversight of facilities for children.

Chair Benitez-Thompson queried as to who would be notified, how and where the agencies would be notified by those overseen by the Bureau in order to reach consistency with PLRs.

Mr. Armstrong replied that the Bureau has a dedicated education officer. This officer has been linked with the DCFS public information officer to quickly obtain facts on PLRs so that everyone is using the PLRs in the same manner, especially for day care centers.

Responding to Senator Kieckhefer's query regarding adding specific items to the psychiatric hospital checklists, Mr. Armstrong responded that it would be more efficient to add youth-specific items to the bottom of the checklist to ensure the psychiatric care items are the same for youth and adults. Everything would be contained in one checklist; however, the youth section would be used for the youth facilities and the adult section would be used for the adult facilities.

Senator Kieckhefer referred to the mandatory reporting requirements and noted the

Division indicated in its response that it is an individual responsibility and not a facility responsibility. He asked if there was a review process to indicate a policy within the facility to inform and require reporting.

Mr. Armstrong replied that a review process could be done or it could be added to the checklist referencing that policy. An individual worker could not be cited by the Division for not following the policy; however, the facility would be responsible for making a report.

Ms. Powell thanked the auditors for conducting this review. She noted DCFS was interested to read the entire report, not just the sections pertaining to DCFS. She acknowledge DCFS has some deficiencies within its policies and procedures, not just an agency that licenses, but from a statewide oversight perspective. DCFS accepted the recommendations and looked forward to working with other agencies regarding oversight policies for licensing these facilities.

Senator Kieckhefer asked if Clark and Washoe Counties had ever requested guidance from DCFS or if it had previously been a silent relationship.

Ms. Powell replied that the agencies and DCFS collaboratively work together. Some of the laws were missed, and policies and checklists simply did not capture all of the requirements in NRS or NAC. She noted that as a group, they have been focused on updating its NACs, checklists, and policies in general.

Ms. Marano echoed the statements from Mr. Armstrong and Ms. Powell thanking the auditors for the report. DFS accepted the recommendations and looked forward to working with its state partners to create a statewide policies and procedures to ensure consistency.

Chair Benitez-Thompson asked if the recommendations were meant to be specific to each agency/county or if the recommendations were meant to be collaborative.

Mr. Cooper clarified that this report was an unusual engagement. Auditors typically review the children's facilities trying to make sure everything is in compliance. During the process of reviewing the guidelines, each particular agency received excerpts of the draft report pertinent to each agency and have not reviewed each other's responses. The agencies will receive a final copy of the report with the two recommendations. Audit staff has requested the agencies respond by October 12, 2018. Recommendations normally are not made in the Audit Division's reviews of children's facilities. Nonetheless, in this case recommendations were made for the agencies to review their policies and procedures, and update areas where certain deficiencies were noted.

Ms. LeDesma echoed the statements from Mr. Armstrong, Ms. Powell, and Ms. Marano thanking the auditors for the report. The report has generated ideas and changes for the HSA to utilize in its practices and how checklists are used. She noted that the HSA was appreciative to have the opportunity to make those improvements.

There being no further questions, Chair Benitez-Thompson called for a motion.

SENATOR KIECKHEFER MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE REVIEW OF GUIDELINES FOR LICENSING CHILDREN'S FACILITIES. THE MOTION WAS SECONDED BY ASSEMBLYMAN WHEELER AND CARRIED UNANIMOUSLY.

Item 7 — Report on Count of Money in State Treasury (NRS 353.060)

Mr. Cooper, previously identified, stated the Report on Count of Money in State Treasury is required by NRS 353.060, which must be performed annually.

Katrina Humlick, Deputy Legislative Auditor, stated in accordance with NRS 353.060, the auditors counted the money and securities in the State Treasury on Friday, June 30, 2017, and prepared Ex. A with supporting Schedules 1 through 3 in the report. The Money Count included actual physical examination, direct confirmation with financial institutions, and other procedures considered necessary to fulfill the statutory obligation.

Ms. Humlick stated in accordance with NRS 353.075, the report was filed with the Secretary of State on November 20, 2017.

Ms. Humlick stated the count of money and securities on June 30, 2017, showed there was \$152.1 million on deposit with financial institutions, \$3.0 billion of state owned securities, and \$1.1 billion of securities held for safekeeping, for a grand total of over \$4.4 billion. Details of the Ex. are shown on pages 3 through 19 of the report.

Ms. Humlick concluded her presentation and offered to answer questions from the Subcommittee.

Chair Benitez-Thompson called for questions.

Senator Kieckhefer commented on the NRS requirement to complete this report. He then queried as to if discrepancies between the auditors' count and the State Treasury.

Mr. Cooper replied he was not aware that any discrepancies had ever been found. Based on Senator Kieckhefer's comments at a prior meeting, Mr. Cooper asked the auditors from Eide Bailly, LLC, how they use the information after their review of this report, Eide Bailly replied that this report saves the state auditors a 100+ hours in their function and duties, which potentially saves the State of Nevada money. He noted that the Audit Division performs a reconciliation of the State Treasurer's records to the State Controller's records to ensure no discrepancies within the State's accounting system.

Chair Benitez-Thompson called for further questions and there were none.

Chair Benitez-Thompson called for a motion.

ASSEMBLYMAN WHEELER MOVED TO ACCEPT THE REPORT ON COUNT OF MONEY IN STATE TREASURY. THE MOTION WAS SECONDED BY SENATOR PARKS AND CARRIED UNANIMOUSLY.

Item 8 — Presentation of Six-Month Reports (NRS 218G.270)

Chair Benitez-Thompson stated she would entertain a motion to accept certain six-month reports, Agenda Item VIII, a through j. The Audit Division did not have questions for these agency representatives regarding the implementation of audit recommendations.

Mr. Cooper stated there are 13, 6-month reports. He stated the six-month reports are generated by the Governor's Finance Office, to help ensure the audit recommendations are implemented. The process begins with a plan for corrective action, which is prepared by agencies 60 working days after the audit report was accepted by the Audit Subcommittee. NRS 218G.270 requires the Director of the Governor's Finance Office to submit a report to the Legislative Auditor six months after the plan for corrective action is prepared that indicates the implementation status of each recommendation. After the Audit Division has received and reviewed the six-month reports, the auditors continue to work with the agencies on recommendations that have not been fully implemented. Many of the agencies have had sufficient time to fully implement their recommendations. Therefore, Audit Division staff does not have any questions for those agencies listed on the agenda as item VIII, a through j.

Chair Benitez-Thompson called for a motion to approve the six-month reports for the following: a) Department of Public Safety, Division of Parole and Probation; b) Department of Public Safety, Investigation Division; c) Nevada State Board of Dental Examiners; d) Department of Administration, Division of Human Resource Management, Information Security; e) Department of Business and Industry, Division of Mortgage Lending; f) Nevada Department of Wildlife, Information Security; g) Silver State Health Insurance Exchange; h) Department of Motor Vehicles; i) Department of Health and Human Services, Division of Child and Family Services; and j) Office of the Military.

SENATOR KIECKHEFER MOVED TO ACCEPT THE SIX-MONTH REPORTS, AGENDA ITEM VIII, A THROUGH J. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN CARLTON AND CARRIED UNANIMOUSLY.

k. Department of Education, Use of Class-Size Reduction Funds by School Districts

Richard A. Neil, Audit Supervisor, stated in January 2017, auditors issued an audit report on the Department of Education (Department), Use of Class-Size Reduction Funds by School Districts. The Department filed its plan for corrective action in April 2017. NRS 218G.270 requires the Governor's Finance Office to issue a report within 6 months after the plan for corrective action is due, outlining the implementation status of the audit recommendations. The Governor's Finance Office prepared the six-month report on the status of the two recommendations in the audit report. As of October 13, 2017, the Finance Office indicated both recommendations were partially implemented. The auditors had a couple of questions for the agency; however, auditors received additional information from the Department on Tuesday, January 16, 2018, regarding

those recommendations. After the information was reviewed, auditors consider all recommendations to be fully implemented. Therefore, there were no questions for the Department. Mr. Neil expressed appreciation for the Department's efforts to implement the recommendations.

Chair Benitez-Thompson called for questions. There were none.

Chair Benitez-Thompson called for a motion.

SENATOR KIECKHEFER MOVED TO ACCEPT THE SIX-MONTH REPORT ON THE DEPARTMENT OF EDUCATION, USE OF CLASS-SIZE REDUCTION FUNDS BY SCHOOL DISTRICTS. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN CARLTON AND CARRIED UNANIMOUSLY.

I. Department of Health and Human Services, Aging and Disability Services Division

Richard A. Neil, Audit Supervisor, stated in January 2017, auditors issued an audit report on the Department of Health and Human Services, Aging and Disability Services Division (Division). The Division filed its plan for corrective action in April 2017. NRS 218G.270 requires the Governor's Finance Office to issue a report within 6 months after the plan for corrective action is due, outlining the implementation status of the audit recommendations.

The Governor's Finance Office prepared the six-month report on the status of the 10 recommendations in the audit report. As of October 13, 2017, the Finance Office indicated eight recommendations were fully implemented and two recommendations were partially implemented. After additional follow-up with Division personnel, auditors consider one recommendation deemed to partially implemented to now be fully implemented (Recommendation No. 5).

Continuing his presentation, Mr. Neil stated that based on the additional information auditors received from the Division, Recommendation No. 1 was considered to not yet be fully implemented. The Division made considerable efforts to implement this recommendation, but had not completed its efforts yet. Auditors plan to continue to monitor the Division's efforts on this recommendation, but did not have any questions.

Recommendation No. 8 stemmed from delays in adopting regulations required by legislation passed in 2009. The Finance Office's report indicated that the Division expected full completion by January 1, 2018.

Concluding his presentation, Mr. Neil stated that Audit staff had one question for the Division regarding if the regulatory process was completed to certify job-day training providers.

Dena Schmidt, Administrator, Division of Aging and Disability Services, Department of Health and Human Services, responded to Mr. Neil's question and stated that the Division recently received its draft regulations from the Legislative Counsel Bureau and had a hearing scheduled. However, there was a change in policy, which will require

some minor language changes to the draft regulations. Once the Division has received the changes, a hearing will be scheduled. Ms. Schmidt anticipated that in 2 to 3 months, the recommendation would be finalized.

Chair Benitez-Thompson called for questions. There were none.

Chair Benitez-Thompson called for a motion.

SENATOR KIECKHEFER MOVED TO ACCEPT THE SIX-MONTH REPORT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, AGING AND DISABILITY SERVICES DIVISION. THE MOTION WAS SECONDED BY ASSEMBLYMAN WHEELER AND CARRIED UNANIMOUSLY.

m. Nevada Department of Wildlife

S. Douglas Peterson, Information Systems Audit Supervisor, stated in January 2017, auditors issued an audit report on the Nevada Department of Wildlife (Department). The Department filed its plan for corrective action in April 2017. NRS 218G.270 requires the Governor's Finance Office to issue a report within 6 months after the plan for corrective action is due, outlining the implementation status of the audit recommendations.

The Governor's Finance Office prepared the six-month report on the status of the four recommendations in the audit report. As of October 13, 2017, the Governor's Finance Office indicated that one recommendation was fully implemented and three recommendations were partially implemented. The three partially implemented recommendations, Recommendation Nos. 1, 2 and 3, concerned updating the strategic plan, refining draft policies and procedures for performance measures, and evaluating and revising performance measures.

Concluding his presentation, Mr. Peterson stated that the auditors had questions for the Department regarding the implementation status by December 31, 2017, of the three partially recommendations. Furthermore, if those recommendations have been fully implemented, auditors requested the Department provide documentation. Conversely, if those recommendations were not fully implemented, Mr. Peterson asked when the Department expected full implementation.

Tony Wasley, Director, Nevada Department of Wildlife, stated that majority of the recommendations were fully implemented. There was a portion of Recommendation No. 1 regarding the Department developing its own strategic plan. The Department was approximately $\frac{3}{4}$ of the way done with fully implementing that recommendation. A tremendous amount of effort was given with the agency plan. A copy of the plan and a copy of the overview of the strategic was provided to Mr. Peterson the morning of the meeting. Concluding his remarks, Mr. Wasley stated the Department had made significant progress, but had not completed division-specific plans. He was not aware if the division-specific plans would have more goals and objectives specific to each of the divisions within the Department; however, the goals, strategies, and objectives would all fall under the overarching agency strategic plan.

Mr. Peterson pointed out that the auditors were provided with some documentation for the meeting, which would need to be reviewed to determine if it satisfactory. He then asked when the Department anticipated full implementation of those recommendations.

Responding to Mr. Peterson's question, Mr. Wasley stated there was a meeting scheduled for the following week to meet with all of the divisions and set a final timeline. He was of the opinion completion could be reached by April 1, 2018.

Chair Benitez-Thompson said audit staff would continue to monitor progress to ensure full implementation of the recommendations.

Chair Benitez-Thompson called for questions. There were none.

Chair Benitez-Thompson called for a motion.

SENATOR KIECKHEFER MOVED TO ACCEPT THE SIX-MONTH
REPORT ON THE NEVADA DEPARTMENT OF WILDLIFE. THE
MOTION WAS SECONDED BY SENATOR PARKS AND CARRIED
UNANIMOUSLY.

Item 9 — Public Comment

Chair Benitez-Thompson called for public comment. There was none.

Chair Benitez-Thompson stated that the next meeting would be either in late April or in early May 2018. The tentative date is Wednesday, May 2, 2018. In addition to receiving audit reports, the Audit Subcommittee will also select an accounting firm to conducts the state's single for the next 4 years pursuant to NRS 218G.350. The Audit Division will evaluate the received proposals and provide that information for the Subcommittee to make that selection.

Chair Benitez-Thompson adjourned the meeting at 12:15 p.m.

Respectfully submitted,

Susan M. Young, Audit Secretary

Assemblywoman Teresa Benitez-Thompson
Chair, Audit Subcommittee of the Legislative Commission

Rocky Cooper, Legislative Auditor, and
Secretary, Audit Subcommittee of the Legislative Commission

ATTACHMENT A

Note: Subsequent to the meeting, Richard Whitley, MS, Director, DHHS, submitted a letter dated January 19, 2018, to the Chair of the Legislative Commission's Audit Subcommittee that stated a portion of Ms. Roukie's testimony, regarding replacing a Deputy Administrator, was inaccurate and incorrect.

BRIAN SANDOVAL
Governor



RICHARD WHITLEY, MS
Director

DEPARTMENT OF HEALTH AND HUMAN SERVICES
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January 19, 2018

The Honorable Teresa Benitez-Thompson
Nevada Legislature
401 S. Carson St.
Carson City, NV 89701

Dear Madam Chair:

I hope this correspondence finds you well.

As Director for the Department of Health and Human Services, I am writing to respectfully request that inaccurate information provided during the Legislative Commission's Audit Subcommittee (NRS 218E.240) be corrected or removed. The testimony in question was provided by Amy Roukie, former Division Administrator, Division of Public and Behavioral Health during the January 17, 2018 meeting. This testimony is located at 1:51:25 – 30 on the archived video.

While the Division is committed to correcting all deficient practices noted in the audit report on the Adult Mental Health Services Community-Based Living Arrangement Homes, the Division had not taken any disciplinary action against any employee at the time of Ms. Roukie's testimony.

I am disappointed a Division Administrator in the Department would intentionally make false statements before the Commission and offer you my sincerest apologies. Ms. Roukie has been relieved of her duties as Administrator effective today, January 19, 2018, and has elected to resign in lieu of termination.

If you have any additional questions or concerns, please do not hesitate to contact me directly. Your consideration of my request is appreciated.

Respectfully,


Richard Whitley
Director

Cc: Legislative Commission's Audit Subcommittee Members and Alternates
Rocky Cooper, Legislative Auditor