

**MINUTES OF THE 2017-2018 INTERIM
ADVISORY COMMISSION ON THE ADMINISTRATION OF JUSTICE**

April 30, 2018

The meeting of the Advisory Commission on the Administration of Justice was called to order by Chair Steve Yeager at 9:03 a.m. at the Grant Sawyer Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada, and via videoconference at the Legislative Building, 401 South Carson Street, Room 3137, Carson City, Nevada.

Exhibit A is the Agenda, and Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT (CARSON CITY):

Justice James W. Hardesty, Nevada Supreme Court; Vice Chair
Assemblywoman Lisa Krasner, Assembly District No. 26
Connie Bisbee, Chairman, Board of Parole Commissioners
Christine Jones Brady, Deputy Public Defender, Washoe County
Julie Butler, Representative, Central Repository
Mark Jackson, Douglas County District Attorney
Adam Laxalt, Attorney General
Al McNeil, Sheriff, Lyon County
Judge Jim Wilson, Carson City District Court
Natalie Wood, Chief, Parole and Probation

COMMITTEE MEMBERS PRESENT (LAS VEGAS):

Assemblyman Steve Yeager, Assembly District No. 9; Chair
Senator Aaron Ford, Senatorial District No. 11
Paola Armeni, Representative, State Bar of Nevada
Chuck Callaway, Police Director, Las Vegas Metro
James Dzurenda, Director, Department of Corrections
Kymberli Helms, Victims' Rights Advocate

COMMITTEE MEMBERS PRESENT (TELECONFERENCE):

Amy Rose, ACLU of Nevada, Inmate Advocate

COMMITTEE MEMBERS EXCUSED:

Judge Sam Bateman, Henderson Justice Court

STAFF MEMBERS

Bryan Fernley, Commission Counsel, Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau

Victoria Gonzalez, Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau

Angela Hartzler, Secretary, Legal Division, Legislative Counsel Bureau

Jordan Haas, Secretary, Legal Division, Legislative Counsel Bureau

OTHERS PRESENT:

Clyde Means

Paul Corrado

Tonja Brown, Advocate for the Inmates, Advocate for the Innocent

Michelle Feldman, Legislative Strategist, Innocence Project

Nicole O'Banion, Ombudsman for Victims of Domestic Violence, Office of the Attorney General

Sue Meuschke, Executive Director, Nevada Coalition to End Domestic and Sexual Violence

Mindy McKay, Records Bureau Chief, Records, Communications and Compliance Division

Assemblyman Steve Yeager (Assembly District No. 9; Chair):

I will now open the fourth meeting of the Advisory Commission on the Administration of Justice (ACAJ). I will open agenda item III, public comment.

Clyde Means:

My public comment is based on Ms. Bisbee's February presentation. Had I been a member of this Commission, the question that I would have asked of her is why are you not using the results of the Static-99 to determine if parole should be granted to sex offenders? Prior to my first parole hearing, the Static-99 was administered to me. The results showed a negative two points. When I saw the unit caseworker, she stated that I would be granted parole based upon that. The Static-99 looks at what you have accomplished as far as programs taken, education accomplished and a host of other factors. It does not re-adjudicate the inmate, which is what the Parole Board after reading the record for 5 minutes that is full of errors does. Each time before going to the Parole Board, the caseworker said with a score of negative 2 on my Static-99, I would be granted parole. My third and final time was my mandatory parole hearing. State law states that unless you are deemed to be a threat to society, you shall be granted parole, yet I was denied. Since expiring my sentence June 6, 2013, I volunteered for 1 full year at a senior food pantry, I bought a home that my wife and I live in, been building a custom home without obtaining a construction loan, completed sex offender treatment, which took me 2 1/2 years to accomplish, dismantled 4 mobile homes completely by hand, with a fifth

one being dismantled currently. Last but not least, come and speak to this Commission advocating for the inmates that could not be here. Sometimes I feel that my time would be better spent doing the other things that I just mentioned, then I say to myself, "If I don't speak, then the 1 voice that speaks for the inmates will no longer be heard—12,000 individuals." The first time that I addressed this Commission, I spoke on the Parole Board budget and how the funds could be reallocated if the Parole Board Commission was eliminated. The look on the faces indicated that no one was aware so much was budgeted for it. I still feel the Parole Board Commission needs to be eliminated as most have done. If it is to remain, then let the Parole Board Commission base their decision to grant parole to sex offenders on the results of the Static-99. Why administer a test with its cost along with the wages paid to the psychologist salary of the Nevada Department of Corrections (NDOC) if the Parole Board Commission is not going to base parole on it? I wish to thank the members of this Commission, both here in Las Vegas and also in Carson City, for allowing me to address you on this topic. Thank you very much.

Paul Corrado:

I'm a volunteer at the NDOC, and I've been involved in detention ministry and incarceration education since 1994. I'd like to talk to you this morning about what I believe is something that needs to be addressed, and that's bail. In this country, if you have money, you can walk. If you don't have money, you're going to be in jail. I think there is a problem and there is a process that can help that. Number one is that there is a risk-based approach, because what did I do? I spent a couple days in 2014 and in 2017 here in Carson City at the Parole Board, and I listened and took notes so that I could help people if they needed that kind of information. What I was struck with was that there were two things that were important. Number one was that there was a risk assessment, so somebody who was a violent criminal could be assessed based upon the nature of their crime. That risk assessment also was tempered with the judgment of the Parole Board. Those two things, I think, can be and have been applied in different jurisdictions to the issues of bail. What I'm talking about is, first of all, there are a couple of approaches. Number one is that maybe the time is to get a fund that is large enough so that it can be reoccurring, and that fund is used to bail people out. Because let's face it, if someone has a job and they're absent for even 5 days, let alone 20 or 30, they're probably going to lose that job. But there's no risk-based assessment associated with the setting of the bail or how it's even administered. Number two is that everybody I hope here is familiar with *Moneyball*, which is the baseball teams using statistical analysis to find out who is really the best player in terms of who they should pick and draft. So, applying those statistical analyses in New Jersey, they were able to reduce crime significantly, because even if you had money to come up with bail, if you didn't meet the risk assessment criteria, as well as the good judgment of the judges who have to apply both the risk assessment as well as their own information and experience on the job, they reduced not only the number of people in jail but also the amount of crime. You have in your packet two TED Talks on both of those things.

I won't have to say much more than that, except that I've got a couple of other things. For instance, in prison right now, an 11 by 11-inch television set costs \$325. If you go to Costco with \$325, you can get a 42-inch TV. I'm not suggesting that everyone go to Costco, but I am suggesting that if we want to, for instance, have a laptop computer for people so that they can learn to practice on a full keyboard rather than a tablet, they will then have the skills they need when they leave. At least they can learn, and you can get them right here in Carson City, which is also used in Las Vegas, is ComputerCorps, and for just over \$100, you can get a laptop. Now, I know that there are some issues associated with that, but I believe where there's a will in the NDOC, there is certainly a way. Director Dzurenda has found that way many times. My problem is, if you give somebody one of these little tablets, they're not really going to be prepared when they get out for what they have to do. Even truck drivers have to learn to keyboard, even if it's hunt and peck. If you want a job in this country anymore, you get it from online. You don't send resumes out anymore. They're put in the trash. So, the laptop's about \$100, and the barriers to implementation, universal access, funding, oversight and administration, when you want to do it, this state finds ways to do it.

As far as recidivism is concerned, number seven is the reduction in recidivism may be the only area of agreement between the Koch brothers and Barack Obama. If they can agree on it, maybe all of us can find a way to agree also. Thank you very much. I appreciate your time.

Tonja Brown (Advocate for the Inmates, Advocate for the Innocent):

I just want to briefly touch on a few things. In 2017, Senate Joint Resolution (S.J.R.) 1 passed the clemency board. Now, it's got to go back to the Legislature in 2019. If it passes there, it goes to the voters in 2021. Again, we know what could happen. It could be voted down and tried again in years later. In the information that I have presented to you dealing with a public integrity unit commission, petition for exoneration and discovery, removing the statute of limitations, last month I provided you that information. What I didn't get to touch on that I will briefly touch on is why I chose to write it that way. The clemency board or the Pardons Board, what they get, they'll get all the information from the courts, the NDOC, so on and so forth. But what they're not going to get is the real history behind what happened in that case, and I can base it on the true facts that I know to be true, the evidence and everything else. For example, what they won't know is that the evidence was discovered 21 years later in the Washoe County District Attorney's file that showed that the prosecuting attorney had defied a 1988 court order to turn over all the evidence, and all the evidence, the exculpatory evidence and the evidence that would have exonerated or found him not guilty if it would have gone to trial. What I did with that was I—that was in June of 2009. As Mr. Klein's attorneys were getting ready to file motions for a new trial and new bail, Mr. Klein died. I became the administrator of the estate in which, at that time, the following year, I filed in the matter of the estate in Washoe County a writ of mandamus detailing everything that was discovered, all the evidence that would have cleared this man of this crime. It also included information in support of the documents that his own public defender, which I won't name, had committed perjury, 5

instances of perjury during a 1991 post-conviction hearing, and these documents support all of that information. What you will not know or the courts or Pardons Board or clemency board or the courts won't know is what happened back in 1992, 1 year after the post-conviction petition was heard. Mr. Klein tried to file a perjury complaint with the Reno Public Defender. They would not accept it. The State Bar would not accept a complaint against his attorney because they don't accept complaints from incarcerated people. The District Attorney's Office marked it all up and sent it back to him, therefore I stepped in. I filed the police report in 1992 on perjury against his public defender. The Reno Public Defender believe she committed the perjury was transferred over to the District Attorney's Office, and at that particular time, Mr. Klein had filed a writ of habeas corpus in White Pine County in which the perjury was there. While the complaint was sitting at the District Attorney's Office, that judge in White Pine County issued an order denying that claim because the attorney was not charged, much less convicted. Well, it wasn't though he did not try. That perjury complaint sat there until the statute of limitations ran out, then the new district attorney comes into office. He can't charge the attorney with perjury because the statute of limitations ran out, and Frankie Sue Del Papa, the Attorney General, confirmed that. This is what the courts don't know or the Pardons Board knows or possibly the clemency board would know. That's why I wrote this this way in my petition for exoneration dealing with discovery issues, things like that. In 2007, a former member on this Commission was present when the attorney I spoke of who had committed the perjury was applying for a job, and at that time I presented the information showing the instances of perjury. She had nothing to say. We've written books. She has nothing to say. So, when I tell you that this woman committed five instances of perjury, it is true, and what we have been hearing over the years about false confessions and how the person, the defendant, will make a false confession, what we do not hear and never has been heard is how an attorney representing the client will commit perjury and make a false confession as though they're stating their client had confessed, and then that's what the courts will look at, and it is not true. That has been brought up in court documents over the years, and it is not true. The documents support it didn't, the police believed it didn't. She even admitted. She lied even about that too, but you will never see that in any court document.

So, when I ask that we look at this information for a clemency board, because who knows? If you accept my recommendations for what I'm asking, it makes it 2 years sooner to become law. Otherwise, we have to wait. If S.J.R. 1 passes, we have to wait until 2021 for the voters to pass it. That's even if it passes in 2019. This way, it will speed up the process by 2 years, if not even several more years, because look what happened with the Court of Appeals. It made it through and it was voted down.

Chair Yeager:

Ms. Brown, I need you to wrap up.

Ms. Brown:

I'm done. Thank you. But please take into consideration what the Innocence Project is wanting, and take into consideration what I'm asking for those who have maintained innocence throughout the years. There's no other remedy for these people, because the courts continually look at the court order written by the judge and just file stamp, copy it or sign it and that's it. They just uphold those decisions and they don't really look. Thank you.

Chair Yeager:

Seeing no further public comment, I will close agenda item III. I will now open agenda item IV, which is approval of the minutes of the March 28, 2018 meeting. Commission members, you should have a draft version of those minutes (Agenda Item IV). I had a chance to review the minutes. Nothing jumped out at me as needing correction, but does anyone else have anything?

ATTORNEY GENERAL LAXALT MOVED TO APPROVE THE MINUTES OF THE MARCH 28, 2018 MEETING OF THE ADVISORY COMMISSION ON THE ADMINISTRATION OF JUSTICE.

SENATOR FORD SECONDED THE MOTION.

Paola Armeni (Representative, State Bar of Nevada):

I am going to abstain since I was not present.

Connie Bisbee (Chairman, Board of Parole Commissioners):

I am also abstaining.

THE MOTION PASSED UNANIMOUSLY. (MS. BISBEE AND MS. ARMENI ABSTAINED)

I will now close agenda item IV. We're going to go slightly out of order on the presentation. The way I'm going to run the agenda today is we're going to go first to agenda item VI with Ms. Feldman, because she is joining us on the phone, and then after that, we'll come back to agenda item V and then go in order. For clarity for the Commission members, we'll take agenda item VI, which is Ms. Feldman, then we're going to go to VII, which is

the presentation on victim notification, and then we'll come back to agenda item V with Director Dzurenda and carry on in that manner.

At this point, I will open agenda item VI. Ms. Feldman, hopefully the Commission members recall your presentation from the last meeting. If you want to take just a couple of minutes and perhaps just refresh our recollection of the three main areas that your presentation dealt with at the last meeting, I think that would be helpful, and then we'll open it up for any questions, because I know members had questions that we didn't get to last time. Thank you for joining us and please go ahead.

Michelle Feldman (Legislative Strategist, Innocence Project):

Thank you for having me again. I appreciate it. Really, the 3 innocence reforms that we're advocating for are recording of interrogations through a statute, safeguarding against unreliable jailhouse informant testimony and then addressing the current 2-year time limit for a person to bring new non-DNA evidence after their conviction. Just for a quick recap, I focused on 2 recent exonerations: DeMarlo Berry, who was exonerated because of the Clark County District Attorney's Conviction Review Unit in June of 2017, and jailhouse informants played a role there, and then Kirstin Lobato. She was exonerated in December of 2017 after spending 16 years in prison. She also had a jailhouse informant. There was a false confession involved. Those were the topics we talked about. Also since then, the District Attorneys Association was kind enough to invite me to discuss these issues, which I did. I think it was 2 weeks ago. I'm happy to take any questions, or if anybody has any thoughts on this.

Chair Yeager:

Mr. Jackson, I think we didn't get through all of your questions last time. If you want to get us started with any additional questions, I think that would be appropriate.

Mark Jackson (Douglas County District Attorney):

Ms. Feldman, thank you not only for your presentation last month, but also coming to the District Attorneys Association meeting. It was 1 1/2 weeks ago on Wednesday. During the presentation before the Nevada District Attorneys Association, you'll recall that Christopher Lalli, the Assistant District Attorney from Clark County, was present. If you believe I'm overstating this then please correct me, but I somewhat took exception to the Kirstin Lobato case and it not being an exoneration and kind of gave you a little bit of a background on that particular case. Do you recall that?

Ms. Feldman:

Yes, I do.

Mr. Jackson:

The presentation you gave at the District Attorneys Association was pretty much condensed. It was about 15 minutes, and there actually weren't a lot of questions while you were present, but a lot of discussion obviously after you left. Chair Yeager, this will be directed back to you. Based upon a lot of the issues that have been addressed, it would be really hard to kind of drill down into these issues, specifically the jailhouse informants and the new evidence time limit. You are aware from the testimony that Ms. Feldman provided last month and some of the comments that you received is that there has been a lot of work between the Sheriffs and Chiefs Association, and particularly Las Vegas Metro. I know that Chuck Callaway can speak to that. Also, working with John Jones and Jennifer Noble, Ms. Noble being from the Washoe County District Attorney's Office. That first issue on recorded interrogations, I think that there is a good possibility that a recommendation would come forward from not only all of those stakeholders but something that we could possibly put forward when we go into work session with this Commission. But in connection with the other issues, the jailhouse informants and the new evidence time limit, I believe it would be beneficial if Chair Yeager were to invite Jennifer Noble from the Washoe County District Attorney's Office and Steve Owens from the Clark County District Attorney's Office that could address those issues from a prosecutor standpoint and some of the difficulties associated with bringing forward the proposed legislation or some of those changes related to those particular issues. If those invitations are going to be put forward to those two individuals, then I would just withhold any of my questions for right now.

Chair Yeager:

Thank you, Mr. Jackson. I think that's a wonderful suggestion. We will reach out to them and try to agendize them at a future meeting. I think, obviously, to be in a position to potentially make a recommendation, it's worthwhile to hear from all sides of that issue, so I appreciate the suggestion. We will invite them, and Commission members, please let me know if there are others that you think you might want to hear from, particularly on those two topics. Also, on the recording of interrogations, although it sounds like things are going well and perhaps reaching a consensus on that recommendation, but if other members have folks they'd like to hear from with respect to the other two Innocence Project issues, please either let me or Mr. Fernley know and we'll set that up at a future meeting.

Chuck Callaway (Police Director, Las Vegas Metro):

First, again, thank you, Ms. Feldman, for sitting down with us at Metro and the sheriffs and chiefs here at the Grant Sawyer Building and having a discussion about recording interrogations and starting the tip of the iceberg dialogue for these other issues. I do think that there are areas that we completely agree on. As I said before, we share the same goal, which is to put the offender that committed the crime in custody, not an innocent person, because we all know that then the real, true offender is still out there running

around re-victimizing people. So, we share the same goal there, and as I've said, I'm committed to working with you to address these issues. I guess my comment or my question is, and you and I have had this discussion personally, so you probably know what I'm about to say, but the one area that I've always had a concern with from a legislative standpoint is putting into the law, codifying into the law, what I believe should be policies and procedures for law enforcement. As you know, at Metro, we have a policy manual that could fill this shelf over here, and if we decided we were going to codify all that into the law, our Nevada Revised Statutes (NRS) would instantly probably double, and then best practices change. Tomorrow, the best practices may not be seen as the same as what they are today, and then we have to go back to the Legislature and try to change the law, and that can be a difficult task. My position has always been, from a state level, let's work to make sure that agencies in the state through our associations, through the Nevada Sheriffs and Chiefs Association, through Police Officer Standards and Training (POST), let's work to make sure that agencies have a model policy that addresses those areas of concern that the Innocence Project has. I know at Metro, as I've stated, we recently redrafted our policy in an effort to try to capture the key elements of what the Innocence Project had in your bill last legislative session, and once that policy is reviewed and approved by our general counsel, I'll share that with you. I think you will be pretty happy with what's in that policy, but codifying it into the law where now it's black and white and you must do this per the law has always been a concern for me. I think we can accomplish that through cooperation, through the associations and through POST.

So, my question to you is do you share that same belief or do you believe—and I know too, and I'm not saying this to be facetious, but I know the Innocence Project nationally has an agenda, and in some cases, for lack of a better term, the box likes to be checked. "We've got 20 some states or 30 states or 40 states that do this, onto the next state so we can get them on the checklist." Do you believe that if we were able to get 99 percent of the agencies in the state—and bear in mind, there are some law enforcement agencies in the state that, by statute, they're police agencies, but this may never apply to them. The Animal Control person or the Fish and Game person, I can make a list and go on and on. There are law enforcement entities out there that will never encounter these types of interrogations, so it doesn't apply. I believe that through the methods I've mentioned, we can get 98 to 99 percent of the state in compliance with best practices. But do you believe that, in your mind, it still needs to be put in statute?

Ms. Feldman:

That's a great question. Thank you again for being so cooperative and getting everybody together in the room. I appreciate the discussion. It's been really enlightening for me to hear law enforcement concerns and get your input. The benefit of having a law versus policy is that you have uniformity. It's the quickest way to get uniformity. What I kind of worry about in Nevada is that you can get—if the Las Vegas Metro Police Department and the Washoe County Sheriff's Office adopt the policies, that would be the majority of the state's population, but then sometimes in the smaller jurisdictions, that would leave them out. That is one concern, that it wouldn't necessarily be uniformly adopted. But of

course, the other concern with doing policy only is that it doesn't have the teeth that a law would have. There's no legal consequence or there's no enforcement mechanism. I think that's what we've seen when we did do a survey of agencies in Nevada, and it seemed like most of them were recording interrogations in some form but they were kind of all over the map in terms of what circumstances and what crime categories. The goal is really to establish a uniform statewide practice of ensuring that, for the most serious crimes, custodial interrogations are recorded. I think with eyewitness ID, if we were able to achieve that voluntarily through adoption of best practices, because there is a built-in constitutional right to have a reliable identification, so already the defense lawyer can say, "This policy was not followed. These are the best practices. Therefore, the identification is unreliable." That's kind of a built-in way of enforcing best practices. But that doesn't exist, unfortunately, for recording of interrogations.

But I do think there are ways to—states have taken different approaches to make the laws more flexible to address that concern, that you don't want a one-size-fits-all solution for the whole state. For example, last year in Kansas, we passed a law and it says that every agency has to adopt a policy on recording of interrogations for homicides and sexual assaults, and the only requirement that these policies need to have is that you require the entire interrogation when it meets these crime categories. But outside of that, there's a lot of flexibility, and the agencies can really choose the equipment that they want to use, whether it's audio or video, and they can have a lot of flexibility about what the procedure is, about preserving the tapes and things like that, so that could be one way that kind of achieves the goal of the uniform practice but also addresses every agency's individual needs. I think that there are different ways to explore that. Another great thing that I think would really help is to do a more formal survey throughout the state to see what every agency's policy is so that there is a way. We know who needs some extra help and who would need a model policy. I think that there are different things that we can do to kind of address those concerns.

For the other issue, just so I can get back to Mr. Jackson, I would love if the District Attorneys Council would be open to it, or whoever else. A possible recommendation is to form a working group that includes different people in the prosecution and defense community to talk about the new evidence issue, because that's another issue that there are a lot of different ways to address, and it doesn't have to be one solution. I think that's how we addressed this issue in Utah and Wyoming, and they set up a factual innocence law for these kinds of new non-DNA evidence cases, so that's another possibility based on what other states have done.

Christine Jones Brady (Deputy Public Defender, Washoe County):

One of the things I was wondering is, even if it's not codified in law, and I don't know what we'd be able to agree upon, but more transparency on what those best practices are, I think, would also be useful. I know that in cases I've litigated where I knew that something was off with regard to how the interrogation was conducted, or even different aspects like the photo lineup or different things were conducted, I knew that they were likely outside

of the best practices, but whenever I would try to, for example, subpoena the manual for best practices or even the manual for the protocol, the departments or the city or whoever was representing the departments would do a warrant to quash my request. The judge would usually grant that. So, it's difficult to get those issues out because of a lack of transparency and what the best practices are and being able to flesh that out during the pretrial motion process. Do you have any ideas on how we could improve transparency regardless of whether or not something is codified in law?

Ms. Feldman:

Sure. In some states, we've worked with law enforcement to post online the policies of all the agencies, so that's one way, one option. Some states, like in Nebraska for eyewitness ID, for example, they passed a law that requires every agency to have a policy that's based on the model policy of their Crime Commission, and that's publicly available. I think we can definitely help if that's something this Commission would want to do in helping agencies to post their policies online. It's been pretty successful in other places.

Justice James W. Hardesty (Nevada Supreme Court; Vice Chair):

I have a follow-up question. Ms. Feldman, in your work across the country where states have pursued the enactment of policies through law enforcement rather than statutes, what is your experience or what have you observed with respect to the difference that may exist in policies between law enforcement agencies in the same state and its impact on defendants who are charged with the same or similar crimes or have similar issues?

Ms. Feldman:

That's a good question. We've found that it hasn't worked very well, unfortunately, because there is no enforcement mechanism. In Iowa, for example, it's been encouraged by the state's attorney general that every agency record interrogations, but when we surveyed agencies, only about half of them said that they were recording interrogations in their entirety. That was an example that it hasn't worked out as we had hoped. In Ohio, they passed a law that was a guideline rather than a mandate, so it says that agencies are encouraged to record interrogations. We just did a survey there and we found that it was like 48 percent, I think, of agencies, in terms of population coverage that had actually complied with the guidelines. We've definitely found a much stronger rate of compliance with a statute that requires best practices, but that being said, I think there is room for flexibility in requiring that just the simple practice of recording interrogations for murder and sexual assault. For example, putting something like that as a requirement and then the rest of the law can be more flexible in allowing agencies to decide what kind of equipment they use and what exactly their policies look like.

Justice Hardesty:

I have a suggestion. These are complicated issues, and certainly hearing from Ms. Noble and Mr. Owens would be of help to the Commission, but I think it would be most productive if you might consider the appointment of a working group, perhaps chaired by Mr. Callaway, to dig into these issues a little bit more so that the Commission has a little bit better hands-on understanding of the various permutations and alternatives.

Chair Yeager:

Thank you for the suggestion, Vice Chair Hardesty.

Ms. Armeni:

In the states that have the policy and procedure for the interrogation being recorded, is there any recourse if that policy or procedure is violated?

Ms. Feldman:

There is no legal consequence. The only thing that the defense attorney can say during cross-examination is, "Don't you have a written policy that you are supposed to record this interrogation? Why didn't you record it?" But that doesn't have the same force as a defense attorney cross-examining someone and saying, "This is the law, why didn't you do it?" In that way, it's not the same protection just to have that policy. It doesn't carry the same force with the jury. When we were advocating for Assembly Bill (A.B.) 414 last year, the legal consequence for noncompliance would have been a jury instruction, which is a pretty minimal consequence, because in some states they have automatic suppression if you don't record the interrogation, and then other states have opted to have statutes that don't have a remedy, but the value in it is that the defense attorney can cross-examine and say, "Isn't this a law that you're supposed to record these interrogations? Like, why didn't you follow it?" But as you're raising the point, there are no repercussions, really, if a policy is not followed, other than internal. There might be an internal disciplinary procedure, and that's really up to the individual agency.

Mr. Callaway:

Just a couple comments to follow up. First, to the question about transparency, I will say that I can't speak for other agencies, but I will say that at Metro, our policy manual is public record. There are some exceptions such as SWAT (Special Weapon and Tactics) and things that have to remain confidential for officer safety, but in general, the policy manual as a whole is public record. Second, I'm just curious, to add to what Justice Hardesty said, data that might be out there now since the Innocence Project has enacted laws in some states and other states' agencies have enacted policy, I'd be curious to see if there is a significant difference in the number of exonerations or cases where interrogations have proven to be false confessions in states that have laws versus states

that have policies that are model policies. I'm not talking about states that have nothing, but states that have adopted policy to see if there is actually still a significant difference in false confessions in those states. Third, as far as ramifications go, I understand the teeth in the law aspect to it, that if it's not in the law then technically there are no teeth, but I'll say this: all the time, police actions across the board—and I could throw out any action. It could be use of force. We have attorneys that go into court and say, "The officer used a technique on my client that was not in policy, that was not taught, that was not practiced. The officer faced disciplinary action for violating policy." That has an impact on cases, and I would be sure that the same would be true here if someone were to go into court and say, "Metro has a policy that says the officers are supposed to do A, B, C, D and they did not do that and a complaint was filed against the officer and they received a suspension or whatever for violating this section of policy." I would think that even though there aren't the teeth in the law, so to speak, that would have an impact on the jury or have an impact on the outcome of that case. Finally, I would be happy to chair a working group or participate in a working group to address some of these issues.

Amy Rose (ACLU of Nevada, Inmate Advocate):

Ms. Feldman, I kind of just have one general question for you. I know that Mr. Jackson had suggested bringing in some district attorneys locally to talk about how some of these reforms might impact our criminal justice system here. I think it might be helpful also to hear from district attorneys possibly in other states where they've implemented these different reforms that the Innocence Project is suggesting. Specifically, the one that stands out the most to me is the new evidence time limit, because Nevada is such an outlier. If I remember correctly from your presentation last time, I think we were 1 of only 5 states who have an absolute time limit, and the 45 other states either have no time limit at all or some time limit with like a due diligence exception or time limit from when new evidence is discovered, with the majority being on no time limit at all. But I wonder if it may be helpful for this Committee to hear from the stakeholders who participated in changing or implementing those laws in other states and how that's impacted the criminal justice system and their concerns or how this has helped, which I think would help us to understand what would be best in Nevada. All of that being said, I guess my question is would you be able to connect us with those people? Either hearing from them directly if we have time, or maybe they can submit some written comments or some data specifically on how that's worked in other states, like I said, specifically with the new evidence time limit.

Ms. Feldman:

Yes, I think that's actually a really good idea. In Wyoming, we just passed a factual innocence law, and Wyoming actually has the same exact issue that Nevada has where it was a 2-year time limit after conviction for a person to bring new non-DNA evidence. We had a working group with the attorney general's office and the prosecuting attorneys' association and the criminal defense attorneys, and over the course of a year we hammered out a proposal that really addressed a lot of the issues that Mr. Jackson raised,

because there are valid concerns about passage of time and finality, and I think that we were able to find something that struck a balance between ensuring that merited claims get heard, but at the same time preventing any kind of flood of litigation or anything like that. I'm happy to—I have some ideas about states I can connect you all to, but I think the working group is really a great idea because it allows a frank discussion and a lot of back and forth about what works and what doesn't, so I think that's a wonderful idea to do that on these issues which are more complicated, but I think everybody kind of has the same goal, which is the good thing about it.

Ms. Rose:

Great. Thank you, I appreciate it.

Chair Yeager:

Seeing no further questions for Ms. Feldman, thank you for joining us by phone, and I will be either appointing formally or informally a working group, so stay tuned for that once we get a sense of who those folks might be.

Ms. Feldman:

That's great. Thank you so much.

Chair Yeager:

At this point, I will close agenda item VI, and we're going to go to agenda item VII, which is our presentation on victim notification and domestic and sexual violence programs and prevention in Nevada. I want to take a moment to thank you for your patience and for coming back today. I know we had you on the agenda for the last meeting, but as you are aware, things ran really long last meeting, so we appreciate you being here with us this morning.

Nicole O'Banion (Ombudsman for Victims of Domestic Violence, Office of the Attorney General):

I am the ombudsman for domestic violence, sexual assault and human trafficking at the Attorney General's Office. The packet I put together for you was to hopefully give you an idea of what is going on across the state in terms of aid for victims of crime (Agenda Item VII A). Just going through the numbered points on it, first I'd just like to make everybody aware that on the Attorney General's website under the domestic violence section, we do have a resource guide available which does cover community resources as well as system resources. Next, the type of needs that are available across the state for victims of crime cover basic needs, childcare services, counseling, crisis support, financial assistance, health care, shelter, information on offender status and legal assistance. It's really trying to give a victim the opportunity to restart their life and have the support that

is necessary that allows them to get some space from the incident or incidents and be able to re-create a productive, sustainable life.

We do have advocates that are system advocates. Those advocates are located in the police departments, the district attorneys' offices, the courts, the Division of Child and Family Services and the Department of Health and Human Services and the Department of Corrections. Then, we have our community advocates, which are the nonprofit organizations. A good majority of the workers for those nonprofits are volunteers that will work on a rotating basis so there is 24-hour, 7-day assistance available.

I also listed the programs that the Office of the Attorney General does provide, and the first one is the Domestic Violence Law Enforcement Summit. That covers topics from officer safety to the dynamics of domestic violence, offender characteristics, victim characteristics, strangulation and evidence-based prosecution. We have so far done two of those in Elko and then are working on providing that to the rest of the state as requested. The great thing about that summit was we were happily surprised that the participants were actually from a cross-section from social workers, law enforcement, prosecutors and victim advocates, so we really had kind of everybody who does get involved in these cases at some point along the way. They were at the training, which was wonderful. We also have begun a domestic violence first responder training. So, what I was first made aware of is that the paramedics, the first responders of the fire departments, know when they've come into contact with domestic violence that something is wrong and someone is not safe, but they really don't have any training in really what it is or what is available, how to help the victims, so they've been very welcoming and actually really very happy to have this training available. Then, we also do facilitate the Committee on Domestic Violence, which meets three times a year, one of which is in rural Nevada. At these meetings, we are just assessing what's going on around the state, finding what works, providing recommendations to the rest of the state if we find something that's really well in one area and then getting that information out to the rest. We have the Fatality Review Team Subcommittee from the Committee on Domestic Violence, and what we do there is we take a domestic homicide that is located in rural Nevada. We take the team to the county that domestic homicide occurred in and then we hold interviews of all the parties that were involved to find if there was an area that may be a gap that, if it was filled, that homicide could have been prevented. We then take our findings from that review team and we coordinate with the Washoe County Fatality Review Team and the Clark County Fatality Review Team to see if there is something missing statewide that we can provide recommendations on or help assist in filling any of those gaps so that we can decrease the severity of domestic homicide in our state.

We also created a "what is domestic violence?" brochure, and that brochure is one of the attachments that is behind the list of aid to victims ([Agenda Item VII A](#)), and that really is a brochure that was designed with the victim in mind. When someone is a victim of domestic violence, most often they are not even aware that they are victims. They're so caught up in trying to survive and manage the chaos that they have lost touch with the

fact that this is not something that is normal or that should be going on. In order to get a victim to finally be ready to take the steps to be able to leave the situation, it takes a real thorough educational process. You have to start educating them on what it is that they're experiencing, what domestic violence is, what the characteristics of a victim are, because there is a certain pattern of behavior that the victim needs to change in order to get out of the situation. Otherwise, they continue to fall into the cycle of abuse, which is outlined in the brochure as well, so we're hoping to start the awakening process for victims who are trapped in that situation currently, and then to also provide the information to the general public, not only on what it is but then where to find the resources to help somebody get out of that situation safely.

On the second page (Agenda Item VII A), we go to the annual fundraisers that the Attorney General's Office sponsors, and we do have behind the domestic violence brochure just a flyer for this year's event, which is in Reno. We held our first fundraising dinner in Las Vegas this year, and these are to raise funds for the Human Trafficking Contingency Fund. Our fifth one will be annually in Reno this year, and then we just started the annual ones in Las Vegas. So far, the great news is that before the Las Vegas fundraiser, through the fundraisers alone, \$84,000 had been raised for victims of human trafficking, which is most generally sex trafficking in our state, that we've been able to assist with. We've helped 25 women leave the life, and so far in 2018, we have given out 3 disbursements, one of which had a turnaround time within 2 hours. We were able to help the nonprofit organization assist a victim that they had just gotten off the street that morning, and with the turnaround time of 2 hours, we were able to have her on a plane out of state back to her family by 6 p.m. that evening. That was enormous. The other 2 were crisis funds that were disbursed within 24 hours just to help the victim get through the crisis that they were in and to help get them established so they could start living a sustainable life. Unofficially, but the word is that the Las Vegas fundraiser brought in somewhere close to \$40,000 in addition to the \$84,000 that has already been raised.

Now, one of the questions that was asked was what were the changes that occurred in the 2017 Legislative Session per Senate Bill (S.B.) 25? Really simply, basically, all of the committees—there were several. There was the Victim Information Notification Everyday (VINE) Subcommittee, the Nevada Council for the Prevention of Domestic Violence and the Statewide Fatality Review Team were all combined into one super committee, which is now the Committee on Domestic Violence. The Batterer's Treatment Certification was transferred from the Attorney General's Office over to the Department of Health and Human Services, except for one small aspect, which is the Committee on Domestic Violence reviews any new program applications and then provides a recommendation over to the Department of Health and Human Services, but they are ultimately responsible whether they certify these programs or not. The Confidential Address Program was transferred from the Attorney General's Office over to the Division of Child and Family Services.

The next item is the Victims of Crime Program. That really is a reimbursement fund that is available for victims of crime, and the great thing is that it was expanded to not only

include victims that were residents of the State of Nevada but also anyone who may be traveling through Nevada but experienced a crime in this state. Those funds can go up to the amount of \$35,000 worth of reimbursements. It's a significant amount, however it does take 6 to 9 months to actually process the payments, so I always like to let everybody know it is a reimbursement expense, not a crisis fund. But they will reimburse anything such as medical, dental, hospital, ambulance, counseling, wage, income loss, funeral expenses, loss of support for dependents, emergency shelter or relocation expenses, insurance co-pays, crime cleanup, medically necessary equipment like wheelchairs, child care, vision eyeglass replacement, home health care, prescription medication, home security repair, pretty much any expense that you can correlate to having incurred due to the actual crime.

The next one is the Human Trafficking Contingency Fund, which I already went over, but there is a link to where the fund is located, and on that link is the protocol for the expenditures and then also the application process. I did also include the application process for the Victims of Crime Program. All of these are things that I fortunately am able to assist with getting the funds disbursed by assisting either the nonprofits or the victims themselves in filling out the applications and getting all the correct documentation together before they submit the application so that they can get the disbursements.

Then, we do have the confidential address program which does provide help for victims and their family members from sexual assault, human trafficking, domestic violence and/or stalking from being located by the perpetrator through the use of a fictitious address. So, they'll get a physical address that they're able to use when they are required to use a physical address, and then they will also get a confidential mail forwarding address. There is one gap in the service that has been coming up repeatedly, and I know that the program officer of the Confidential Address Program has been working with her team to try to discuss possible legislation that would help fill this gap, but it is with the utility companies. Unfortunately, they really lack a privacy policy, and what has happened a couple times is it has been very easy for offenders to call up and provide the name and the date of birth of the person, and the utility company repeats back the address rather than requiring the person who is calling in—and I know I've experienced this myself when I've called the utility company, and maybe you have as well. They'll say, "Are you calling about this address?" The address has been very easily found that way by offenders, so we are hoping to get that gap closed so that doesn't happen again.

The last item is our VINE Program, which at the Attorney General's Office, I am the program manager for VINE. The wonderful thing is this last July, we launched the enhanced version of VINE, which includes—before it was just for offender notification, and the enhanced version now allows people to do a search for victim service providers anywhere across the state where they're located, so they can specify what county they're in and it will give them the service provider for any one of the services that I mentioned earlier: counseling, legal assistance, financial, child care, all of that. It will give them the service provider of the nonprofit organization in their area. It also became available as a mobile app, which has been significant. This now allows people to download an app

where they already have usually a lot of apps on their phone so it doesn't stand out. It really is about maintaining their safety but also allowing them to have access to either the notifications on their offenders or the service providers that they have saved in their account. With a very quick escape button, it will take you out of the app very quickly or it will kick you off of the website if you're on the website very quickly as well. If we take a look at the very last page, if you look at the statistics, if you look at the change in the usage of VINE across the years, we can see that in 2016 to 2017, the site searches grew a little bit, pretty consistent. The notifications, however, doubled, and the registrations doubled. Then, if we look at 2017 to 2018, just through March, if you look at the site searches, they more than tripled, and that is due to, I am absolutely certain, the fact that it's a mobile app so it's so much easier, the accessibility is so much quicker, and it also has all the service providers. I know that it's being used by many more people since the majority of victims, their offenders are not in custody, so this is really giving access to victims of crime regardless of whether their offender is being held accountable or has yet to be held accountable or has disappeared. This is still allowing the services to reach many, many more victims. Then we look at the notifications. We were already at 29,000 by March, so I'm expecting all of those numbers to significantly increase by the end of the year.

That pretty much covers everything that I had. I don't know if we want to go onto Ms. Meuschke or answer questions first.

Chair Yeager:

Thank you for your presentation. We'll go ahead and take questions for you while we have you here.

KyMBERLI Helms (Victims' Rights Advocate):

Being a victim of a crime, I don't remember, this was a long time ago so it's probably changed since then, but how do victims of crime get notified of the benefits that they have? I understand the domestic things are probably easier, but do the police hand out pamphlets or something for like, regular victims of crime, because I didn't know I had the ability to be reimbursed for home repairs and stuff that occurred with my crime.

Ms. O'Banion:

Now, fortunately, the majority of the police departments or the district attorneys' offices do have a folder that includes all the information. It lets them know what their rights are. It lets them know that the Victims of Crime Program is available and has an application in the handout for them, so it's come a long way, thank goodness. Areas that probably don't have a substantive handout—but I do believe that they are providing that information as well as the rurals, just because of lack of resources. But I knew that as far as Washoe County goes, for sure, and Clark County, they actually have an entire folder that is packed full of this information.

Ms. Helms:

Is there like a statute of limitations as to getting a reimbursement on funds that are available for victims of crime?

Ms. O'Banion:

There is. I apologize that I don't know what that timeframe is. I did just help a victim with the California Victims of Crime Program because she actually is hiding in our state but the crime occurred in California, and they have a 3-year timeframe and she was just over that and they allowed us to submit an explanation of why she was applying after that timeframe so they would then accept her application. It simply was that she didn't know it was available at that time.

Ms. Armeni:

Going back to the VINE statistics, as you said, for 2008 your numbers increased substantially. Under registrations, however, it's significantly lower. Do you know why that is for 2018?

Ms. O'Banion:

That's just coming up through March. We don't know specifically if it's going to be lower by the time we get to the end of the year or not, so I don't have information as far as why it's only at 6,500.

Al McNeil (Sheriff, Lyon County):

Thank you for coming. I'm interested in the Statewide Fatality Review Board. What is the process? I understand the lessons learned, but is there any feedback, because I'll tell you at least in my county, we've seen a significant amount of domestic violence fatalities. This is the first time I've heard of it.

Ms. O'Banion:

The tricky part of the Fatality Review Team is that we can't do a review on a homicide unless it has been completely adjudicated. So typically, that requires either a homicide-suicide, which makes it a done deal, or we're having to dig back further in time to make sure that we're past the window for appeals, that someone hasn't filed appeals and that we're past that window, so it looks like this year that's probably going to be one of the cases that we're going to be able to review because we did finally come across one that is fully adjudicated and we can review it.

Sheriff McNeil:

So is that case coming up on the local jurisdiction to enact that, or is it something that the Attorney General's Office follows through?

Ms. O'Banion:

For the review?

Sheriff McNeil:

Yes.

Ms. O'Banion:

Yes, we do that. One of our senior deputy attorney generals actually digs through and reviews all the cases, finds a case that meets the protocol and then we take that to the committee. They determine that that's the case we want to review and then we go ahead and schedule that review and everything from there.

Sheriff McNeil:

Thank you. You made a number of 25 human trafficking victims that you've identified. Is there any data or have you found any correlation to these victims with legalized brothels in the state?

Ms. O'Banion:

A good majority of them, part of their stories do pass through the legal brothels at some point in time. There usually is some contact with the brothels at that point in time. I don't know their specific stories, which ones specifically came out of the brothels and which ones just simply had passed through the brothels and then were working on the streets.

Ms. Jones Brady:

In the interest of disclosure, I'm on the Domestic Violence Committee, so it's nice to see you both here. The first question I have is, what percentage of the homicides in Nevada, domestic violence-related homicides, were committed with a firearm? Do you have those statistics?

Ms. O'Banion:

I have them at my office. I don't have them. I know the number is very high, though. Over 50 percent of domestic homicides do occur with a firearm.

Ms. Jones Brady:

Just to follow up on that, were there prior restraints on—like for temporary protection orders (TPOs), did that include restraints for the firearms?

Ms. O'Banion:

This actually brings up a topic that I'm working on right now. One of the difficulties we've been having is there has not been a statewide database that retains the TPO or extended protection order (EPO) information, so once it expires, it falls out of the system. There hasn't really been a way to be able to look back and see how many and with how many different victims even a person may have a TPO or EPO, which would be an enormous benefit when we're trying to prove a pattern of behavior, because that pattern of behavior is required in the definition of domestic violence as needing to be there, which if we were able to access a history on TPOs and EPOs, that would make a significant difference in the ability to prove a pattern of behavior and would hopefully allow some sort of accountability or intervention to be put in place before it reaches such severe circumstances as battery, battery with a deadly weapon, strangulation or homicide. I currently am looking into some potential databases that would be able to provide that for our state so that we would be able to do research and see who has current ones, and it would also maintain the history of any TPOs or EPOs that an individual would have.

Ms. Jones Brady:

Thank you. The second question I have is what about education in the schools and the high schools? There used to be education for people to learn home economics or something, but what about teaching high school students about healthy relationships?

Ms. O'Banion:

That has been and is going on, I would say, in a handful of the schools across the state, however it is legislatively mandated to be in place in K-12 training on age-appropriate relationship skills, so that would include emotional self-regulation, how to handle that, how to process that, interacting with others, so that is due and is mandated to be in place by 2021. That process is in the process of getting there and what I know is that the coalition has several trainings that they provide for many of our nonprofit service providers have taken those trainings on healthy relationships, like hanging out versus hooking up. That's one of them also. In a handful of the school districts, they actually have invited these service providers to come into their health classes during teen dating violence month. They have a week in their health classes where it is specific to relationship issues, and they have been inviting some of the service providers, victim advocates, to come in and do that training. What they have been finding for the schools that have invited those advocates in is that they're also getting a significant increase in disclosures, so now they're realizing, "Oh, it's not just about the teaching, but it's also being prepared to be able to handle disclosures and the things that this teaching now is bringing up," so I think

it's probably good that it's going at a slower pace because they're getting flooded with this now and how do we handle and process that? I think by 2021, all of those kinks should be worked out and the system should be really well in place for all of the school districts.

Justice Hardesty:

Ms. O'Banion, do you have a role in the administration of the Victims of Crime Fund?

Ms. O'Banion:

I don't. That's actually not run through our office. The only role that I have is helping the victims fill out the applications and get the correct documentation together and then get it submitted, because typically, even this simple of a process is extremely difficult for someone who has been traumatized and is suffering from PTSD. That's the part that I get to help them in.

Justice Hardesty:

Mr. Chair, in preparing for today's meeting, I looked at the website for votenevada.gov and have several concerns, the first of which shows that the last annual report, at least that I can see on the website, is through Fiscal Year 2016. I don't see an updated report for Fiscal Year 2017. That's troubling. I also have had an ongoing concern that the revenue source for the Victims of Crime Fund is administrative assessments, and those have continually declined and declined for a variety of reasons, not just because they are inadequate in terms of what we're securing statewide, but also because of their decline, it has resulted in a lower percentage of the administrative assessment revenue being allocated to the Victims of Crime Fund. But I'm also concerned about the fact that the Fiscal Year 2017 reserves showed a balance of \$10,324,000, which would imply to me that there is a substantial amount of money that has been building in that fund since we got the Legislature in 2009 to allow the Victims of Crime Fund to accumulate rather than refund their reserves back to the state general fund. I wonder if there is a correlation between the Victims of Crime Fund and what its capabilities are and the demands that exist, as Ms. O'Banion has spoken to today. I would urge that the chair consider a presentation from the administration for a detailed explanation of the Victims of Crime Fund and the status and what the issues are surrounding this matter. I apologize for taking your time, Ms. O'Banion, but I'm very concerned about that issue. It seems to me to be a potential disconnect between what you're trying to accomplish and what demands your office is trying to satisfy and what's occurring with respect to the fund.

Ms. O'Banion:

Absolutely. I would be interested in how many applications are coming through each year in comparison to how many actual crimes are going on. That would be something that would be worthy of doing a survey.

Justice Hardesty:

My review of the website shows you wouldn't be able to know that information since 2016, which would be a concern, but perhaps we can get some answers to that.

Ms. O'Banion:

Perfect, thank you.

Chair Yeager:

On the VINE Program, I wondered if you had any experience with victims expressing concerns or complaints about offenders who have consecutive sentences in terms of getting notices that someone might be up for parole but really it's on the first sentence and there's another sentence still to be served. Do you have any even anecdotal evidence? Is that something that victims are confused about or express concerns about?

Ms. O'Banion:

I haven't heard any feedback in regards to that at all, no.

Chair Yeager:

Okay. For the Victims of Crime Program, what is your internal analysis to determine whether someone is eligible as a "victim," and I guess what I'm getting at is, does a case have to be filed? Does it have to be prosecuted, or is there some other kind of analysis that happens to determine whether someone would be eligible for compensation from the Victims of Crime Program?

Ms. O'Banion:

I do know that a report does need to be filed. As far as where it falls in the process of whether it was prosecuted or not, I am not familiar with that. I'm not responsible for approving any of the applications, so as long as a police report has been filed, we can at least begin filling out the application and pulling together the documentation. We submit it. I believe that's probably why it takes 6 to 9 months for them to actually process the payments they need to be able to verify that the crime did happen, that this is a victim of the crime before they're going to disburse the payments, but I do just assist with making sure there is at least a police report that has been filed, filling out the application, getting the documents, and then I submit it over to the people who are responsible for that final process.

Chair Yeager:

Thank you. You may not know the answer to this, but in the situation where a payment is made from the Victims of Crime Program and then later on the court orders the offender to pay restitution to the victim, do you know how practically speaking that works? Are you able to recoup any of that restitution money, or as a practical matter, does that just not happen?

Ms. O'Banion:

You know, I don't have an answer on that at all. That is a great question for me to look into.

Mr. Callaway:

Here in Las Vegas at the Metro Police Department, we are engaged currently in a pilot program with, I believe it's Safe Nest, where we have a Safe Nest employee that either in some cases rides with an officer similar to the MOST (mobile outreach service teams) model used for mental health outreach service team, or even if they're not riding with an officer, they're available 24/7 via phone so if an officer responds to a call where they think the person could use domestic violence-related services, they're able to call one of these Safe Nest volunteers who respond to the scene, obviously while the officer is there maintaining a safe scene. They can have a dialogue and communicate with the victim and plug them into various resources. What I'm told so far from our folks that are doing it is that it's been very successful. We've seen a reduction in domestic violence-related crime in the area command where it's being done, and we're looking at actually expanding it to other area commands. I'm wondering, in an effort to make sure we're not re-creating the wheel and we're connecting the dots on domestic violence issues, is this something that you've heard discussion on in your work, or is this something that's being considered maybe statewide to do more proactive out-front outreach when we respond to these types of calls?

Ms. O'Banion:

I actually have gotten a lot of good feedback statewide from different areas. I don't know if the entire state is implementing this similar protocol, but I do know that there are several areas that are implementing it and they have all reported back that their prosecution rate has significantly increased, that the severity of the domestic violence has decreased because the sooner they're able to connect the advocate with the victim, the much better off the victim is, the greater chances the victim has of not returning to the situation and actually finally being able to take the steps to get away from it and re-create a sustainable, productive life, so I know that it is a very beneficial protocol to put into place. I would love to see it statewide, and I've also heard from Metro and Safe Nest both how great this is working, that they're actually getting victims connected with the advocates within 12 hours

of a call, if not going on a ride-along like you said, or being able to make it to the actual scene and being able to work with the victim right then and there.

Ms. Helms:

I just wanted to add to the Chairman's question about the Victims of Crime payment and the court restitution. What happens if the offender never pays his restitution? Because mine was never paid and I just want to make the point that if there is a Victims of Crime payment and they take the money back because you're supposed to get restitution in court and then the offender never pays that restitution.

Adam Laxalt (Attorney General):

Mr. Chair, may I take that question? The Victims of Crime Program is not run by my office. I think the Vice Chair's suggestion is a great suggestion, that we should bring them before this panel. There are a lot of important questions, but it's a question she is not going to be able to answer. Again, we just simply don't run the program.

Ms. Helms:

I just wanted to make that point on his question, that that could happen and what happens at that point.

Attorney General:

Absolutely. It's a great topic.

Chair Yeager:

Seeing no further questions, Ms. O'Banion, thank you for your presentation. Thank you for working so hard on behalf of victims. We appreciate it, and keep us updated on that suggestion, particularly with respect to the utility and the privacy concerns. I'd certainly like to hear a little bit more about that. That seems certainly like a loophole in making sure that victims are protected, so hopefully we can work together and come up with a solution for that.

Ms. O'Banion:

That would be great. Thank you so much. I will definitely do that.

Chair Yeager:

Ms. Meuschke, I know you've been waiting patiently, so again, thank you for joining us.

Sue Meuschke (Executive Director, Nevada Coalition to End Domestic and Sexual Violence):

I thank Chair Yeager and the members of this Commission for patiently listening. I promise I won't read the materials that were submitted to you all, but I do want to pull some highlights out of that information (Agenda Item VII B). The Nevada Coalition to End Domestic Violence was founded in 1980 as the Nevada Network Against Domestic Violence. We are a private nonprofit. We serve as a statewide coalition of domestic and sexual violence programs. We work with community-based organizations throughout the state to provide emergency services to victims of domestic and sexual violence. Last year, more than 45,000 individuals contacted those local programs. They called the hotline, they received peer counseling, professional counseling, they received assistance accessing resources, like the Victims of Crime Program, like Temporary Assistance for Needy Families (TANF), like all the other services that people need who are experiencing violence in their lives, and they spent more than 63,000 bed nights in emergency shelters, emergency motel rooms and in transitional housing facilities. That just gives you a sense of sort of the scope of the problem in Nevada. While there are no national statistics that can say we rank number one or number five in the number of victims of domestic violence in the country, we tend to be high on all of the bad lists and low on all of the good lists, so my guess is that our rates of domestic and sexual violence are significant. Over the last 30-plus years, those programs have worked diligently to not only provide direct services but also to make sure that our communities change the way they think and act about domestic and sexual violence. It's always great for me to sit and listen to other folks talk about this issue. So many good things have happened as a result of the legislation that created the Ombudsman's Office in the Attorney General's Office in 1997. I see people here sitting on the Commission who have been instrumental in passing legislation throughout the years to make sure that we really do pay attention to this crime which, while in most cases is a misdemeanor, as certainly Ms. O'Banion has pointed out, often rises to the level of homicide and everywhere in between. I think it's important that you as the Commission on the Administration of Justice are aware of the kinds of services that are out in the community around domestic violence. I know that many of you are. The number of folks that are being impacted by the violence and the kinds of gaps we have in our services.

For the last 30 years, we have focused for the most part on the issue of domestic violence. Sexual violence has not been an issue that we have focused as much attention on. In fact, it was not until 2017 that we became a dual coalition and added sexual violence into our mission. In that change, we know that there are few sexual violence programs in the State of Nevada. There is only one stand-alone rape crisis center, which is located in Las Vegas. There are a handful of dual programs that provide both domestic and sexual violence programs in Reno and Carson City and Elko and some other small communities, but certainly the resources are not as strong for sexual violence as they have been for domestic violence, so that has been one of the things that we have focused on in the last couple of years. Number one, we're starting to collect some data that can tell us how many folks are coming to programs. We know from the Nevada Crime Report that comes

out every year that there were about 1,700 reported rapes in Nevada in 2016. And yet national studies suggest to us that only about one out of every three rape victims actually come forward to law enforcement, so we know that the number of folks that are impacted by sexual violence is much higher than that. When we look at how many of those cases were actually prosecuted, that number drops precipitously. Again, we know that there are not a lot of sexual assault cases that are going through the criminal and civil justice system, so that will be something we will be focusing on in the next few years to really understand what the need is and begin to put together some resources that will assure that victims of sexual violence are also receiving the services that they need.

In the packet that we provided to you (Agenda Item VII B), you have statistics on domestic violence cases. Like I said, 45,000 individuals contacted domestic violence programs. Now, that does not mean that's all the folks that were impacted by domestic violence. That's only the folks that came to our programs. Some folks will only go to law enforcement, some folks will not go to anyone, some folks will go to their minister, some will go to health care, so we know that the number of people that are being impacted by domestic violence far exceeds that 45,000 number. The National Network to End Domestic Violence did a 1-day census across the country with all the domestic violence programs in the country and put together a report. The report for Nevada suggests that there were 487 individual served in that 1 day, which is fabulous that we have been able to provide that kind of service. Unfortunately, there were 50 folks whose requests were unmet, so they were asking for shelter, they were asking for legal representation, they were asking for counseling, they were asking for other kinds of support services and we were unable to meet those needs, whether it was because we didn't have the resources, all the shelter beds were full, whether we didn't have enough staff to address whatever it was that they were needing or whether we don't have access to legal services, which is a huge need in the state.

As the Commission looking at the Administration of Justice, we know that over the last 30 years there have been tremendous strides in the way that we administer justice for victims of domestic and sexual violence. However, there are also many barriers still remaining. For many victims of domestic and sexual violence, the criminal and civil justice system is an important part of their safety planning process. They turn to law enforcement to respond after a violent event. They go to the family court or justice court to apply for an order for protection against domestic violence. They go to family court to address child custody and divorce issues. For victims of sexual violence, they may go through an administrative hearing on sexual harassment. They may also go to the justice court to ask for orders of protection against sexual violence. We are entwined with the criminal and civil justice system, and for many folks, it works really, really well, and I think you've talked about the processes and I think Mr. Jackson can speak specifically about how important it is to bring together a coordinated community response to addressing domestic violence. Law enforcement, prosecutors, courts, folks that are holding people accountable afterwards, how important that is, and there are communities around the state that are doing just that and other communities where unfortunately that is not happening that we need to introduce those kinds of initiatives in.

Over the last couple of years, the organization that I work for, the Nevada Coalition to End Domestic and Sexual Violence, has received a grant from the Office on Violence Against Women to look at the way the criminal and civil justice system addresses domestic violence in this state. We conducted a number of listening sessions around the state to have advocates, survivors, law enforcement, prosecutors, the defense bar, court personnel, anyone who we could get to come in and tell us what was working and what wasn't working, and collected that data, pulled together a multidisciplinary working group to look at what the concerns were, what the issues were. We are now starting to work on a report that will provide best practice ideas for some of those particular issues. We are in the process of doing that. We hope to have that report done by September. We would love to come back and talk with you all about the outcome of that project and what we found. We have also applied for funding again to do the same process with sexual violence. Our partners are with the Office of the Attorney General and with local domestic and sexual violence programs. I think this has been a really important project in terms of hearing voices from so many places that we don't always hear from, and thinking in a positive way. What can we do to create—whether it's the Fatality Review Team coming to Lyon County and reviewing their cases and talking about some of the issues that could have been resolved, whether it's looking at what's happening in Clark County with Safe Nest and Metro. Wherever this is happening, what are the things that we can do now to make a difference and to change the fact that Nevada unfortunately does rank high in the number of women killed by men with handguns? That's a true statement. Most of those are domestic violence, so how do we bring not only that murder rate down, but how do we intervene early with kids, with teens, to talk about other ways of dealing and being in relationships with one another?

I really thank you for all the work that you do. Please take a look at the materials that we provided. It gives you a sense of the number of folks that are being served out there, and it also gives you a sense of some of the gaps that are out there. I will be happy to answer any questions that you might have.

Mr. Jackson:

I just wanted to actually thank you, Ms. Meuschke, for all of the work that you've done on behalf of all of the Nevadans. I had the honor of working with you on the Nevada Council for the Prevention of Domestic Violence for 8 to 10 years, and we also sat on the Statewide Fatality Review Team at the inception. I think we looked at three jurisdictions across the state and some great recommendations came from that. During your testimony, you talked about the importance of a coordinated community response, and you've heard me tell my story about what we do in Douglas County. You talked about the importance of the prosecution and the law enforcement and the courts, but you left something out. What you left out was what I think is the most important partner within the coordinated community response, and that's the victim service providers, that public/private relationship that we have, because first and foremost it's about—as you well know, you're one of the ones that has helped teach me over the years—the victim's safety first and then we deal with the enforcement and the accountability second to that.

Not every single case of domestic violence or sexual violence is going to come into the hands of law enforcement, but we want to make sure that everybody who is a victim has that opportunity, and we would hope that they would at least reach out to the victim services providers, to those advocates, so we can get those services in place.

These numbers are staggering: 47,000 adults, youth and children received services through the domestic violence programs in calendar year 2017. You've been at the Legislature for numerous years, primarily on bills associated with domestic violence and sexual violence, and obviously trying to do much more for the victims, and also looking for accountability of those offenders, and I appreciate that. In your years, are you aware of any crime other than domestic violence and sexual violence that is more underreported? We're aware that there are bank robberies that occur. I'm not aware of any bank robbery that was not reported. They're all reported, as far as I know. With respect to these numbers, is there any estimate as to what this really captures or suggests that we are within an area that is so heavily underreported? But even with these numbers, these are staggering out of a population of nearly 3,000,000 in Nevada, that we would have these numbers of victims unfortunately dealing with domestic violence and sexual violence.

Ms. Meuschke:

Well, I am not familiar with any other crime that is as underreported, but then I don't spend a lot of my time thinking about other crimes. But I do know that domestic and sexual violence is a crime that begins often with noncriminal behavior so that many of the folks that come to us would never come to you or to you or to you, because what's happening in that home does not rise to the level of a crime. Ms. O'Banion mentioned and sort of talked about the issue and the relationship in a domestic violence household is built on a pattern of behaviors that are meant to keep someone from doing what they would otherwise choose to do or to make them do things that they would not otherwise choose to do, so it's a pattern of power and control that is designed to keep someone in a place where someone else has decided they need to be. That's a very difficult thing to talk about when you're talking about the criminal justice system, which is generally based on a specific incident. Were you hit? Were you pushed? Were you shot? Were you stabbed? What happened? What was going on in that incident, and we're going to deal with that. We don't have a good way of really understanding the things that go on in a home that support this kind of violence but also keep a victim within that environment, oftentimes choosing not to testify against their abuser, and the reasons are as varied as the people that come forward, because they love this person, because they depend on this person, because if they do they lose their home, their medical insurance, they lose their family. It's a situation that is often difficult to really explain to folks and to help the criminal justice and the civil justice system really respond in a way that can help this person move beyond the violence, and many, many survivors really only want the violence to stop. That's the only thing they want. They don't want to leave, they don't want to change their circumstances, they want the violence to stop. I know—I don't just think—that we have to do a better job, not only in a coordinated community response in terms of the criminal and

civil justice system, but in a community response that supports real options for folks to make choices about staying or leaving or changing or whatever in the situation. We unfortunately have a culture that has looked the other way, sort of nodded and winked at some of the behaviors, and because of that, it's difficult for folks to come forward and to talk about it and to expect or even actually achieve assistance.

Mr. Jackson:

As you've recognized, there have been significant steps over the last several decades, and a lot of that is a result of what has occurred through the Legislature. What is the most significant next or best step that the Legislature can take to further provide protections for victims of domestic violence, victims of sexual violence?

Ms. Meuschke:

If I had that answer, I would be doing that and we would not be meeting anymore, which would be great. I'm hoping that some of that's going to come out of this 2-year process that we've been going through, really taking a look at what we have in place, what's working, what's not working. If it could be improved, what that would look like, what other kinds of things we can bring in, because I don't have a simple—I mean, there's not just, like, an answer for you, to say, "Well, if we did this, all would be well," because we've thought that before. We've thought, "Oh, well if we arrest, that will take care of it. If we have a protection order, that will take care of it. If we have all of the different things that we put in place," and they've made a huge difference. I do want to make sure that people understand that I started doing this work in 1984. You would have a hard time getting people to say domestic violence happens in their community. Like, "Oh, that happens somewhere else." That was like nothing anybody would talk about, wanted to talk about. They always wanted to know, why did she stay? If somebody hit me, I'd be out the door. There was a different understanding. That has changed tremendously, but we have 300 years of history or more that have okayed this, so it's going to take us a couple more days to find out what that solution is, if there is a solution. I do believe it's about changing the way our communities think and act about this issue on all levels, not just, "Well, this is a criminal justice issue." This needs to be a health care issue, this needs to be a mental health issue, this needs to be an economic justice issue. It is such a complex subject that there aren't single things to do, but many things we can do.

Justice Hardesty:

First of all, who is on the working group that's developing this effort you described and could you tell us a little bit about their process? I'm excited to hear about this report in September. That would be very useful, but maybe you could expand on that a little bit, if you would, today.

Ms. Meuschke:

Certainly. The process began as I said 2 years ago. We held a series of listening sessions with local advocacy programs, but we also brought together law enforcement officers and personnel and advocates. We talked to prosecutors, we talked to the defense bar, we talked to some court personnel for them to sort of outline for us what were some of the issues that they were coming across. What were the things they saw as the biggest barriers or the biggest problems? "If we could solve this, we could solve everything." We pulled all that information together, invited—we have an officer from Metro who's sitting on the work group. We have several advocates, one from Safe Nest, one from ChildSafe Alliance. We have advocates from Volunteer Attorneys for Rural Nevadans. We have a public defender who is sitting. I'm not going to give names because I would have to remember them and I can't remember yesterday. We have a prosecutor from the District Attorney's Office in Clark County, and we have another prosecutor from the District Attorney's Office in Lyon County. Several survivors, folks from the Attorney General's Office. Ms. O'Banion sits on that. Really, a cross-section of individuals who are working in the systems and who are experiencing the issues.

Justice Hardesty:

To date, have you identified statutes that the working group seems to have identified or has identified could use some make over?

Ms. Meuschke:

I know that there have been some legislative issues that have been identified. Again, I'm not going to speak to it because it has not been completed.

Justice Hardesty:

Sure.

Ms. Meuschke:

But certainly we have looked at some of the legislative issues that might help if they were changed, but I think really more than anything else, it's about how do we implement some of the things that we already have in place? How do we make sure that people have the training they need to be able to identify and intervene appropriately? How do we support that work? Oftentimes, domestic violence is sort of the lower end of the chain. Maybe the prosecution or the arrest? There are just issues around whether this is really a crime or a family matter, so I know that's part of the process and will come out in the report is not just, "If we change this law, all will be well," but "If we change this law and we make sure that these folks have the resources that they need and these folks have the training, then maybe we'll see some changes," so we're excited.

Justice Hardesty:

Do you anticipate the report will identify resources that are needed and that the Legislature could assist with?

Ms. Meuschke:

We hope so. That's always the critical question. These are all really great ideas, but where are we going to get the funding to do that? That will be a part of that process of not just saying, "Well, we need to do this," but also thinking critically about how you actually accomplish that.

Justice Hardesty:

I was surprised with the numbers that you show on the last page, page five (Agenda Item VII B), with respect to bed nights, and I'm assuming that those shelters are largely for protective purposes, both as to victims and their children. Adequate? Inadequate? Would the working group comment on that, because that is a genuine concern.

Ms. Meuschke:

Most shelters are full most of the time, so do we have adequate resources? In terms of emergency shelter, no. Could we ever have adequate resources? I don't know, and I think that emergency shelter is critical for saving lives, but we also have to think beyond that. How do we keep people safe in their own homes? What can we do so that people don't have to go somewhere else with their children? How do we address that? So, no, we don't have enough resources to provide the kinds of services that 45,000 people demand. We're doing the best that we can, and we need to do more, but we also need to do more as a community. It isn't just about—obviously, programs are critical, but if your community doesn't support your ability to find a living wage, affordable housing, safe and affordable child care, all of the things that you need in order to put your life back together again, then that's all we'll do is fill shelter beds, and that's not going to solve the problem. So, yes to your question, we don't have enough resources, and we're continually looking for them, but we also know that we need to do more than just build shelters.

Senator Aaron Ford (Senatorial District No. 11):

Thank you very much for your testimony. I'd like to follow up with the questioning and the discussion you had, particularly with Mr. Jackson and the numbers, and obviously that's not being able to catch all of the instances of domestic violence going on. I thought it was a timely conversation. I'm reading here and I'm going to quote from an article that literally just came out today in one of our local papers. Since approximately the beginning of 2017, "big city police chiefs and the National Domestic Violence Hotline have been sounding the alarm about a precipitous drop in Latina women reporting domestic violence and sexual assault." Obviously, this is a more direct and specific question, and obviously a lot

of people think that it has to do with the recent immigration discussions we've had here in our nation, and I'm wondering if you can speak to whether we've experienced comparable decreases in Latinas reporting domestic violence and sexual assault, and if you have any opinion as to why it may be that if in fact that is the case that that is the case.

Ms. Meuschke:

I can't speak to the numbers yet, but we are hearing about the fear that many documented and undocumented survivors are having about calling law enforcement, about getting involved in the system. There are certainly questions that are raised when people come into shelters or come to advocacy programs about whether they will need to prove their citizenship in order to receive services, and I just want to be very clear, all of our services are provided regardless. If you need help, we'll help you. We're not going to ask for anyone's citizenship papers. We're not going to ask that question at all, but we know that there is a great deal of fear within particularly the Latina community around what will happen if they call law enforcement, and I think we still need to be looking at a couple of years' data. Unfortunately, a lot of the reporting that is coming out is behind the times, so we can't really compare 2016 to 2017 because we don't have the 2017 data yet. I'm sure it's coming soon, but it is certainly a concern that we're hearing a lot about and that is a problem for many survivors.

Senator Ford:

Thank you, I appreciate that. Look, I think that no one sitting at the dais here or anyone in the audience wants anyone, a citizen, undocumented, documented or otherwise, being afraid to come forward if they are a victim of crime, especially domestic violence, but clearly it's a real issue. I've read the papers in Chicago, I've read papers in California where they are being able to track the fact that these numbers are going down, which is why I asked you because I believe anecdotally that we can point to circumstances where people who are documented citizens or documented immigrants are not coming forward for fears that you've indicated, so when the question is presented to you, what can we do as a Legislature to help facilitate the ability for folks who have been victimized to come forward? I think that's part of the consideration that needs to be taking place here. I won't offer anymore comments in that regard, but I would ask you this: do you know of any approaches that other jurisdictions have taken to help address this fear so that we can in fact deliver services to people who have been victimized by domestic violence who are immigrants and otherwise afraid because of the current immigration conversation we're having, not just at the federal level, but frankly at the state level, which is very problematic for a lot of people?

Ms. Meuschke:

There are many conversations that are going on around this particular issue. Most of the conversations that I am involved with are how we within the advocacy community and

within the service community can help people feel comfortable to come to us. Certainly within each community, people can talk about what the risks are about coming forward to other folks, and I'm not going to speak to that, but we have put out information to let people know that you can come to domestic violence shelters. We aren't going to ask your citizenship. That is not anything that we need to know about. We're not going to turn anyone over. That's not happening in the advocacy community, so we can help you with other kinds of resources if you choose not to go to the criminal justice system. Now, we would certainly have conversations about what we know and what's available, but we would never tell anyone what to do. I think that's the other thing that I should always put out there is that our job is to provide information and options to people so that they can make the choices that are best for them. If calling law enforcement is not something they feel safe doing, then that's a choice that they have to make. Now, our job is to advocate with law enforcement to say, "You need to put together outreach to let people know what's going to happen," but it is a difficult time right now of having those conversations and knowing exactly what will happen.

Senator Ford:

Thank you. Listen, I appreciate your response and your answer there, and obviously that's one thing we can do is communicate to the entire community that service providers themselves are safe havens for victims of domestic violence and sexual violence, so that's appreciated. One of the things that I would invite this entire committee to do is to consider a discussion on how best to work with law enforcement, which as I've indicated, I believe 100 percent does not like to hear the fact that people are afraid to come to them to report violent crimes, and specifically domestic violence. The best way that we can come up with a policy and what that policy should look like so that people who are subjected to that type of violence can feel free to come to them without fear of repercussion outside of getting help. So again, thank you very much for your response and the work that you do. I look forward to working with you in the future in several different capacities. Thank you.

Ms. Rose:

Thank you very much for your presentation and the great work that you do for our community. Just in the vein of what Senator Ford was asking about, one of the things that I think would be helpful in understanding the situation of who's afraid to access services or afraid to report is maybe doing some Public Records Act requests or trying to get more numbers. I just want to offer the American Civil Liberties Union's (ACLU) assistance in doing that or trying to get some more data about how we can better help those specific populations. I know that one of the concerns generally was withholding—if the law requires an arrest in a domestic violence case where someone called the police. How do you think that fits into people's general concerns about reporting or calling the police, and then if you have any thoughts on how specifically that impacts the immigrant population who, whether they themselves are undocumented or have family members, or just concerns?

Ms. Meuschke:

I'm not sure that I heard every single word of your question, but I think I understand what you're asking, and it's about—so in Nevada, we have a mandatory arrest law which requires that if there is probable cause to believe that a domestic battery has occurred that law enforcement will make an arrest. That requires that a probable cause exists that arrest does happen. I do want to really be very clear, if no probable cause exists, no arrest happens, and I've heard unfortunately testimony even at the Legislature which would suggest that was the case, and I know that no law enforcement officer would ever make an arrest if there wasn't probable cause. That is an issue and is an issue nationally around mandatory arrests, whether that is the best way of addressing the issue of domestic violence. Now, understand that we came from a time when there was no arrest. Prior to 1985 when the mandatory arrest law was passed, if law enforcement showed up at the scene of a domestic violence case, they would probably do some mediation, they might make somebody walk around the corner, they might help somebody get to mom's house for the night, but arrests were very uncommon in domestic violence cases, which is one of the reasons why the mandatory arrest statute was passed. It was also based on some research that suggested that if you do make an arrest, it reduces recidivism. Some of that research, we have a lot of questions about that. That's one of the questions that the work group has been pondering, whether mandatory arrest is the best approach in this state, and I don't know that they have an answer at this moment, but it is certainly an issue that comes up on a regular basis about how do you balance the two? How do you balance making sure that an intervention occurs with people making decisions about whether or not they want an arrest to occur? It is problematic and it is an issue that we are discussing and talking about, so I don't know that I answered your question, but that's my answer.

Ms. Rose:

Thank you. That definitely I think answered the first part of my question, and I'm also wondering, and you may not have this information, if you think that law also impacts or if you have any information about how that might impact somebody's decision to call the police, specifically in a situation where they're worried about immigration issues, if that's something that you've heard about or seen just from some people you've talked to, or if you do have some data on that—I'm guessing no—if you can share that with the Committee.

Ms. Meuschke:

You're right, I don't have any data on that, but certainly that is an issue that comes up that I've heard about that people may choose not to call because they're afraid that if law enforcement comes and arrests their partner they will be deported or the entire family will be deported. So yes, it is an issue.

Ms. Rose:

Thank you, I appreciate it.

Chair Yeager:

Seeing no further questions, thank you for your presentation. Thank you for your work in this area and we look forward to continuing to work together this interim and into the 2019 Session.

I will now close agenda item VII.

THE CHAIR CALLED FOR A BRIEF RECESS.

I will now open agenda item V. At long last, we have Director Dzurenda who is in the hot seat today to answer some questions. Commission members, you probably recall that I think at our first meeting, Director Dzurenda began presenting and then we had a power outage down here. I think at the second meeting he finished presenting, but we haven't until now had an opportunity to have him here for questions. Before we get started, Director Dzurenda, I'll give you a chance if there are any sort of updates you want to make or anything you want to share with the Commission since your last presentation, feel free to do that and then we'll open it up for questions.

James Dzurenda (Director, Department of Corrections):

The only thing I'd like to—which I think is important to stress, and I already mentioned I'll get a quarterly report that's going to address these out to the Committee because this information changes pretty quickly. Already the information that I presented the first time is already outdated by 6 months. I plan to have a quarterly email or something that'll go out to the Committee members just giving you an update of where this information is at the most current update. A couple things I thought were important to bring up is that we continue to have a population decrease in our prison system, which is awesome. We're about over 400 less inmates today than we were back in June of 2016, and a lot of that is attributing to—there's a whole array of things that we're doing better in this whole state, and that's that the police departments appear to be doing a better job with connecting with their communities. I know Las Vegas Metro is doing a great job with community outreach and participating in community activities. I think that plays a huge part in keeping these offenders back out on the street without getting rearrested and brought back to me, and the connections that we're doing with all the community programs between the reentry with Corrections, what Parole and Probation is doing with their day reporting centers. All this is not a coincidence that things look like they are looking at a great trend of going to less of a population in the prison system, so hopefully that continues. I think if I provide the updates periodically or quarterly we'll see if that trend continues and if we need to address other areas.

The other thing that I think is important that we are doing really a much better job at is the driver's license issue. I think that was part of our presentation as well, the impact of an NRS that Corrections cannot provide a formal identification for an offender leaving our prison system if we have not validated it. We now have two full-time staff, and we're looking for five more full-time staff to really address the issues with validating identification, getting birth certificates, going through Social Security, other countries through our consulates. We've had already about 3,000, a little over 3,000, requests from inmates since January asking for assistance in getting identification or birth certificates. The process is a little more involved than I even thought, especially the increase in technology doesn't actually help Corrections at all too because a lot of these states, their policy is they only will provide birth certificates through the mail if the individual receiving the mail provides a valid email address, which is difficult with the inmates in our system. Also, we've been working with other consulates in other countries that require them to be present in their country to get the identification, so we're working around that as well to try to make sure we have positive ID, which is going to be important for our releases for a few incidents is to prevent falsification of identification on one end, but the other end is also to get identifications so these offenders can get community programs, jobs, housing and all that is going to be another important role. I'll keep updating people on that because I think it's important to see these trends and also our data quarterly because it changes so quickly. That's all I have to add for additional information and I can take questions now.

Mr. Jackson:

I really want to start off with kind of how you started your presentation or overview, again, talking about the decrease in the prison population which is "awesome." I know that you hadn't used the "awesome" word during your previous presentation, but I think you said "that's great." I think we need to put that in context. Do you recall these slides as part of your PowerPoint presentation back in February, and the second slide that showed the male inmate historical capacity analysis? I'm holding that up.

Mr. Dzurenda:

Yeah, I got it.

Mr. Jackson:

There's a red line on the slide, and during your testimony you said that represented the bed capacity. Is that correct?

Mr. Dzurenda:

That's correct.

Mr. Jackson:

Looking at the time periods here, because this graph shows from 2003 through the James F. Austin Institute (JFA) projections of 2017, 2018 and 2019, but if we look at 2008 through 2016, it appears that the male inmate population was 12,200 in 2008 and 12,700 in 2016. Do you agree with that?

Mr. Dzurenda:

That's pretty close, yes.

Mr. Jackson:

Looking at what the state's population growth has been during that same 6-year period, every source I looked at shows that the State of Nevada has increased by more than 300,000 in total population during that same 6-year period. Would you have any reason to disagree with that number?

Mr. Dzurenda:

I don't have the numbers in front of me of the overall population, but that sounds pretty accurate.

Mr. Jackson:

If we use that state population based upon the actual male inmate population, you would expect that the Nevada prison incarceration rate for males then would be 475 for every 100,000 in population, so we would have expected in 2016 using that Nevada prison incarceration rate of about 13,500 male inmates in the prisons as opposed to the 12,700, so about 800 less than what we actually had based upon the statistics. My question goes again back to the awesomeness, and I know that this is more for the Sentencing Commission. I believe that you gave the same presentation before the Sentencing Commission and they're going to be, I know, drilling down, because one of the things that I talked about for years as a member of this Advisory Commission on the Administration of Justice is that we need to know who is in prison and why they're in prison, and just a blanket statement that it's awesome that the prison population is decreasing—I can tell you that I have citizens in my county, Douglas County, of a population of about 50,000 that would be very concerned if there are certain people that are being released from prison who committed crimes in Douglas County, because they deserve to be in prison. I would rather the focus be on getting the right people out of prison and not just trying to reduce the number. If the goal here is to drop below that red line, the bed capacity, my fear is that we could be creating a great risk to the people who live here in the state by releasing the wrong individuals. So again, I know that we're not going to be looking into it as part of the ACAJ, but the Sentencing Commission should be looking at that particular number. I know you don't have any of that information yet, but what I'm talking about is

the reoffenders, the number of previous felony convictions, the number of prior violent offenses, the number of times that they have been committed to prison, how they did on probation or how they did on parole, and also making sure that we always have the voice of the victim throughout the entire process who can be heard. Hopefully some of that will come to fruition with the Senate Joint Resolution (S.J.R.) 17 that passed the 2015 and 2017 Legislative Sessions.

Based upon the references and the comments I made on that particular slide with the bed capacity, can you kind of help put that more into context about what this particular slide is supposed to be representing, and then also can you comment on your previous statements about the decrease in the prison population being great and then today saying that it's awesome?

The last question I have for you is that you told us previously that the numbers continue to go down, and I look at slide number two. We have a JFA projected with a significant increase through 2017, even though you've told us in 2017 all those numbers went down, but the JFA projected of your graph shows that it went up, so that's totally inconsistent with your testimony and the numbers that you are aware of, and then it shows it continued to rise here in this year, 2018, even though we're 4 months through, and then a significant increase that continues to 2019, so can you also tell me why those JFA projected are so wrong?

Mr. Dzurenda:

I'll express that, first of all, JFA is a private company that the state hired to do projections over the 10 years, and to me, they've been consistently off. Those are not our actual numbers, which are different. It's only a projection that the JFA made based upon if we do nothing else differently in the criminal justice system or Corrections, so if we do nothing differently than we were doing 2 years ago, those numbers will keep increasing. They are not actual numbers. Those are projected. They projected that our population would keep going up. What I've consistently said is if we do a better job in Corrections with doing evidence-based programs that have been proven around the country to reduce victimization to help offenders get better so that they can go out and be successful in the communities that are not the violent offenders, those things are going to change, and those projections—we are going to look even better because those projections at JFA are going to keep going up and our prison population is going to go down. We are not in the business right now to look at giving those offenders that are more violent less time. What we're looking at and my whole philosophy that I've been stressing was that if we have offenders that deserve to be in prison and should be in prison, they should be spending more time in prison if they're violent and have a history of being violent. Those offenders should be in prison longer. How do I even word this—those that may have a potential to be able to be good citizens when they get out, those that have some drug addiction issues, if we can resolve those issues and get them successful out in the community, I think it's a benefit to all of us, because these offenders are going home. Their sentences are going to end no matter how we change their time or not. They're going back in the

community. Those are the offenders that we need to work on. Those are the ones that I say it's awesome because they're not coming back because we're doing a better job at what we're doing with evidence-based programs in providing community outreach and community services. If we don't do that, then people are going to be victimized. That's the targeted population. That's why it's awesome because it means that some people out there that may have been victimized if we didn't do what we were doing are not being victimized today. I think that's awesome. When we don't get them back, that means they're not getting victimized. So those are good terms. I know it may not sound like it, but I'm glad that people are not being victimized because that's our goal. When you look at these projection rates, I hope that our numbers are consistently going to keep going under that JFA projection because I know that's where we're going to not only save money, but we can reinvest that money that we're saving to be able to do better evidence-based programs. In the future, you'll see less population even more. I already have seen that. It's not a coincidence what's happening in our communities, seeing those felony arrests going down. A lot of them are becoming more violent, the ones that are happening, but it's not a coincidence when we start seeing arrest rates going down for felonies. It's because we are doing a good job and we're doing a better job with all those services between parole and probation, Corrections, the community services and police departments to make sure that people are going to be more successful out there, because it's going to be less victims. That red line that you see on there, the capacity report, the capacity analysis, when you have a facility that was built for single cells and we doubled them, our capacity is still single cells. We put people in double cells because we know we can appropriately fit them safely security-wise and be able to do programs, so our capacity goes up, but the actual public works capacity never changes, so those can need to be further explained to people so they don't get confused. That's why you see a red straight line because the capacity that public works built their facility never changes. We change based upon adding cells, taking cells away to add more program space. Those things change. I'm not sure if that helps or not, but there were quite a few questions and I don't know if I answered all of them

Mr. Jackson:

One of the issues I've had since I've served on this Commission is that this Commission has through work sessions taken in information from JFA and included JFA projections and then formulated recommendations to the Legislature, and I know that some of these projections have also gone forward to the Legislature. Whether we're looking at formulating policy or even changing the law, I think it's very important that we get the numbers right and we do it for all the right reasons. I know you're shaking your head in the affirmative so you agree with me on that. I do appreciate your comments, and I hope we do get it right. Unfortunately, I am aware of cases where individuals have been released from prison within the last year who have reoffended, who have committed other crimes and crimes against the person, crimes of violence, and I don't ever want the Legislature or this Commission to lose sight of the fact that we do have victims out there and there's always that potential, but I do agree with your statement. One way or the

other, the majority of these people are going to be released back into our community and we also need to do a better job there getting them prepared for that.

I think that you're aware of the US Department of Justice. The Bureau of Justice Statistics puts out annual reports in December on the prison populations throughout the United States. There were only two states in 2015 that did not submit custody or capacity data to the Department of Justice. Nevada was one of those, and I believe this occurred right before you actually became the Director, because it would have been for that previous period. Are you aware since you have been the Director if in fact there is a reporting to the Department of Justice for the gathering of that statistical information for their annual reports?

Mr. Dzurenda:

I know we provide that now. I'm not sure if we provide data from this year if that shows in this year or next year, but we did provide that. We have been in contact with the Department of Justice. A lot of the information was even wrong that was provided to them in the past. That's why I think a lot of it they didn't provide on the report because recidivism was a term that they misused in the state. When we were calculating recidivism according to Pew statistics, they did not calculate that 28 percent of our population were not from Nevada, which was different from other states, so there was data that was provided that was purposefully left out because it was skewed data, and we've been providing the exact data, getting different definitions according to the Second Chance Reentry Grant that's going to make it so the data is exactly compared to other states that are in there so it doesn't look like we have misinformation. But it is going out there. Our data does go out to the Department of Justice as we speak.

Ms. Jones Brady:

I have some concerns, and most of my concerns are anecdotal. I don't have your other report in front of me right now, but one of the concerns I have is with my clients, especially if they come back to me. I'm a Deputy Public Defender. I'm seeing especially amongst my young Caucasian clients a sort of radicalization that is happening when they're coming out of the prison that's concerning to me. They're getting more involved in, like, the Aryan Nation or the Aryan Brotherhood and different entities like that. I'm wondering what kind of programming you all do in the prison to ensure that there is a reduction in racial animosity across all groups at the prison. That's one of my concerns. The other one is that my clients keep telling me they want to go to prison faster. They claim that drugs are easy to get there. Again, I have not been able to verify this, but what steps are in place at the prison to ensure that inmates are not getting drugs in the prison? Finally, what sort of protocols do you have in place to ensure the safety of inmates from other inmates who may be abusive?

Mr. Dzurenda:

First of all, gang awareness training or education we do with every offender that comes into our system. What I've been doing on my end, we had approval for moving 200 offenders to Arizona and I purposefully put in that first group of 200 those that are doing the gang recruiting or all the leaders to make a stance that we do not tolerate gang activity in the prisons. Unfortunately, you will have gang activity in the prisons, but we're going to do everything we can to go after it. We've increased our numbers of telephone monitoring so we can monitor periodically what gangs are actually doing in our system. Also, we do a lot of moving around with offenders, so if offenders start getting a stronghold of certain gang activities in units, we'll move them around somewhere else so that we can keep a mix and moving so that it doesn't have too strong of a hold to create an incident we can't control. What we're doing also is when we start seeing an increase in incident rates, we're monitoring those incidents. So, if we have multiple fights that happened in a unit, the first thing we do when we lock down the units is investigate for gang activity. A lot of this is intelligence and a lot of it is our Inspector General's Office doing a really good job with staying on top of it, utilizing also safe zones for inmates to be able to report information on gang activity.

The issues with the drugs being easy, I don't know if it's easy, but there are drugs in the facilities and we do prosecute when we find them. We do shakedowns of our housing units, our cells, coming back from visits. We strip search every inmate that has a contact visit before they go back into a unit. What we've done for any staff or volunteer now that comes into the facility, I just changed our policy about 10 months ago that they cannot come in with big bags or lunch boxes, that it has to all be in clear plastic so we can see in between each of the items and search the bags a lot better. All of these are just practices that have been done around the country that may have lacked in this agency for a few years, so I'm trying to bring it back to make sure that the safer we are in our facilities, the better the programs will be because we'll have more inmates that will be feeling safe going to programs. Right now, I can't say 100 percent that a lot of the inmates feel like they're not going to be targeted by gangs or approached about drugs at our programs, and that's why we're going to do whatever we could to go after those gang leaders and those that are doing their drugs in our facilities to make a stance that we're not going to tolerate this.

What we do for safety in our facilities, we require staff to do chores. We require staff to monitor the incidents in the units. When I say monitor incidents in the unit, they monitor even what inmates are doing, if they're wearing sneakers, not wearing sneakers, and that's a big deal when you're talking about monitoring housing units. If you have inmates that come in that were normally wearing flip-flops and today they're coming and they're wearing sneakers all laced up, you know there's a problem. We look at those things constantly. We train staff how to observe it and how to look for it. All this training and all these activities for staff and monitoring the data is important with safety and security. Like I said, when we start getting intelligence from our Inspector General's Office, we move inmates around as fast as we can. We interview them just to make sure that inmates

aren't trying to get strongholds and control in these housing units. Unfortunately, we work in prisons and this activity is in prisons, but we do everything we can to try to find new ways and technology to reduce those issues that can provide a safety and security concern. I think a lot of it is education with our staff and providing those tools so that we can go after all this. We've got approval from the Legislature this last session—which was great, about over \$350,000—to increase stationary cameras. That's all part of intelligence gathering, watching what's happening in housing units from a distance even so that we can see what type of activity is going on, what people are doing in groups or that may be doing stuff illegally. It's easier to do that and have back data so we can monitor safety and security that way. We also are at additional areas where we know that if we have inmates that are higher possibilities of doing gang or drug activities, we do reduce the amount of time they'll be in larger groups. That's a big deal so we can keep a closer eye on them. There is a whole array of different safety and security measures that we're doing, and I do monitor those incidents that are happening to see if it's working, and if there are areas that increase in incidents, we change and adjust as we do.

Ms. Jones Brady:

Do you report out the statistical changes over time?

Mr. Dzurenda:

I have to provide data and statistics monthly, and I can make sure that is either provided here quarterly so that you could even see it. We do have a Board of Prisons meeting quarterly and that data is provided to them, so we can provide—I think we do actually have on our website a link to the Board of Prisons, but that's all on there: assaults, fights, assaults on staff, type, weapons, drugs, all that's all on there so you can see the data that occurs over a period of time to see if the trends are going up, down, incidents getting better or worse. That is on there.

Assemblywoman Lisa Krasner (Assembly District No. 26):

My question is in regards to part of your presentation that dealt with S.B. 306 from the 2017 Legislative Session. That is the bill for those that aren't familiar that gave an iPad for inmates. That was the nickname for the bill. It gave an iPad or a laptop to inmates and also gave a free college degree, and when I say free I mean paid for by the taxpayers, to persons who are convicted felons that were in their last 2 years of prison. But I'd like to direct everyone to a *Reno Gazette-Journal* article that appeared just 4 days ago on April 26, 2018, and I don't know maybe if someone from staff can get this from me (Agenda Item V). It's in the *Reno Gazette-Journal*. A Reno paroled rapist used a state-issued iPad to solicit nude photos of teen girls. If you look at the article, it basically says that a felon named Weirich who was a parolee had been granted parole after serving a life sentence in the state prison for rape, kidnapping and robbery of a woman. The iPad he had been using to contact the young girls to get the nude photos, and he had over 300, was given

to him by the state upon his release to take online classes. I'm wondering if you could please comment on this. It's very disturbing. Thank you.

Mr. Dzurenda:

First of all, the Department of Corrections does not issue iPads to inmates being released, so I'm not sure what agency gave him the iPad or where it came from, but I know there are multiple agencies. Once they're out in the community, they do get access to iPads or tablets or laptops if they cannot afford one when they're out in the community, but I'm not sure what the specifics are on this. But the incident with what we are talking about in S.B. 306 is only a small group of offenders. Right now it's 12 from High Desert State Prison, and I believe 12 or 15 from Florence McClure that are specific to the College of Southern Nevada and their Chrome tablets that do not have any outside access to the internet. They don't have any Wi-Fi service. They're just specific Chrome tablets that have programs that have been downloaded into them for educational purposes through the College of Southern Nevada. I believe those tablets, even though they're being prepared, none of those tablets that I know of have actually been issued as of yet. They're still doing regular courses that are at the facilities before that actually happens.

Assemblywoman Krasner:

I don't know if you know this answer or not, but you said there are 12 felons in High Desert State Prison that are doing the free college degree paid for by the taxpayers and 12 in Florence McClure. Do you know if that same service where you can get a taxpayer-paid-for college degree is available to victims of crimes?

Mr. Dzurenda:

I have no idea. I'm not sure of that answer.

Senator Ford:

I appreciate the conversation. Obviously, Assemblywoman Krasner and I have our disagreements about the propriety of S.B. 306, which I sponsored, and I want to make clear for the record and allow you to make it clear for the record how S.B. 306 came to be, how it came to be that for educational purposes those Chromebooks which have not been made available to participants as of yet were brought into the discussion, and maybe you can also speak to the efficacy of the program itself, whether or not it's been proven successful, and what you're hearing about the program.

Mr. Dzurenda:

First of all, any data that you look at nationally when you're talking about evidence-based programs and best practices, they have proven already any type of continued education will reduce—not can, it will reduce—recidivism and victimization out in the community.

That's all provided. I could even get some articles and journals based upon the reduction of recidivism victimization based upon the amount of education and those that could be more successful when you do give GEDs (General Equivalency Diploma) or further education for protecting the public. The tablets, these were Chrome tablets that were proposed by the College of Southern Nevada. They were looking at providing them free of charge for the state. They were going to provide or get funds that would help and assist with getting them, and I know they were getting some money from the Legislature this time that would help with getting teachers and getting the courses ready to roll out. But it's part of their reentry plan that we are providing to try to do everything we can to get them more educated and more of a marketing for out in the community so that they can get jobs when they leave the prison system.

Senator Ford:

I, like you, have not heard of a program or a bill draft request being submitted that would provide comparable opportunities to victims of crime, but I will take it you are not opposed to having the Assemblywoman, for example, present her own bill in that regard, is that right?

Mr. Dzurenda:

Anything we can do for the victims of the crime I think would be a great idea.

Sheriff McNeil:

Thank you, Director, for the questions, and I look forward to our next presentation, but it kind of dovetails on information sharing. I know we briefly had this discussion. Jails and management of jails and health care is one of our biggest costs. It's difficult for especially the rural jails in managing health care costs related to prisoners who are awaiting case adjudication. Sometimes I've had one up at 5 years. We build an extensive medical history of this individual. On the lack of sharing their information or electronic medical records between the jails and the prison system, we're transferring 1 to 5 years' worth of information. Conversely, the benefit of when they're rearrested for parole violations or new charges and being able to access looking at medical tests they've done in our jail that the counties may not have to spend on those tests is a cost savings. Have you put any more thought into electronic records from the state to the counties, especially those that can't afford it?

Mr. Dzurenda:

That was my exact testimony when I was requesting for technological investment requests. We did get approval and it is out in a request for proposal (RFP) right now for electronic health records for the state for Corrections. I was shocked to come into this system to find out we didn't have electronic health records. To tell you exactly what you told me is exactly what I knew was going to happen. If you don't have that communication

electronically between the hospitals, the VA (Veterans Affairs), the jails, prisons, Health and Human Services, you're going to be doubling the amount of services that aren't necessary because we may have CAT scan results or MRI results that you need and vice versa that could have helped with either traumatic brain injuries, post-traumatic stress disorder (PTSD) cases, or even just cases of dementia or whatever it is. Those records, if we don't share them and have relationships between us electronically, it is going to be a taxpayer's waste of money. We've got to be on the same page with that. The wellbeing of some of those offenders we're releasing to the community based upon their mental health statistics and psychotropic medications, which I've been expressing constantly if we don't share that information with the community, the community could be in jeopardy. We have inmates that we've been trying to stabilize on certain psychotropic medications and found out that certain psychotropic meds made somebody more violent and we don't share that with the community, the community's going to be a little unsafer tomorrow than it is today. That's what I was stressing about the electronic health records, and I think it's an absolute necessity.

Ms. Bisbee:

I have a question on the Security Threat Group (STG) identifications. Is it still the practice that you can only have that removed with a debrief? One of the frustrations I know that inmates have is there hasn't been any activity for years and years and years that there is really nothing for them to debrief, so I'm wondering if you're going in the direction of where they can lose that tag, because that's a high score on risk. The other thing is, I think I'm correct that one of the reasons that you have more beds now is that you've done some really creative things with the Ely State Prison about having the right people in the right places and that you've actually got a pretty good general population unit going on up there. If you can let folks know how you managed to do that, because I think that's pretty significant.

Mr. Dzurenda:

Sure. First of all, our STG administrative regulation is being redone, and that is part of it. I agree with you. If we have some offender that was doing gang activity with a specific gang when they were 19 years old and now they're 40, 50 years old and we have not had any gang intelligence since then, it is appropriate to have them removed, so that is part of our debriefing process that will be changing with identifying that they're no longer part of the gang. Those processes will be changed and we'll be presenting something from the Board of Prisons in the future on how we're going to do this, and I agree with you 100 percent. With our population numbers like you were mentioning, what was really a concern to me and a public safety concern was my very first day going to the Ely State Prison when the warden took me around for the very first time. I saw three offenders that were in restraints coming across the compound being escorted. When I asked the warden where those offenders were going, she told me that all three of them were going home. When I asked her what she meant, was that they were being released today, end of sentence, and I said, "What are they doing here?" She said, "Well, they're extremely

dangerous, and the one on the left was in segregation for 14 years, the one in the middle 11 years, and the one on the right was 3 years.” I asked her on the way out the door, “Has mental health reviewed them?” She mentioned to me that mental health is only a part-time position up there that comes in 2 days a week for 2 hours a day and they only see people in crisis. When I told her that if those people were going to my community I would be very upset because I know exactly what they’re going to do when they get out. They’re going from no socialization to a community that’s going to be overwhelming, and also their mental health has not been addressed. When I looked at all that population up there and I started addressing with the psychologist to evaluate those offenders up there, within 45 days we found at least 88 offenders that were seriously mentally ill that were in segregation. When you look at a reentry process and when you’re looking at trying to reduce victimization in the community, that’s the wrong thing to do to those offenders, especially when you know they’re going to be going back out in the community. We needed at the time to do something quick. I ordered all those offenders that were seriously mentally ill out of segregation and moved them where they could get mental health monitoring and treatment in Carson City so that we could get those offenders on the right path to be able to be discharged in the community and not right from segregation. I think what we’re doing in our process is we’re actually victimizing the community even more, and I do believe that that is part of the things that you’re seeing today with the reduction in our inmates coming in as well, because we are doing a better job with the mental health. We’re doing a better job with their medication. We are releasing them on the right medication and letting Health and Human Services and the community know what medication actually works for those offenders that were typically violent. We have now entered evidence-based programming into the mental health program, which is a big deal because now we’re doing programming that the rest of the country says will reduce their crime rate when they go out, which means there will be less victims when they go out of here. We looked at that and we also looked at our segregation policies. Less inmates were staying in segregation, so when you’re talking about bed space with segregation, those are single cells. Having less people going into segregation and our incident rates going down in the facilities meant that I could start doubling up cells where they were normally single and doing it successfully, so it opened up room for offenders to be able to get doubled up, which saves me money because it’s less staff that I need to move around to different facilities and housing.

Justice Hardesty:

First of all, to Mr. Jackson’s earlier comments, I’m assuming then that the Department of Corrections has identified inmates who are amenable to treatment and reentry.

Mr. Dzurenda:

That is correct. We do our own. It’s called the Nevada Risk Assessment System (NRAS), which is a risk assessment of each offender that’s in our system that we share with the Parole Board and Parole and Probation. When you start looking at a risk assessment and those that can be changed and those behaviors, and if we do a better job with providing

the right evidence-based program, those risks do go down. Risk doesn't stay the same. When you start doing things that get inmates successful, get them off of certain drugs, get them on the right path, get education so that they can do things better when they get out into the community, those things play a better job and can reduce risk of offenders when they go out. Like I said, I think it was 88 percent of our offenders have less than 16-year sentences, so they're going out our door. Whether they're high risk or low risk, we're doing a better job and we have to do an even better job than that to make sure we change those behaviors so that they are less of a risk when they go back out into the community.

Justice Hardesty:

At one time, my understanding was that there was a concern about the need for additional housing units. Do you know yet, have you decided yet, whether such a request will be needed to be made to the 2019 Legislature?

Mr. Dzurenda:

I am submitting as part of capital improvements a couple additional housing units, not facilities, but a couple housing units. That's to meet our needs for medical and mental health services and also with our increase in population. We currently still have about 400 inmates that are considered on overflow status that do not have a cell. We still do have 200 inmates that are in Arizona. If we got all them back without doing adjustments to our housing units, we'd have nowhere to put them. What we're doing also part of capital improvements that were approved already, we have a large housing unit of 400 beds in the Southern Desert Correctional Facility that will be going back online in about 12 months that is being refurbished, remodeled based upon sewage and electrical problems that they can't repair. Also, we have a Northern Nevada Correctional Center. We have 90 beds that are offline due to Americans with Disabilities Act (ADA) lawsuits and compliance issues that we're putting back online. We'll hopefully have the whole facility done within the next summer of 2019 so that we can increase our bed space and capacity by 90 as well. But we are looking at additional housing units and we'll see if the need is there as the time gets closer. Hopefully, if we do a better job with our reentry, our population will continue to go down as it is and we won't need that housing.

Justice Hardesty:

There are two other population groups I wanted to ask you about. One is the female population. Has that increased, stabilized, and what is the prison's capacity to deal with that population at this point?

Mr. Dzurenda:

Our female population is also going down. It's not going down a lot, but it is going down. If it continued in the projected rates that it was in the last couple years and also according to the JFA projections, we'd be in trouble. Whether or not we need additional housing,

right now, I'd say we don't for females because we are seeing open bed space in our female facility. Hopefully, that trend will continue with what's happening out in the community and here. Right now, our population has decreased, I want to say close to about 80 or 90 offenders in the female facility, which is a lot when you're dealing with one facility for females. That's going back since June of 2016.

Justice Hardesty:

Your juvenile population has been floating between 9 and 13 or 14. Where are you at now, Director?

Mr. Dzurenda:

As of yesterday, we're at 22. Our housing unit for the juveniles only holds 20. We have two inmates that are in a separate quarter in our hospital unit at Lovelock Correctional Center. We do have offenders that are going to be over age this month that will be opening up more bed space, but currently, there are 22.

Justice Hardesty:

So, that means you will be transferring 18-year-olds into the general population because they're aging out of that juvenile facility?

Mr. Dzurenda:

That's correct.

Justice Hardesty:

In the past, we've had conversations about your authority to effectuate geriatric release—I'll phrase it that way—and medical release. Could you share with the Commission the status on each of those and if you have since assuming your responsibility as director any suggestions with respect to statutory changes and authority that would further benefit your decision making in that area?

Mr. Dzurenda:

Right now, there is no status change. We make recommendations to the Parole Board for review for transfer or releases to the community based upon medical status. Right now, the only thing that prevents is those that have a history of violence, arrest, weapon charges or even murder charges that they can't get to recommend. Even if the person is a quadriplegic, has no more brain activity, on life support, so those offenders I still can't make recommendations for them to be released based upon their medical status, and we incur those costs. There are states around the country, and this was part of a national directors' meeting that we had that there are states that are looking at changing their

statutes in those states to add geriatric releases based upon not parole supervision but based upon what their status is. Like I said, they basically cannot even crawl to a parking lot or they are braindead and there is no status change to release them to the communities so the community covers the medical cost rather than the facilities, but those states are gathering information to see if it's going to be a benefit to the State of Nevada if we want to recommend.

Justice Hardesty:

Is that something you're interested in as a director?

Mr. Dzurenda:

Right now, I gotta see what the success rates of those are. Connecticut, where I came from, I know the success rates. They have a release to the community for nursing homes, but the nursing home is run by the state and it's only a nursing home for their Health and Human Services and Corrections to release them there, but it's not a supervised nursing home so Medicaid picks up on it. The release of those offenders is the sole discretion of the Commissioner of Corrections, who is the director of that state to release offenders. There is no more risk to the community based upon their medical status or capability status.

Justice Hardesty:

To the point where we should be making decisions about data, do you have the number of inmates that have serious medical disabilities and could be considered for release from the prison? Same with those who have age-serious issues? I think over 80 or over 75, so one could look at those numbers and see what kind of impact that would have and not create a public safety risk.

Mr. Dzurenda:

I could definitely provide that. I don't have any of that in front of me, but I can get two things. I can list out the age groups of the numbers that are 75 and older so that we have them, both male and female, just to provide that to the Committee, and then also the number of offenders that are potential or meet the criteria for what's called passionate release based upon their medical status. I can provide that as well, both of those two pieces of information.

Justice Hardesty:

One final question on the medical issues, the budgets. My memory is that this was an individual that came before the Pardons Board. Her medical needs occupied a significant percentage—I don't recall precisely the percentage, but it was a substantial percentage of the prison medical budget for the medication she required. What is the status of the

prisons' medical budgets, as well the users or those who are in need of those services? Do you still have defendants who disproportionately need those medications? If they were released, wouldn't there be Medicare options available to the state?

Mr. Dzurenda:

Yeah. We have one inmate off the top of my head that cost medical bills of over \$1,000,000 just in the last year alone, and that is just one offender. If we have offenders that we can release to the community that will not jeopardize safety and security under medical, they can get picked back up on their VA benefits, medical which we cannot do in our agency. We also cannot pick up medical insurances that they may have. Letting offenders go or putting them under some other supervision in the community where they do this on their own, where medical comes to them, those insurances would pick up on it so the state doesn't have to.

Senator Ford:

For the Committee's edification, specifically Justice Hardesty, I don't know if you knew about this or not, but I know that Senator Joe Hardy last session sponsored a bill dealing with geriatric release, if you will. It passed and it was vetoed by the Governor, and I think my recollection is only two inmates if I remember correctly, if you remember this, Mr. Dzurenda, would have qualified under the bill in any event, but certainly not many, maybe under five. I wanted to mention that to the Committee for your information. One of the questions I have for you, Mr. Dzurenda, and I don't know if this is for you or for others at a later date, but I was recently having a conversation with some of the district attorneys here locally about one of the wishes and desires that they would have relative to mental health placement going through the system, being convicted but having mental health issues. There is no other location for them to be sent. There is no mental health facility for people who are purely, essentially committing crimes because of mental health issues. They have to go to prison. I'm still trying to get an understanding on that issue, and maybe you can speak a little bit on that, what your experience is in other jurisdictions or what you know about elsewhere how states are dealing with those who are sentenced but who have mental health issues, as opposed to them going into the prison context, who are sent to a mental health facility.

Mr. Dzurenda:

With the mental health issues, there has to be a way that the community takes part in the responsibility of the mental health population. There are very few states that actually have the right answers for how to manage the population in the communities that we know are going to keep coming back into the system based upon mental health, but I know if you look at even New York City, which has probably the most amount of decrease in the crime rate per population than any other city in the United States, I think they did a great job of what they were doing with their mental health population, and a lot of it was assigning not facilities but assigning permanent mental health counseling and clinicians in homeless

shelters that were paid for by the city. What that ended up doing was being able to provide continuity of treatment from the prisons and the jail that we knew were going to be issues, like the medication, providing that to the clinicians and those homeless shelters so that they could follow those individuals when they go back in there. But a lot of the shelters in the city, their obstacle was trying to get those offenders that were closest to those homeless shelters and identifying them as being part of that shelter, because a lot of them will not even live in the shelters. They'll stay in the community, but it's important to identify zones in the cities, at least New York City did zones, that will provide who those clinicians are responsible for and what Corrections does through electronic health records to provide the medications to those areas when they're released at least for a full month after they get released. We started doing that in our system today too, providing enough psychotropic medication for 4 weeks rather than 2, and I think that's a big deal because then Health and Human Services can actually start tracking those offenders that were given psychotropic meds and locating the ones they know where they are or don't know where they are to get them hooked up with not only resource centers but clinics that are in their areas to continue the medication. Right now, because a lot of our mental health is seriously mentally ill or homeless, when we discharge them to the community, a lot of them don't get any type of supervision because they don't have the support system in the community, so unfortunately, we do release a large number of the mental health population right to the streets with their medication and we give them enough resources and manuals and information about where they can go to get help and services, but that's really all we could do because we have no more supervision or jurisdiction over those offenders, so it really has to be a whole community responsibility with this, not just Corrections' responsibility. But I know there are things out there that other states could do if we want them to come. If we can find good states, we can have them maybe do a presentation to this Committee on what they've done with that population as well.

Senator Ford:

Thank you, I appreciate that. The last question I had is switching gears but going back to a previous conversation targeting a little bit more on the juvenile population that we have in our prisons. I want to specifically ask about female juveniles, where they're placed and how we are dealing with female juveniles our system.

Mr. Dzurenda:

Currently identified, we have one female juvenile, but that juvenile is not in the Nevada Department of Corrections. That juvenile was transferred right from the juvenile center to a juvenile facility in Arizona that houses juveniles that were sentenced as adults. The problem that we would have had here in the state—and if you have a handful, it's not as big of a deal as if you only have one. If we have one individual that has to be separated from sight and sound, the only option that Corrections would have with one individual is isolating that individual and taking all social skills and social interaction away from that offender, and we believe that would be more detrimental to the wellbeing of that juvenile in the future to keep her in our system than to transfer that offender to where there are

other juveniles her age that she could socialize with. When we talk about unsocialized offenders that are at that age, it becomes more of a danger to the staff of the facilities because they can't interact and socialize with officers and staff as well and becomes more dangerous if we don't do it appropriately, which is one of the reasons we transferred that offender directly from the juvenile system right to Arizona. But right now, it's only the one that has been most recent.

Senator Ford:

So, am I understanding you correctly that there are really only two options we have for female juveniles in the State: ship them away or put them in isolation?

Mr. Dzurenda:

That is correct, as of right now with those numbers, yes.

Senator Ford:

That doesn't sound sufficient. How are other states addressing this issue?

Mr. Dzurenda:

Pretty much the same way. When I was in Connecticut we had 1 juvenile that was 14 years old, a female that had to be kept separately. They used a crane to drop a mobile housing unit right in the middle of the grounds of the facility and that person was housed by themselves in that unit, one on one with a correction officer and one-on-one with counseling, and there was really nothing else you could do because they have to be completely separated from that other population.

Senator Ford:

Thank you.

Mr. Callaway:

First, just a clarification, and Director, I think you're right. You guys are doing some great things in the prison system, and I appreciate all the stuff you're doing. I just wanted to clarify, however, when it comes to arrests. At Metro, I looked at our numbers for March 2018 versus March 2017, and our arrest totals are actually up. We have 739 more arrests this year than we had last year, and 379 of those are felonies, so obviously a big chunk of those are misdemeanors and gross misdemeanors, but it's just a little under 400 that are felonies. Also, before I ask my question, I also wanted to verify, the folks that we have sitting in the Clark County Detention Center that have mental health issues that are awaiting sentencing, many of those folks have to go to competency evaluations, and they go to Lake's Crossing. Some of them sit for a significant amount of time at the Clark

County Detention Center waiting to go to Lake's Crossing to be evaluated so a clinician can determine if they're fit to stand trial, and then if they are found fit to stand trial, then they would go through the process, and ultimately if they're sentenced, then they would go to your facility. To piggyback on what Senator Ford was saying about mental health folks in the jail—and obviously mental health is a huge problem across the board. It's obviously become cliché to say it, but it's true that the Clark County Detention Center is the biggest mental health facility in the state. Do you feel that there are inmates coming into NDOC that their mental health is so severely deteriorated that either—and I'm not asking you to say clinicians didn't do their job correctly or clinicians said they were okay to stand trial when they weren't, but I'm just trying to see if you feel that the current system that's evaluating those folks, if you're getting folks that shouldn't be imprisoned because of their mental illness or if you feel that even though they may have a mental illness, they were still able to know right from wrong and were competent to stand trial for what they were accused of? That's my first question.

Mr. Dzurenda:

I don't have specifics on that. The only issues that I know were addressed with us are we do have a larger number of traumatic brain injury cases and mental health says they're not mental health issues because it's more medical. We're getting a larger number of traumatic brain injury cases, and I think it's because of our increase in our veteran population that we're getting. Those offenders, we do get some that have such traumatic brain injury that it's very difficult for them to function anywhere. That's why I think something has to be done differently to be able to have a better distinction, and I'm not sure that having some of those offenders that are in our prison system is really a benefit to anybody, but I don't know what else to do with them either.

Mr. Callaway:

Thank you. To my second question, this kind of goes back to the comments made by District Attorney Jackson. I also share the same concerns about just reducing prison population to save money and not looking at the risk of the offenders that are being released, and I know when I travel with the Sheriff and we go to other states to conferences such as Major County Sheriffs or Major City Chiefs organizations, I commonly hear law enforcement in other states, and particularly in California with Proposition 47, Proposition 57, Proposition 109, whatever the propositions were, that in some cases they decriminalized certain crimes, pushed offenders down to the local jails, and they'll say, "Oh, we reduced our prison population," but the jail population significantly increased, and that's always been a concern for me about the diversion of folks rather than reducing crime in general, and I made the comments in the Sentencing Commission last week that that would be like Metro aggressively enforcing crime issues until the offenders moved over to North Las Vegas, and then we say, "Hey, we did it. We beat crime," but in North Las Vegas, crime goes up. We didn't beat it, we just diverted it. So, my question to you is, have we looked at our prison population to see—and I know at one time you had given a presentation where a decent chunk of our inmate population were

out-of-state offenders. Have we looked at those folks to see how many of those folks, had they not been released early through Proposition 47, 57, 109, if they had still been in custody and those propositions hadn't been in effect, they would not have been out to commit their second crime and ended up now within our prison system?

Mr. Dzurenda:

Last time I looked, 28 percent of our population was not from the State of Nevada. Where they were from was all over the place. We had some from other countries, but the majority of them were from California. We have not classified them as to where they were arrested last or where they were released last outside the state. We just tracked that they were arrested somewhere. I don't have any data on whether or not they were kept longer there. The only thing we've been getting through our caseworkers was that we do get a larger number of offenders that have gone through the process of the "three strikes, you're out" in California, and before they get their three strikes, they come to Nevada. Those I already know we do have an increase in numbers of those, but the actual numbers we would have to figure out how to do that in our data system, and I'm not sure we could.

Ms. Armeni:

My question is based on programming, timing of programming. Do you have any data as to whether programming is more helpful when an inmate enters the prison rather than waiting closer to the release state? My second question piggybacking on that is, do you or would you consider maybe having a council or some sort of way that you can get information from inmates that have been released as to programming and what they think has worked and has not worked for them?

Mr. Dzurenda:

Programming actually depends on what type of program you're looking at. We have inmates that come in with severe behavior issues. I don't care what it does for reentry or not, we need to get that person into behavior control programs to protect the staff and the other inmates as quickly as we can, whether it's cognitive behavioral therapies or mental health treatment, and that's immediately right when they come in our facilities we're starting. It doesn't matter how long their sentences are, but when you're looking at long-term offenders, it may not benefit me or the state by providing treatment that is addiction service treatment that if they're in 25, 30 years, I don't know if addiction service treatment while they're in a prison would actually help them when they're that long term, because there are issues and a lot of them have been resolved, or that's just really education and programs, providing services when they get out, not really the program itself. But there are programs that are designed for reentry only, and it's working with networking back with the communities or family social structures, economics, education, job searches, all that. That has to happen within their 2 years of getting out into the community. What I stress when I first came to the agency is that the offender needs an accountability plan the second they come to us, not in the last 6 months, which we were doing. We should

be spelling out exactly what programs they need the day they come in, the day they need halfway through, the day that they are about to go out so they can see their whole history or their whole future in front of them to know exactly at what point they need what type of program to be successful when they go out. What comes with that is also getting the resources to be able to do those actual programs once they're in, and we balance that depending on what the need is.

Ms. Rose:

Thank you, Director Dzurenda, for answering all of our questions. I know we've been going for quite a while now. I just have one quick question on the slide that you had provided us. One of the slides had a number for immigration holds. Can you tell us a little bit more about what that number means and what immigration hold means in the corrections context?

Mr. Dzurenda:

Sure. An immigration hold is when we get offenders and we do what we call rap sheet checks on them to find out around the country what either warrants, holds or arrests that were not convicted or sentenced on or released on are out there. We get an identification in our system that will tell us that there is what's called an ICE (Immigration and Customs Enforcement) hold. That means that there is interest by Immigration that they want to speak to or detain that individual. Unfortunately, a detainer doesn't tell us any information, doesn't tell us if they just want to interview the individual, if ICE wants to deport the individual or is looking for deporting, whether or not they would even pick them up if we did release them, so part of our process is we notify ICE well in advance of all of these offenders' release dates and remind them a week before they go out that we still have those offenders and that there are holds and if they do not pick those individuals up or get a warrant for me by a court to hold them or to rearrest them, we let those offenders go. We do not hold inmates past the release dates based upon having an immigration hold. Right now, the only difference in our policy that's affecting them is that since we do not know what their real immigration hold really is, and if we can't find out what it is, I do not let those offenders house themselves in a camp outside the grounds of our facilities in the possibility that if they did walk away from those camps and did some harm in the community, we could have prevented it. I just made that change not too long ago when I learned the numbers that were coming down that were placed on minimum-security status, and if I don't get confirmation from ICE that it's nothing that they need or it's not something that's going to jeopardize safety and security, I won't put them out there.

Ms. Rose:

Thank you, I appreciate that explanation. Just to clarify, can you just let us know why you have a policy that you don't hold people longer just based on immigration holds or the detainer, but rather just inform ICE of their release date?

Mr. Dzurenda:

First of all, when we have a sentence and there's an end of a sentence that the court gives us, that's the last day we hold an offender no matter who wants them, unless we have a warrant. But the ICE detainers that we have, and I'm not sure 100 percent of the numbers which we can get, it's less than 10 percent of those offenders that ICE actually comes and either talks to and takes back into their custody or really wants them, so I don't know what the other reasons are. A lot of them that we found out was they just wanted to interview one of the offenders that we have about another family member of theirs that has nothing to do with them or their crime or their potential for crime. A lot of the ICE holds were just they wanted information about their family members or someone else they're looking for, so we do not take these offenders and keep them in our custody unless we get something from the court or ICE actually comes and takes them under their custody.

Ms. Rose:

Thank you. Just to be clear, that's because the ICE hold is not like a warrant, it's not anything that's official, it's just a voluntary request from ICE like you said for various reasons, whether they want to talk to somebody, but it's not a criminal detainer from, say, a different jurisdiction saying someone else has been convicted and they have to go serve a sentence somewhere else, right?

Mr. Dzurenda:

Almost all correct. I mean, we have no idea, so they can all be a suspect of a crime somewhere else or not. I have no idea unless they tell us. But really, it's only an informal procedure that we have just to see if ICE puts a notice somewhere on a rap sheet that they have some type of interest in the individual. That's what's called an ICE hold, and it's just basically a process that we do to hold them as a courtesy to the ICE agency, just until they're released.

Ms. Rose:

Thank you, I appreciate that explanation. You talked a lot about having to transfer people to Arizona prisons because of space issues. I'm wondering what type of issues are caused by having to transfer them and not having space for people here, specifically if you could talk about if you know of any concerns for people who may not be close to their families anymore, especially if they have family or visitors close by who may be able to come see them, or they're a further distance from their attorney if they have any claims. Do you see that as causing any particular problems in that respect, and if you do, could you maybe let us know a little bit about that?

Mr. Dzurenda:

First of all, we set a priority list of those offenders that we were sending to Arizona, and the first one is that they were gang leaders or gang members that were extorting offenders which were jeopardizing and victimizing offenders, so those I targeted first. If I ran out of those numbers, I did make a statement to the Legislature that I would not select someone that was from the State of Nevada, that we would pick those that were nonresidents of the state so it does not change the ties to their families. If the offender lost ties to their gangs that are in the cities, so be it. That was my goal. But what we did do for offenders was we set up video visiting. Their family, community, anyone could come into our facility in Las Vegas, the Casa Grande Transitional Center, and do video visits with offenders that are down in Arizona so that there is some type of contact in case they can't get the expense of traveling to Eloy, Arizona to visit them.

Ms. Rose:

Thank you. I just wanted to say thank you for working with our Policy Director on the study that we're doing about juvenile justice in Nevada, and I know that the Campaign for youth Justice and the Legislative Committee on Child Welfare and Justice is working on that to find appropriate placement for juveniles. I know our Policy Director Holly Welborn is going to provide the findings once we get a lot of that. I just wanted to say thank you for working with everyone to tour the facility on that campaign.

Chair Yeager:

Seeing no further questions, thank you, Director Dzurenda. I know you probably had a few more questions than you anticipated, but we will let you off the hot seat now. Members, obviously you all know how to reach Director Dzurenda, so if you have additional questions as a result of anything that happened today or in the future, please feel free to reach out directly. Director Dzurenda, I do think it would be helpful to get those quarterly reports, so when you have those, if you could just send them over to me, or Mr. Fernley will make sure the rest of the Committee gets those as well.

I will now close agenda item V. I think this is probably a good opportunity to jump to agenda item X, so I'm going to open that agenda item, which is an update on the potential selection for Justice Reinvestment. I thought it made sense to go to that agenda item given that we just talked a little bit about our prison population and our data. Justice Hardesty, I know we hadn't had a chance to connect before this, but I wanted to give you a chance to provide any kind of update you might have with respect to the State of Nevada and Justice Reinvestment.

Justice Hardesty:

Starting tomorrow and continuing Wednesday and Thursday, Justice Reinvestment is sending teams to Carson City and to Las Vegas to meet with numerous stakeholders in

the criminal justice system. I feel like a scheduler. I've been setting up appointments for a variety of folks, everybody from the Governor to sheriffs, you name it. In fact, I understand the Sheriffs and Chiefs Association is meeting here in Carson City and I'm trying to arrange for meetings with some or all of the sheriffs and chiefs to meet with the team in Carson while you're having your meetings here. We're getting closer to this decision. I think after they have these on-site meetings with various stakeholders in the state, they will then make a presentation either next week or the following week to Pew Trust to sort out their recommendations and who they propose should be selected as a state next year. If we are selected, I'm told that the Justice Reinvestment Initiative (JRI) staff will be sent to Nevada to begin developing and mining our data in order to provide a report by the end of the year that we can use as decision makers in making various choices about what is appropriate for Nevada, not Connecticut or anybody else, what's appropriate for Nevada. I think we will have perhaps for the first time some very meaningful data with which to work. A lot depends on the meetings this week. I'm very optimistic. We will know very soon what resources we have if we have this available, this opportunity to take advantage of this. That's the update. Chair Yeager, I'm very hopeful that Nevada will be selected. Even Sunday, I was exchanging communications with Mr. Engel and other members of the JRI staff answering questions for them and getting them lined up to meet with other people.

Chair Yeager:

Thank you, Justice Hardesty, for the update, and thank you for your continued work on Justice Reinvestment. I share your enthusiasm. I think this would be a fantastic opportunity for Nevada. I think I have a meeting on my calendar Wednesday with Justice Reinvestment, so I of course will be plugging us, and hopefully we will be able to move forward in this process. What we will probably do is just agendaize this particular item on every agenda going forward so we can keep tabs on where we are and what needs to be done, but again, thank you. I know how hard you've worked on this, not just this cycle but in the last interim as well. It's nice to see that this is likely going to happen.

I will now close agenda item X. I will now open agenda item VIII, which is a presentation by the Central Repository. I'm hoping we have Ms. McKay in Carson City. Again, I want to say thank you. I know we had you on the last agenda and things ran a little bit over time, so thank you for your patience and for joining us here this afternoon.

Mindy McKay (Records Bureau Chief, Records, Communications and Compliance Division):

You all should have a copy of the presentation in front of you (Agenda Item VIII). It was dated from the previous meeting. Nothing has been updated since then. I will just go through that one. I was asked to present today—thank you for the invitation—in regard to an overview of the Records Bureau and the Central Repository, the disposition backfill history and the DNA expungement process. With that, I will get started with an overview of the Records Bureau and the Central Repository. Housed within the Records,

Communications and Compliance Division of the Department of Public Safety under those statutes, we collect and maintain records, reports and compilations of statistical data submitted by each agency of criminal justice and any other agency dealing with juvenile delinquency. We also collect, maintain and arrange all information regarding records of criminal history, DNA profile of a person from whom a biological specimen was obtained, and we also use a record of personal identifying information biometric of a subject as the basis for maintaining any records regarding him or her. Currently, that biometric identifier is fingerprints, but A.B. 224 from the 2015 Session opened the door for the Repository to start exploring other modalities, such as facial recognition and scars, marks and tattoos.

On the next slide are the criminal justice functions. The Records Bureau's primary responsibility is to provide Nevada's criminal justice community with the information necessary for them to ensure public safety. This includes the responsibility for being the centralized file cabinet for records of arrests and dispositions for all Nevada criminal justice agencies. In Fiscal Year 2017, to give you an idea of criminal arrest fingerprints received, we received 87,942. Fiscal year to date up until March 24 of this year, we have received 65,008. We also process civil applicant requests required by various statutes to conduct fingerprint-based background checks for employment or occupational licensing purposes for positions of trust, usually working with the elderly, disabled, children or others in potentially vulnerable positions. The volume grows every legislative session whenever a new group is added. To give you an idea of the volume of civil applicant requests, in Fiscal Year 2017, we received 212,127. To date, up to March 24 for civil submissions, we have received 158,740. We also run the Nevada Offense Codes program. We provide a standardized coding methodology to share information between law enforcement, prosecutors, courts and the Repository, because the statute doesn't provide the specificity when looking at all of the enhancements. We are also the centralized conduit for transmission of Nevada criminal justice information to and from the FBI, including the National Crime Information Center (NCIC), Next Generation Identification (NGI), the National Data Exchange (N-DEX), the National Instant Criminal Background Check Office (NIC), the National Sex Offender Registry (NSOR), as well as many more.

On the next slide, the other services that we provide within the Records Bureau is the State Sex Offender Registry, the Point of Contact Program for firearms transfers, the name-based background checks for employment, which is also called the Civil Name Check Program, and the Uniform Crime Reporting Program. Over the years, the Division has been tasked with a variety of special services, including the Sex Offender Registry and all those programs I named for you, which also includes the Domestic Violence Protection Order Registry and the Repository for Information Concerning Crimes Against Older Persons. Most recently, we were designated by the Attorney General as the Division responsible for the Statewide Sexual Assault Forensic Evidence Kit Program pursuant to A.B. 97 from the 2017 Legislative Session, so we are adding that to our list as well. To give you an idea of the volume of these programs, the current State Sex Offender Registry with active registrants, we have over 7,000 active sex offenders

registered with us. As a matter of information, the Supreme Court's court order came out Friday on Does 1 through 17, thus lifting the stay and allowing us to implement A.B. 579 from the 2007 Legislative Session. In regard to the Point of Contact Program for firearms transfers, in Fiscal Year 2017, we processed 111,336 background checks, and currently year to date through March 24, we have processed 68,042. In regard to our Civil Name Check Program, in Fiscal Year 2017, we processed 44,072 background checks name-based, and this year to date up to March 24, we've processed 26,506.

On the next slide (Agenda Item VIII), we also have an Information Security Unit. The Information Security Unit is tasked with maintaining compliance with the FBI's mandate to audit the technical security of all agencies with direct connectivity to DPS systems and indirectly to FBI criminal justice information systems. The Information Security Officers are also responsible to ensure our Department's compliance with various state information technology (IT) policies and procedures. Within our Bureau, we house the Nevada Criminal Justice Information System (NCJIS). The Nevada Criminal Information System is the computerized information system created to serve all state, federal and local law enforcement and criminal justice agencies in Nevada that require criminal justice information. We are the conduit through which Nevada criminal justice agencies access systems of Nevada criminal justice systems. The FBI, other states and international criminal justice agencies such as Interpol and the Royal Canadian Mounted Police. It is managed by us and we also have the IT services to support the system through the state's Enterprise IT Services Division.

The next slide—and Chair Yeager, if you don't want me to explain this lovely depiction of our system, just let me know, but I was planning on going ahead and kind of giving you an overview of each of the boxes. This slide gives you a visual depiction of NCJIS. The center of the diagram with all of the arrows going back and forth depicts the role of the Message Switch, which is currently called Justice Link (JLink). Its job is to direct all of the electronic messages back and forth between the local, state and federal systems. The top boxes in blue on the diagram depict the interactions with the various FBI criminal justice information systems (CJIS), Nlets, which is the International Justice and Public Safety Network, and the Nevada criminal justice agencies, and it is through Nlets that it can directly query the criminal history and driver's history of individuals residing in other states as well. The pink boxes toward the middle left of the diagram depict the hot files, which provide immediate notifications and cautions to the officers on the street. Hot file information includes sex offender status, wants and warrants status, carry concealed weapons (CCW) permits, protection order for domestic violence status and dangerous offender information. Some of the files on the left-hand side of the diagram in the gray boxes are internal to the Records, Communications and Compliance Division, specifically the Point of Contact, Civil Applicant Program, Civil Name Check Program and our accounting system. The Offender Tracking Information System (OTIS) is used by the Department's Parole and Probation Division. The computerized criminal history system and Sex Offender Registry systems are internal to the Records, Communications and Compliance Division but are accessed via JLink by outside criminal justice agencies. The warrants file is a duplicate of the FBI's NCIC warrants file and houses in-state warrants.

Users of the warrants file are external. The box on the lower left-hand corner captures the fingerprint process for criminal arrests and civil applicant fingerprints. The live scans in the local booking facilities are connected via secure tunnels to the Dataworks Store and Forward at the Division, which does a validation and edit check on the submissions. If the fingerprints pass the edit checks, they are passed through to the Western Identification Network Automated Biometric Identification System using a vendor's equipment and onto the FBI's Next Generation Identification system. It's at that point that the fingerprint examiners in my shop identify the existence of existing criminal history and posting of new charges to the person's existing rap sheet, or they create a new rap sheet for that individual. The bottom of the diagram depicts connections between the state and local criminal justice agencies' computer-aided dispatch of records management systems (CAD-RMS), various court systems, the Nevada Department of Motor Vehicles (DMV), the Department of Wildlife and our Civil Name Check customers. As you can see, the JLink Switch is really the hub that connects multiple spokes within NCJIS.

The next slide talks about our ongoing NCJIS Modernization Project. In Fiscal Year 2012, the then-Records and Technology Division received a federal grant to commission a study to recommend the best way to replace the critical systems of NCJIS, the computerized criminal history system, OTIS and the temporary protection order system. Because these applications and the underlying systems that support them are at risk of failure, no longer vendor-supported, overly complex by today's standards, and are at an increased risk of failure. We have MTG Management Consultants, who recommended not only replacement of the computerized criminal history system and OTIS, but an entire re-architecture of NCJIS to include the law enforcement message switch. The message traffic controller that regulates the communications between all Nevada criminal justice agencies, other states and the FBI, as well as the hot files, which are notifications, caution messages critical to officer safety.

On the next slide, you'll see what we've done over the bienniums. Currently on slide 9, 2018-2019 Biennium there at the top, our computerized criminal history phase 1 go-live, we were scheduled in April. We're hoping now to go live with the first part of that by no later than June. As far as the next bullet point in regard to OTIS, I would defer to the Parole and Probation Division to answer any questions on that. We are feverishly working on going live with our protection order system in the next couple of weeks with a pilot court first, and then depending on how that goes, we will begin to roll it out to the rest of the remaining courts who use our current old system. After we've rolled them all off of the old system, then we will begin to bring on new courts through our portal using our system rather than just sending them to us. We also will be identifying a new message switch vendor, and we also have brought back MTG Management Consultants to refresh the 2012 study. We begin those kickoff meetings with them this week. Depending on what they say, the next bullet points may or may not change in regard to Biennium 2021 and Biennium 2022 and 2023. For now, that's our plan, but it may change.

That was the overview of who we are and what we do in a nutshell. Before I move to the disposition backfill overview, do you want to ask me questions, or do you want to hold them until the end in regard to what I've just presented.

Natalie Wood (Chief, Parole and Probation):

Just for clarification, could you just explain for some people that may not know the impact of A.B. 579 now going forward?

Ms. McKay:

Yes, I can. In regard to A.B. 579, the effort that it's going to take to implement, I can go over that with you and I can describe to you the differences between the current Megan's Law and A.B. 579, if you'll indulge me. I recently provided a presentation to the committee that studies the sex offender laws, so I brought that with me just in case. The current law is Megan's Law, although now we're going to switch over to A.B. 579. In the current law, we do a risk assessment tool in order to determine the tier level of the offender, and that risk assessment tool is made up of a bunch of different pieces of information that we gather and then we score based on the various sections of that assessment tool. That will help us determine what the tier level of the sex offender is going to be based on their risk to recidivate. Due to the levels of the tier that is assigned based on that risk assessment tool, all of them under Megan's Law only had to verify the record of registration once annually, that was it for all of them, all the sex offenders in Nevada under Megan's Law. They only had to do that once a year, and they only had to do that through local and through us. The difference between what's going to happen between Megan's Law and A.B. 579 is now there's no longer going to be a risk assessment tool. It's going to be based on the conviction and the age of the victim, period. Based on that determines the tier level, which is drastically going to change what they're currently tiered under Megan's Law. The numbers are going to change. Very quickly, right now under Megan's Law, we have 1,700 tier zeros, we have 2,000 tier ones, 3,000 tier twos and only 264 tier threes. Under A.B. 579, we're going to go to almost sharing it across the board with each tier level 1,800 tier ones, 1,900 tier twos, but we're going to go to 3,391 tier threes. The difference between Megan's Law and the Adam Walsh Act is with the reporting under A.B. 579, it's not once a year anymore. It is once a year for tier one, but it is also once every 6 months for tier two and once every 90 days for tier three. That is in-person at their local and they have to submit various pieces of information every single time. It's going to be a large paperwork increase, a large in-person to their local law enforcement increase with those visits, and there no longer either will be—under Megan's Law they were allowed to have a reconsideration of their tier levels, so we had a reconsideration panel. No longer under A.B. 579 can they request a reconsideration of their tier level assigned. I'm trying to make sure that I give you all the points of the differences between them. Also, juveniles are going to be entered into the mix with A.B. 579, so we're going to working closely with the juvenile offices throughout the state trying to determine who's going to go on the website, and that's another big difference is the website. Currently under Megan's law, tiers two and three went on the website. Under A.B. 579, pretty much all of the

offenders, with the exception of those with adult victims, will go onto the website, including some juveniles if we deem as a state that we want to place juveniles on the website. In preparation for the implementation, it is going to take us approximately 3 to 5 months to implement at the State Repository because of the heavy workload with making sure that all the tiers are assigned properly, because they are going to go on the website. We want to make sure that they're assigned their appropriate tier level properly under A.B. 579. We also work with all of our various law enforcement partners throughout the state to make sure that we are in partnership with the implementation. We also have to get our systems ready for flipping the switch off on Megan's Law and flipping the switch on for the Adam Walsh Act, A.B. 579. We also have to notify every single one of the active sex offenders of this change. That's a huge amount of mass-mailing that we're going to have to do as well. Once we're ready to flip the switch, we have to get our IT service provider on board. In the office, we usually try to do it really, really early in the morning to have them there to switch the systems over. That's pretty much it. I'm happy to share the presentation with anyone who would like that later. Any questions on A.B. 579? Did I miss anything that you wanted?

Ms. Wood:

No, I actually missed it. Before, we previously looked at their risk level. Now, we're actually going on age and what else?

Ms. McKay:

The crime that they were convicted of.

Ms. Wood:

Thank you very much. You did a great job.

Chair Yeager:

If I could interrupt for just a minute, there is another meeting that is going to be starting at 2 p.m., so we need to finish today as close to 1:30 p.m. as possible. I know that's not going to give you enough time to go through everything and probably for questions, but what I would like to ask you to do, if you wouldn't mind taking us through the parts of the presentation that have to do with the disposition backlogs. I think that would be a good place to perhaps stop the presentation, give members a chance to kind of think about that issue, and it looks like we'll likely have to bring it back for some questions at the next meeting, but I wanted to make sure that we had enough time to get through that, and then also for the public comment as well. If that works for you, I appreciate your flexibility. Sorry to do that to you one more time, but they need a little bit of time to turn the room over for the 2 p.m. meeting.

Ms. McKay:

Sure, I'll do my best. Very quickly then, on slide 10, in October of 2013, the Repository was notified by Las Vegas Municipal Court that they had over 600,000 dispositions that had never been sent. I'm going to kind of condense this really quick. That brought our attention to, "Oh my goodness, what are we missing? Which courts are we missing? What data are we missing?" We internally did our own reports. We ran our own reports, figured out who was not reporting, what was missing. We reached out to them and we began this outreach and education project to get the information that we needed. In the end when all was said and done, we had received over 900,000 dispositions that needed to be entered into both the state and FBI systems. With that, thankfully, we were at the June Interim Finance Committee (IFC) meeting we were approved for 10 temporary positions funded through reserves and then 10 permanent positions, and then we also had applied for a grant for 10 additional temporary positions. We went from 6 staff to 36 staff pretty much overnight. We worked 24/5 in that unit, and that was back in 2014, so we are done with the backfill for the most part. We've pretty much exhausted that backfill. Here's a chart for you to depict what we started with and what we've ended with. We're pretty much done with that 900,000-plus dispositions in less than 4 years, so we're very proud of that and we're very thankful to the staff over the years and to the support that all of the various committees have given to us. We have about 8,000 left to do because we're waiting for some pieces of information from agencies we've had to reach out to. We're pretty much done with that. However, there are still approximately 800,000-plus that are missing from records over the years. We became a repository in 1986, and then we also prior to that, all of the records went up to the FBI, and I'm sure that they're missing dispositions at the FBI's level for anything prior to 1986, but we are working with the FBI in regard to that, and I'll go over that with you in just a minute. On slide 12, we did go from 23 percent complete in 2014 to 59 percent complete on our Central Repository Criminal History Records. We continue with our outreach and education. We started with the courts. We are this year rolling into that the prosecutors, because it is a community that needs to come together as a whole, so we look forward to that relationship. We gave you some stats there on slide 12. The total arrests as of March 20 was over 2,000,000. Of those arrests without dispositions as of March 20 was 1.2. We also have found some boxes of dispositions in one of our units, our Sex Offender Registry Unit. They were being stored in there, and then we went, "Okay, so then what are we storing over at the State Library and Archives?" We had a few weeks where we sent staff over and looked through those. We pulled them all back over. We're working on those. When we went through about 50 in each box just to see what we were working with, most of those were already in the state system, thankfully. However, whether they're in the FBI system or not, we're not sure yet. We're working on that. How many of those really aren't in the state system we're working on that, so thankfully we've been able to maintain our grants in order to keep our temporary staff so that we can continue with that 24/5 data entry of missing dispositions. We also have our grants for our education and outreach. That has been very beneficial. We've had great partnerships through that.

What we're doing in the future, on the next slide, we have a couple of courts in the state that submit electronic dispositions. We call them e-dispos. With that, it was only appending that disposition to the state, so we now need to go through and make sure that those dispositions are also sent up to the FBI, and that is dual data entry. We don't have an electronic mechanism per say for that. That's going to be about 211,000 e-dispositions we're going to need to push up to the FBI. With regard to the boxes that we found, we had approximately 236,000, but again, most of those should be in the state system already. That's what they're currently working on, that's the project now that the backfill is over. We are also looking to clean up our records from historical data conversions to add detailed charge information and sentencing information, which we did not have in there before. This cleanup is required to be completed prior to migrating to the modernized computerized criminal history system, which is what we call CCH Part 1. We're also preparing for that, as I mentioned earlier, along with our protection order go-live, so staff is really busy with two modernization systems going live. We also have, you'll see there, a correlation project. That correlation project as I mentioned earlier in working with the FBI, we've received a list of every single record that we've got up there, whether it was prior to our existence or after. We are taking all of that data to the tune of over 1,000,000 records and we are correlating it with our state. We are looking at both of them. Does the state match the FBI? Does the FBI match the state? If not, where are we falling short and where do we need to plug those holes and change the data to match and make sure it's accurate. The outreach and education, again as I said, will continue, hopefully. We are applying for another grant this year. Along with all of our other daily tasks that that Criminal Records Unit does, which is record seals, protection order data entry on behalf of the courts who don't do it themselves, manual fingerprint card data entry, file and criminal record maintenance, reviewing error reports, reviewing staff work, providing reports to various agencies, etc. That's it in a nutshell.

Chair Yeager:

Thank you. I think this issue is important enough that what I don't want to do is open it up for questions and only have 5 or 10 minutes, because I think there are going to be a lot more questions than just 5 or 10 minutes' worth. I think in the interest of making sure we thoroughly vet this, I'm going to ask members to hold questions at this point. We'll pick up at our next meeting that Ms. McKay can be at to talk a little bit more about this particular issue, any questions from the first part of the presentation, and then we have a third part of the presentation which we didn't get to that deals with DNA expungement, which I think will also generate a fair number of questions. Again, to Commission members, I apologize that we're running up against the clock, but I did want to at least get the information out there for further consideration. My hope would be that you could take a look at this presentation and be back at our next meeting with some questions, so Ms. McKay, we won't put you on the hot seat right now, because I just don't think we have time to get through all of it. I do want to thank you for being here, and we'll coordinate with you to make sure we pick a good date and time for the next meeting, and we'll let you go first as well. Hopefully we won't make you stay the whole time additionally, so thank you.

Ms. McKay:

Thank you very much.

Chair Yeager:

I will close agenda item VIII. I did want to go quickly to agenda item IX for Ms. Butler just to give a quick update. I believe the Subcommittee has met a couple times, but if you just want to give us a bit of an update on what's happened so far, what you see for the future, I think that would be really helpful for Commission members.

Julie Butler (Representative, Central Repository):

I am the Division Administrator for the Department of Public Safety, Records, Communications and Compliance Division. The Subcommittee on Criminal Justice Information Sharing has held two meetings so far. We held 1 on March 22 and the second on April 13. During the first Subcommittee meeting, the Subcommittee elected a Vice Chair, who is Undersheriff Quick from Lander County. A representative from the Central Repository for Nevada Records of Criminal History outlined the various applications and systems that collectively make up the Nevada Criminal Justice Information System. The Central Repository also briefed the Subcommittee on its vision for how the working groups, as mentioned in S.B. 277 and S.B. 35, will operate, as patterned after the FBI's Advisory Policy Board process. The Subcommittee also voted to establish a northern and southern working group, and the chair of the working group committed to reaching out to Nevada Criminal Justice Agencies and requested volunteers for the working groups. At the second meeting on April 13, the Subcommittee received presentations about the systems and data housed at the Washoe County Sheriff's Office, the Second Judicial District Court in Reno, the Las Vegas Metro Police Department, the Eighth Judicial District Court and the Administrative Office of the Courts. The Subcommittee also received a presentation from the Central Repository about Nevada Offense Codes and voted to establish the Nevada Offense Codes working group. As far as my plan as Chair of the Subcommittee, so far I've kind of taken a two-pronged approach, one of which has been to take a look at the various criminal justice systems in use in the State of Nevada starting with the state and branching out to see what's held at the local levels and then looking to identify gaps in those systems for recommendations to this body in September or October. The other thing is we're looking to establish a governance process for the Nevada Criminal Justice Information System and the establishment of the working groups. At the time on April 13, I had reached out to various local members of the Nevada criminal justice community and I hadn't had any takers to sit on the working groups, but since that time, I have 14 individuals that want to participate in the northern working group and 15 individuals for the southern working group. I'll be emailing letters to those individuals confirming their appointments later this week. We're going to have another meeting in the May or June timeframe, and I've pretty much got a potential agenda dialed in from our April meeting, so I'll be working with Mr. Fernley on finalizing the date and time and notifying the members.

Chair Yeager:

Thank you for the update, and thank you for your work chairing the Subcommittee. We look forward to hearing updates, and then let us know when you get to a point where you feel like it would be a good idea to do a more full presentation to the Committee. We certainly can accommodate that as well, but we'll probably just leave this as an agenda item as well to get periodic updates on how things are going. Feel free to reach out to me or to other Committee members if we can help in some way.

I will close agenda item IX and I will open up agenda item XI, which is discussion of potential topics, dates and locations for future meetings. Under this agenda item, I did want to ask Director Callaway, who has graciously volunteered to head up an informal group to talk a little bit about some of the Innocence Project recommendations, I think in particular not the recorded confessions, but the other two. So, I would certainly like to invite you to put some folks together from the Innocence Project, prosecutors, defense attorneys, probably the courts as well to make sure that we vet this properly. But if you wouldn't mind doing that and letting me know when you think you're at a point where you'd like to give a presentation or an update to the entire Commission. I certainly appreciate your willingness to work on that issue.

Mr. Callaway:

Thank you. Absolutely, I will.

Chair Yeager:

I do want to open it up if there are any other members who would like to suggest any potential topics. I know we've talked about a few of them today. We've been taking notes, Mr. Fernley and I, about what to agendaize for future meetings, but is there anything that anyone would like to suggest in terms of a topic for a future meeting?

Assemblywoman Krasner:

I'm looking at the minutes from our last meeting, and during the public comment, we had Aaron Dicus, who is a Corrections Officer in NDOC. He just talked about a few issues that I think are really important, like the fact that they need stab vests, the guards in the prisons need stab vests, and a bigger uniform allowance, and he also talked about that they should have headsets so the guards can all communicate with each other, and maybe some staffing issues. I was just hoping maybe we could somehow take a look at that and maybe make a bill that would address those needs.

Chair Yeager:

Thank you for the suggestion. Seeing no one else, I will close agenda item XI and open agenda item XII, which is public comment.

Ms. Brown:

The Innocence Project touched on something dealing with law versus policy. I totally agree that there should be more of a law than a policy, and from personal experience I'll tell you why. It is the policy of the Attorney General's Office now, or it has been and it continues, that when you're dealing with exculpatory evidence in civil cases, that's their policy, not to turn it over. When we think of exculpatory evidence, it exonerates, but it doesn't apply to civil cases and that's simply wrong. When you've got the Attorney General's Office who has evidence in a case that benefits the plaintiff, it should be turned over, and it's not, and they're winning this way, and this is just simply wrong. That's their policy. I think there's a loophole in the law dealing with Brady and exculpatory evidence, that it only applies to criminal and not civil. It should be both. If that evidence is going to exonerate both criminal and civilly, it should be turned over, not withheld and hidden from the courts and from the plaintiff. This leads me to—I think in 2009 or 2011, the law passed where NDOC would have an ombudsman under the Attorney General's Office. That passed, but yet it's never been funded. I would like to see that and funding found by the Attorney General's Office to where things like this—for example, I've been contacted by inmates in the past dealing with suing NDOC. The Attorney General's Office has been going to them and telling them about other settlement agreements and what was done in those settlement agreements, and the information they're giving is inaccurate in order to get them to sign off on a settlement agreement. That's misleading. If we have the ombudsman, the ombudsman can at least verify that this is accurate.

Chair Yeager:

Thank you for your public comment, Ms. Brown. Seeing no one else for public comment, I will close that particular agenda item. Committee members, I think we're still working on scheduling our next meeting, but we should have that done here pretty soon. In the meantime, I want to thank you all for being here today and for your attendance and for your good questions. With that, the meeting is adjourned at 1:34 p.m.

RESPECTFULLY SUBMITTED:

Jordan Haas, Interim Secretary

APPROVED BY:

Steve Yeager, Chair

Date: _____

Agenda Item	Witness/Agency	Description
A		Agenda
B		Attendance Roster
Agenda Item IV	Jordan Haas, Interim Secretary	Draft Minutes of the March 28, 2018 Meeting
Agenda Item V	Reno Gazette Journal	Article Submitted by Assemblywoman Krasner
Agenda Item VII A	Nicole O'Banion, Ombudsman for Victims of Domestic Violence, Office of the Attorney General	Presentation by the Attorney General's Office
Agenda Item VII B	Sue Meuschke, Executive Director, Nevada Coalition to End Domestic and Sexual Violence	Presentation by the Nevada Coalition to End Domestic and Sexual Violence
Agenda Item VIII	Mindy McKay, Records Bureau Chief, Records, Communications and Compliance Division	Presentation by the Central Repository