

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

September 12, 2018

The meeting of the Advisory Commission on the Administration of Justice was called to order by Chair Steve Yeager at 9:05 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
Julie Butler, Representative, Central Repository
Mark Jackson, Douglas County District Attorney
Adam Laxalt, Attorney General
Al McNeil, Sheriff, Lyon County
Natalie Wood, Chief, Parole and Probation

COMMITTEE MEMBERS PRESENT (LAS VEGAS):

Assemblyman Steve Yeager, Assembly District No. 9; Chair
Judge Sam Bateman, Henderson Justice Court
Chuck Callaway, Police Director, Las Vegas Metro
Christopher DeRicco, Chairman, Board of Parole Commissioners
Amy Rose, ACLU of Nevada, Inmate Advocate

COMMITTEE MEMBERS PRESENT (TELECONFERENCE):

Christine Jones Brady, Deputy Public Defender, Washoe County

COMMITTEE MEMBERS EXCUSED:

Senator Aaron Ford, Senatorial District No. 11
Paola Armeni, Representative, State Bar of Nevada
James Dzurenda, Director, Department of Corrections
Kymberli Helms, Victims' Rights Advocate
Judge Jim Wilson, Carson City District 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:

Paul Corrado

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

Alison Silveira, Data and Policy Specialist, Community Resources for Justice

Maura McNamara, Policy Specialist, Community Resources for Justice

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

I will now open the fifth meeting of the Advisory Commission on the Administration of Justice (ACAJ). I will open agenda item III, which is public comment. I will let individuals know that we do have a 3-minute limit on public comment. We'll have to adhere to that strictly, because we do have quite a long agenda today. I will let Committee members and members of the audience know that there were some public comment documents that were uploaded to our electronic system, so there should be copies of those documents in the rooms in Las Vegas and Carson City, or if you're accessing this from the internet, you should be able to access those documents as well.

Paul Corrado:

I'm an offender workforce development specialist. I also have a Master of Urban Planning. I'm a volunteer at local jail level, state and federal levels at times, continuously since 1994 ([Agenda Item III A-1](#)). I also have made an offer of \$2,000 to provide laptop computers, 20 of them, if anybody's interested in providing those. I just think it's criminal not to have people leave prison without knowing how to keyboard. First of all, the Nevada Parole Board meeting notes are here ([Agenda Item III A-2](#)). This is a two-page summary that has been reviewed by the Nevada Parole Board and vetted by them. Please consider issues raised in the document to be included in the final report associated that you are going to be hearing today. Critical to those I believe also is for every one of the incarcerated people who leaves to know their Myers-Briggs type indicator and also their Holland code. These have been proven excellent assessments. Number two: make all jurisdictions within the State of Nevada use risk-based assessment for bail, with the specific purpose of keeping people out of the system who cannot be trusted to be violent. In this volunteer career, the only people that have scared me are the people who are addicted to violence and those who are Satanists. Number three: Justice Reinvestment presentation issues. There is no involvement of

any incarcerated in the production of the report that I can see. I don't understand why. As an urban planner for years, we always had people who were going to be affected by whatever we did be part of the process. Are they not the target population for the study? The comparison of Nevada prison populations, the 1978 to 2016 graph on page 8, has no correlating statistics for either population or the economy ([Agenda Item V](#)). I don't understand why not, since these are obvious factors in prison population increase. I believe it would also be needed perspective to understanding the increase. Could 1 of the 39 percent of population of prison administration failures be a lack of family contact and support during incarceration? The location of prisons outside of urban areas where public transportation does not exist weakens the familial bonds critical to the success of an inmate on the outside, to say nothing of trying to keep staff at these remote desert locations. Incarceration of the mentally ill for being mentally ill is not just an incarceration issue. I believe it is a public health issue. It is also a national disgrace and, I believe, a blemish on the State of Nevada. The study found over half of the women prisoners have mental health needs. This is one of the critical ones to me is that the study points out on page 38 that 66 percent of the admissions are for non-person offenses. Seems to be a drug problem, not an incarceration problem. Are we really dealing with the causes or are we dealing with the effects?

Chair Yeager:

Mr. Corrado, I'm going to have to ask you to wrap up your public comment, please.

Mr. Corrado:

For perspective, please add population increases to overall economic data, and with an aging population in Nevada prisons, how will the prison system respond to the medical care issues in order to avoid other costly lawsuits? Programs that have been found to be successful on a national T4C, for example, should be included in the report. Thank you very much.

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

Over the years, and even with this Commission, we've discussed eyewitness misidentification, Brady violations, the AEDPA, wrongdoings by prosecutors and officers, and then there are no wrongdoings at all, in which innocent people get wrongfully convicted. No fault of the prosecutor, no fault of the defense, it was just a misidentification. But what we haven't discussed is when a counsel will do anything to protect their career. I have presented some exhibits here that are posted, and I'll just briefly read and then explain what they are. This is a portion of a letter that was provided by Ms. Hearne ([Agenda Item III B-1](#)). She states, "In the case of Nolan Klein, the subject of our book, *To Prove His Innocence*, poverty, lack of bail, inadequate and dishonest legal representation and a prosecution team that withheld exculpatory evidence was at the heart of his wrongful conviction. The police took his property without cause, making him unable to make bail. The public defender assigned to his

case did little to assist him at trial, misunderstood the case and then proceeded to lie under oath in the post-trial process. The judge was prejudiced and impaired the jury's ability to reach a just and fair decision. The appellate process was a joke." Now, I presented some of the documents here, not everything, but just enough to kind of reinforce what she is saying ([Agenda Item III B-2](#)). On pages two to five of the attachment, that was Nolan's letter. Only he can speak. He predicted everything that happened through his life during his incarceration, what the outcome would be, including his own death. Pages 6 through 25 are snippets, pages from the book detailing basically what Ms. Hearne has just put into her letter. Pages 26 through 27 is the state's and the defense's evidence. Pages 28 through 29 is the Zarsky report. That was the prime suspect that was hidden from the defense, and there was another crime and other crimes as well that the main detective believed had committed the crime, all hidden from the defense. Page 30 was a hidden police report on the suspect. He had just left town and they were trying to reach the main detective. Page 31 is a book. It refers to Zarsky and Fallon, his flight issue. I should mention that Zarsky, over the years, had changed the spelling of his name, but he always kept his Social Security number. Pages 32 through 35 is Rachow's handwritten notes showing he was not turning over the evidence. He writes no showing of materiality. Everything he wrote on that said "okay" he turned over. Pages 36 through 39 was Rachow's opposition to motion for discovery. Pages 40 through 41 was Judge Breen's order to turn over all the evidence. Page 42 was a letter from Nolan's public defender on the appeal detailing what was in the file, and page 43 is the April 21 crime hidden from the defense, and it shows pictures and information even in the book. Pages 44 through 46 is Nolan's car bucket seats, a brown knife, brass ends, Jack's Bar and some other additional information, and page 47 is the newspaper clipping.

Chair Yeager:

Ms. Brown, we've reached our 3 minutes, so if you could wrap up, please.

Ms. Brown:

I'm almost done. The newspaper clipping of the suspect of the April 21 crime that was hidden from the defense. Page 48 is the April 21 suspect hidden from the defense. Page 49 is a picture of Zarsky's 2011 mugshot. Page 50 is a picture of Nolan Klein taken in prison in 2000. Page 51 is 3 separate composite sketches dealing with 3 different crimes. There is a fourth crime, but the composite is not there, all tied into what the detective believed, which was Mr. Zarsky. Pages 52 and 53 are the booking pictures and the photo lineup. This is where the beard evidence was not presented because his attorney got the pictures reversed. I guess that would be it for right now. Thank you.

Chair Yeager:

Thank you for your public comment. I did want to note for the record, in case she is watching, that we had some documents submitted by Mercedes Maharis ([Agenda Item](#)

[III C-1](#)) ([Agenda Item III C-2](#)), so Ms. Maharis, we do have those as part of the record as your written public comment, and I will refer Committee members to review those when you have a chance. At this time, I will close agenda item III, public comment.

I will open agenda item IV, which is approval of the joint meeting minutes from our August 2, 2018 meeting ([Agenda Item IV](#)). I am under the belief, and Justice Hardesty confirmed this, that the Sentencing Commission has already approved those minutes, but now it is time for the Advisory Commission to approve the minutes. I had a chance to review them. As always, our staff is fantastic. I did not have any corrections. If someone has corrections, let me know. Otherwise, I would take a motion to approve the August 2 minutes.

MS. JONES BRADY MOVED TO APPROVE THE MINUTES OF THE AUGUST 2, 2018 JOINT MEETING OF THE ADVISORY COMMISSION ON THE ADMINISTRATION OF JUSTICE AND THE NEVADA SENTENCING COMMISSION.

JUDGE BATEMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Yeager:

I will close agenda item IV. At this time, I will open up agenda item V. I will have some introductory comments, and then I will hand it over to Vice Chair Hardesty for some comments, and then we will go into the presentation. As you can see, Committee members, from the agenda, we're going to hear a presentation from the Crime and Justice Institute concerning offenders in Nevada's criminal justice system. I just want to say that we're really happy that we are finally here to hear this presentation. Today we get our first opportunity to take a deep dive into Nevada's prison data and explore the trends looking back over the past 10 years. This is the first of three data and system presentations, so keep in mind that we will be learning a great deal beyond what we're going to hear presented today. This is the first step of the process. Also keep in mind that this presentation is not aimed at recommending any changes to our system. It is intended to give our Commission something that we've asked for, for many years, and that is a data-driven foundation to help guide us during the policy development process, which will happen in the November/December/January timeframe, as we will talk about a little bit later in today's meeting. That's it for me, and I'm going to hand it up to you, Justice Hardesty, to make some additional introductory remarks, and then we will hand it over to the presenters.

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

Mr. Jackson and I have been calling for data for 10 years, as have many others on this Commission, but before we jump into the data, I wanted to review the charge that state leaders, including our Governor, the leadership of the Legislature and Chief Justice Mike Douglas, tasked the ACAJ, with the Crime and Justice Institute, to conduct a comprehensive analysis of Nevada's criminal justice system, using this information to develop policies that increase public safety, hold offenders accountable and shift resources toward more cost-effective public strategies. As you will recall, those three objectives were outlined in the Governor's letter inviting the Justice Reinvestment Initiative (JRI) to select Nevada. With those comments in mind, I want to introduce Alison Silveira with the Crime and Justice Institute. She is going to share information with you about the drivers of our prison population, with a specific focus today on who is being admitted to prison. She will also be sharing data on the standing population within our state prisons and the use of felony specialty courts across the state. We are starting with an examination of the prison drivers to give us a good information base. We will gain a solid grounding on the part of the system where significant resources are currently being directed, and this will allow us to ask more pointed questions about other areas of the criminal justice system. We have almost 100 slides to get through today, and I know you all have a number of questions, but in order to fully understand and appreciate the presentation, I'm going to request that you make notes on your PowerPoint and we'll pose the questions to Ms. Silveira and her team at the end of the slide presentation.

There is another important point I want to stress after having been through this material with Ms. Silveira and her team. This captures data from our criminal justice entities, so what they have done is they have obtained data from the Nevada Department of Corrections (NDOC), the Division of Parole and Probation. So, what you see is our state's agencies' data captured in a particular way. It raises some questions. It will require some circling back, and I think that's anticipated as a result of what we've seen. To Mr. Corrado's point, some of the questions raised in his public comment are issues that are still being examined. This is not a final product by any means. This is an initial review following months of research by the staff of the Crime and Justice Institute. There is sometimes a desire to shoot the messenger, but before we shoot the messengers, give them an opportunity to tell you what they have captured from our sources, then if we need further information or further explanation, make notes of that so we can circle back into the data. They have also identified data deficiencies, which is something that will be discussed much later in the coming months. But for now, I think it is helpful to see some of these issues that are here.

I want to anticipate a couple of points. There are some terms that are used in the PowerPoints that we have an ongoing dialogue about on the Advisory Commission. What, for example, is a technical violation? These presentations are capturing the use of terminology from our agencies, not them. They didn't supply the definitions. They aren't defining this. They are simply reporting to us on what our agencies' data tells

them. That's important to keep in mind, because one of the significant tasks, among others, will be for us as a Commission, I think, to determine the genesis for the term, for example, technical violation, and whether it should be redefined or how it is defined and what is its source and so forth, and whether it should be changed at all.

With that overall introduction, I would like to ask Ms. Silveira and her team to give us an overview or provide the PowerPoint on what their staff has gleaned from our agencies' documents and data. If you'd make notes on the PowerPoint, we will circle back and take people's questions at the end. One other thing I'm going to request of the Commissioners, and I do this with the consent of the Chair: this is a data search. We are trying to determine accurate data from which we can draw appropriate conclusions. Every one of us in life comes to these kinds of commissions and these efforts with some bias. I ask that we set aside our bias. Let's just look at the data. If there are questions about the data, we can always circle back and get more information, because as they do more, as they have done already, they have built pretty good access and understanding to our data. The other thing that they have cautioned me, though, is that they have only recently gotten their memorandum of understanding (MOU) signed with the Eighth Judicial District Court, so some of the courts are still just now supplying data. That is also true with a couple of the sheriffs' offices, so they are still gathering data, but this is a first cut of what they have seen thus far from the agencies who have responded to them and been working with them.

Alison Silveira (Data and Policy Specialist, Community Resources for Justice):

Thank you, Chair Yeager and Justice Hardesty, for that introduction. I am leading the data analysis effort for the ACAJ this fall, and I am joined by my colleagues Maura McNamara and Colby Dawley. We're excited to be here today to share some data findings regarding several elements on the front end of Nevada's justice system. As Justice Hardesty mentioned, this is the first of three data presentations this fall. We hope you'll see us and our colleagues in the audience as well as a resource today and throughout the process. Please feel free to ask me any data-related questions at the end of this presentation, and if you ever walk away from an ACAJ meeting and think to yourself, "I wonder if we can look into this," please give us a call or send us an email. Our contact information will be at the end of the presentation.

Let me start with a brief overview ([Agenda Item V](#)). This presentation focuses on data from two primary sources, the Nevada Department of Corrections and the Administrative Office of the Courts (AOC). We will start with NDOC data. I will introduce today's topic and data sources, then we will turn to reviewing findings on prison admissions and the standing prison population. From there, we will take a closer look at the female population in particular as they are entering and currently held in prison. After we have concluded that discussion, we will change course and turn our attention to the state specialty courts. Ms. McNamara will review some background information on those programs and then I will present related data findings.

First, we will be talking about Nevada's prison population and how it has changed over time. The Iron Law of Prison Population Growth states that there are two elements that affect the size of the prison population. The first is admissions. When you admit more people to prison, the population grows, and when you admit fewer, it decreases. The second is time served. When offenders serve for longer periods of incarceration, the population will swell, and when offenders serve for shorter periods, the population dips. Combined, these two elements determine the size of the overall prison population. I will begin our work today by presenting on prison admissions. That is the first part of this equation. In October, we will come back and present on the second, which is time served. The prison data I will be presenting were provided by the Nevada Department of Corrections. The NDOC provided detailed, individual-level data for every person admitted to prison over the last 10 years, as well as every person held in NDOC custody on a single-day snapshot for each of the last 9. A few things to note about the analysis: first, when discussing the offenses leading to incarceration, I will be referring to the most serious offense on an individual's admission using the NDOC severity hierarchy, which is based first on felony category and then on sentence length. Second, all data presented is for the calendar year, not the fiscal year. Third, please note that the numbers presented here may not exactly align with NDOC reports based on different methodologies. In addition to NDOC data, I will also present a couple of summary-level data points received from the Division of Parole and Probation and from the Board of Parole Commissioners. Summary-level data means that we have received a monthly or yearly tally for some category of information, but we don't have the underlying individual-level case data to dig into it further at this point. I will indicate when we're switching between those data sets.

I have two definitional slides before we begin. In a number of places today, I will be referring to various trends described by the type of admission to prison. The four categories are listed here on the slide. Individuals sentenced directly to prison are described as new prisoners, while those who are entering prison due to a failure on probation or parole are described as violators. For probationers, these individuals have violated the terms of their probation and have had their suspended sentence revoked by a judge. For parolees, these individuals may have already appeared before the Parole Board for revocation, or they may still be awaiting a hearing. The other category captures less common forms of admission, including interstate compact transfers, escapee returns and so forth.

These next two slides should look familiar, as we presented them at last month's ACAJ meeting. As we discussed, national data show Nevada's total prison population has grown more than 900 percent over the last 4 decades. When comparing Nevada's rate of imprisonment over this period to transnationally, we see that the average incarceration rates for state institutions across the country have begun to decline, while Nevada's imprisonment rate per 100,000 residents ticked back up in 2013 and is growing once again. Today's presentation will only tackle the last 10 years of this period, but we thought it was important to put the trends we're about to review in this larger context of growth.

Now we will begin with prison admissions. The primary question we will tackle in today's presentation is who is entering prison. We will look at admissions over time, a few geographic patterns, then review the trends by admission type, offense type and felony category. When looking at overall admissions since 2008, we see that admissions have grown 6 percent to just over 6,000 offenders admitted last year in 2017. Yet this is not a story of continued growth. For the first half of this period, annual prison admissions actually slightly declined, and then since 2013, admissions are up 14 percent. When you break this out by gender, male admissions follow a similar pattern, yet female admissions, which are displayed on the slide, have grown 39 percent in the last 10 years ([Agenda Item V](#)). We will be discussing these trends in the female population in a separate section later in the presentation. Another notable finding that may not surprise some of you involved in the justice system is that a growing number of people entering the prison system present mental health needs. Last year, more than 1,700 offenders admitted to prison were identified by NDOC as having a mental illness or impairment requiring treatment or medication protocol. This represents a 35 percent increase since 2008.

We will turn now to geographic trends, where we see an interesting divergence in prison admissions between the state's two urban centers. Given Clark County's role as the population center for the state, we would expect it to play a relatively large part in the prison admission story, which we see here. But while both urban counties have experienced population growth, Clark County's admissions to prison have grown over this period, while Washoe's have declined. Rural counties, represented here in yellow, have also increased their admissions to prison. If we look at this growth by different types of admissions, we find that growth over this period is concentrated in the parole and probation violator categories. The new prisoner category may also seem relatively stable over this time. There are some notable differences over time across the state, as we will see in the next few slides.

Admissions are tracked by the NDOC by county of conviction, which makes a regional analysis most relevant for this new prisoner category. When looking at admissions by county for this group, we see that rates vary greatly across the state. For instance, though Clark County sends far more offenders to prison than any other county in Nevada, it has a lower relative imprisonment rate per 10,000 residents due to its high population. When we look at relative growth in admissions of new prisoners over the last 10 years, we see that northern counties in particular have reduced the number of people they're sending directly to prison, while the rest of the state has increased those admissions. It is also worth noting that you will see some large numbers here for tiny counties. For example, Lander County grew from sending 1 new prisoner in 2008 to 7 new prisoners in 2017, leading to a 600 percent growth rate.

Now we will begin to focus on the most recent year of prison admissions. When looking at the individuals who went to prison last year, we see that 39 percent were admitted from community supervision terms on either probation or parole. If we focus just on those individuals entering prison from community supervision, we see that only 7

percent have a new felony conviction associated with their admission. Now, I want to point out that this graph shows 2016 data as opposed to 2017, which was used in the previous slide and will be used subsequently. Here, I am presenting figures from 2016 out of an abundance of caution, as individuals admitted last year from community supervision may still have unresolved court cases proceeding through. At the moment, the comparable figure for 2017 is just 4 percent.

Another critical way to understand prison admissions is through the offense or conduct leading to admission. The next few slides focus on the most serious offense at admission to prison. This slide breaks down prison admissions by person and non-person offenses. Person offenses include those that the NDOC classifies as a violent or a sex offense. Non-person offenses include those that the NDOC classifies as a drug, property or other type of offense. In this slide, we see that two-thirds of individuals entering prison last year were admitted for these non-person crimes. That means the most serious offense at conviction was a drug crime, a property crime or another offense not classified as a violent or a sex offense by NDOC. If we examine this non-person offense category more closely, we see that more than half of these admissions were for property crimes, and another 28 percent were for drug crimes. The other category includes things like bribery and driving under the influence (DUI). To better understand the non-person property crimes on admission, we've sorted them into these five categories. Here, we see burglary plays a dominant role in the property crime admissions for 2017, and this is a story we will see repeatedly over the course of today's presentation. We have likewise sorted drug crimes into four high-level categories. Here, we see that 32 percent of drug admissions last year were for possession charges. This is worth noting because the first and second possession is deemed a category E felony with a presumptive probation term. Many of these individuals likely began a period of supervision in the community before failing and being sent to prison when their suspended sentence was revoked.

Another point of interest is that of criminal history. This slide shows a break-out of last year's prison admissions. We see that 41 percent of offenders entering prison in 2017 had no prior felony convictions in the State of Nevada. When we look at this trend more closely, we see that first-time felony offenders make up a particularly large share of those admitted last year for these person crimes, which we would expect based on criminological research. What is more surprising on this slide, however, is that the first-time felony offenders make up 37 percent of property admissions and 41 percent of drug admissions. This slide shows the top 10 offenses on admission to prison in 2017. Here, you'll see that burglary and attempted burglary represent more than 760 admissions to prison last year, and that simple drug possession is the fourth most common offense on admission. Also of note is that 8 of these top 10 offenses on admission are considered non-person crimes. The two person crimes appearing on this list are robbery and assault with a deadly weapon.

Now we will turn to prison admissions by felony category, and I realized that I missed the felony category slide earlier in the presentation, so we can review that at the end if

folks have questions. Here, we see that felony B crimes account for 48 percent of all prison admissions in 2017, almost as much as category C, D and E combined. Felony C crimes are the next most common category, representing around a quarter of all prison admissions. Once we separate this analysis into person and non-person offenses, we see that non-person offenses make up the majority of all admissions in all felony categories with the exception of category A, which we would expect. This is even true in the felony B category, which we can see more clearly in this pie chart. Last year, 55 percent of admissions to prison for category B offenses involved these non-person crimes. Taking a look at the top 10 offenses on admission for the felony B category, we see burglary is yet again at the top. You will also notice that 6 of the 10 felony B crimes on admission are non-person offenses, and it is important to note that these descriptions here are the verbatim descriptions as provided by the NDOC data set. Now, you may notice an asterisk following the first trafficking offense listed here. While this offense is defined by statute as a felony A crime, in NDOC data these instances were listed as felony B's. On a closer review of those cases, they appear to involve sentencing terms in the felony B range. For this reason, we believe they represent convictions for felony B crimes.

Now we will turn to growth in the prison admissions over the last 10 years by felony category. Here, we see 3 percent growth in that already large category B felony admissions, which we just looked at. The largest growth, however, is visible in the felony C category, which increased 38 percent between 2008 and 2017. Admissions for all other categories declined slightly. Taking a closer look in the felony C category, we note that person and property crimes are both playing a role in pushing these numbers up. At the specific offense level, we see attempted burglary is once again listed as a top felony C offense at admission. Also notable on this slide is the significant growth in the weapons-related charges on admission, including carrying of a concealed weapon and possession of a firearm by an ex-felon. This is the only slide in today's presentation containing summary data from the Division of Parole and Probation, so this is one of those other data sets that I was referring to earlier. You'll recall from the beginning of the presentation that the second largest group on admission to prison last year was probation violators, and those admissions have grown 15 percent in 10 years. This slide shows Parole and Probation data from violation hearings in 2017, describing the type of conduct for which probationers ultimately had their suspended sentence revoked and were sent back to prison. We see here that 43 percent of probation revocations were for technical violations, and another 27 percent were revoked for absconding. Similar to the prior slide, this is the only one in today's presentation containing summary data from the Board of Parole Commissioners. The Parole Board tracks parole revocations with an additional level of detail. Rather than tracking allegations of criminal conduct, the Parole Board tracks convictions for new criminal offenses. Here, we see that 33 percent of individuals revoked from parole back to prison last year were revoked for technical violations. Another 14 percent of parole revocations were for new felony convictions, and another 21 percent were sent back for new misdemeanor convictions.

Unfortunately, the NDOC does not track in detail the conduct resulting in a revocation for parole or probation violators' admission to prison, so we are back to NDOC data now. We can, however, observe the underlying conviction that resulted in community supervision. Here, we see that for both the probation and parole violator admissions categories, underlying non-person crimes far outweigh the number of person crimes. On the far right here where there is an arrow, we see that over the last 10 years, the number of parolees sent back to prison with an underlying non-person offense has jumped 49 percent.

What are some of the key takeaways on admissions so far today? First, admissions to prison are growing. Second, two-thirds of admissions are for non-person crimes, with offenses in the felony B category, especially burglary, playing an outsized role. Lastly, this growth is driven by community supervision failures, the majority of which are not associated with new crimes.

Next, we're going to turn to the standing population. What this means is that, on any given day of the year, how many people are currently in prison. One thing to note about this data set is that we are only able to show trends over time for a 9-year period, and so the slides in this section are going to begin in 2009 instead of 2008. Last meeting, we showed a number of slides with national data for comparison. Here is one more ([Agenda Item V](#)). The most recent reports from the Federal Bureau of Justice Statistics found that the number of people held in state prisons across the country had declined by 7 percent between 2009 and 2016. For comparison, in reviewing NDOC data, we found the number of people in Nevada's prison system had grown by 7 percent since 2009 to over 13,000 last year. Over the next few slides, we will review the demographics for this population. So, 91 percent of the prison population is male. The largest age group in prison is 35 to 54 years old. One other thing to note here is that we have seen an increase in the number of people in the 55-or-over age category, and that can be seen here, where the 55-and-over cohort in Nevada's standing prison population has grown 70 percent since 2009. This is a group in particular that corrections agencies often track very closely due to the significant resources often related to their imprisonment. When we compare the racial and ethnic make-up of the state's prison population to the overall population of Nevada, we see that black offenders are overrepresented in state prisons. While 31 percent of state prisoners last year were black, only 8 percent of the state population was, according to recent US Census data.

Now we will turn to a few admissions-related factors. The majority of current prisoners were sentenced directly to prison, as we would expect, given that offenders facing high-level convictions are less likely to be referred to probation or released on parole. The other category here is comprised by and large of folks with unknown admission types, representing individuals who entered prison long before NDOC began rigorously tracking these categories. Early on, I showed a pie chart from 2016 that indicated only 7 percent of admissions to prison from community supervision failures were associated with new felony convictions. Here, we see that same population in the prison custody snapshots, which has grown by nearly 1,000 prisoners over the last 9 years. In terms of

the type of offense leading to prison, we also see that 43 percent of the current prison population was sentenced for non-person crimes, like property and drug offenses. That number is slightly below the national average of 47 percent. Lastly, we have here the top 10 offenses for the current prison population. As one would expect, there are some very serious crimes on this list. This is a result of the stacking effect. Even if a crime in and of itself is not that common, when it carries a significant prison sentence, especially one with a mandatory minimum, those individuals will stack up in the prison system, so as less serious offenders are released, more serious offenders continue to be held, and they make up a growing share of the overall standing prison population. What is interesting here, yet again, is that burglary appears so high on this list.

Now, a few key takeaways on the standing prison population. As state prison populations across the nation dropped, Nevada's prison population grew 7 percent over the last 9 years. This population has a growing share of older offenders, as we saw, and that 43 percent of individuals in prison last year were serving sentences for non-person offenses. Lastly, approximately 2,500 community supervision violators are sitting in custody for conduct that was not a new felony conviction.

I will turn now to the female population. Last month, you will recall we looked at this graph ([Agenda Item V](#)). Here, we see that while Nevada's female imprisonment rate has fluctuated over the last 40 years, it has remained consistently higher than the state average across the country. As with the overall population, we will be focusing just on these last 10 years of this period. In the next few slides, we will first walk through prison admissions, as we did with the overall population, and then we will turn to two slides on snapshots of the current female prison population. As we saw earlier today, while overall prison admissions increased 6 percent, female admissions are up 39 percent to nearly 1,000 offenders admitted last year. One thing to note here is that the state has just one prison facility for women, and it was originally built for a capacity of 778, and that has been expanded. Female prison admissions present an even more stark mental health need than the admissions cohort overall. Over half of the women admitted to prison last year were identified by NDOC psychologists as having a mental illness or an impairment requiring treatment or a medication protocol. Also of note is that recent internal NDOC analysis found that 27 percent of women currently held at this prison, Florence McClure Women's Correctional Center, are currently receiving psychotropic medication.

In looking at the ways women are entering prison, we see growth over the last 10 years across all admission types, including those community supervision admissions categories that we saw earlier today. The same is true when you break out female admissions growth by felony category. With the overall admissions category, we saw only growth in the category C and B felonies. However, here, that growth is across all categories. Nevertheless, category B felonies make up the largest share of female prison admissions, and category C felonies represent the largest growth trend, where prison admissions almost doubled. Looking at the most serious offense on their admission to prison, nearly 80 percent of women were admitted for non-person crimes

last year. Breaking that out in further detail, we see that property and drug crimes make up 70 percent of those admissions. Compared to 41 percent of overall prison admissions, 55 percent of women admitted to prison last year had no prior felony conviction in the State of Nevada. When we look at the top 10 offenses at admission for women last year, we see all 10 are considered these non-person offenses, and the vast majority are property and drug crimes. At the top of this list, you will once again note burglary, attempted burglary and simple possession. Now, returning briefly to the standing prison population, as female prison admissions increased, we've also seen the female prison population and annual snapshots grow 29 percent to over 1,200 women in 2017. Of those 1,200 women in prison at the end of last year, 61 percent had been sentenced for these non-person crimes.

We have here a few more key takeaways about the female population in particular. Female prison admissions grew 39 percent over the last 10 years, and we saw that growth across all admissions types and all felony categories. The vast majority of prison admissions were for non-person crimes, and they were led by burglary and simple drug possession. Lastly, the data showed us that over half of the women admitted last year had no felony record and more than half presented mental health needs.

Now we have come to the end of the slides that concern the prison population and admissions to prison. Next meeting, we will be back to present an analysis of sentence length, time served and release practices to shed some more light on the trends we've seen here. Now I will turn it over to my colleague, Maura McNamara, who will introduce our second topic of the day.

Maura McNamara (Policy Specialist, Community Resources for Justice):

Up until this point, we've been talking about who is in Nevada's prisons. You saw that there were high rates of individuals who presented with behavioral health needs, particularly the female population within NDOC custody. We are now going to talk about specialty courts, which serve as an opportunity for individuals within the criminal justice system who have behavioral health needs to get treatment and services that they need. I'm first going to give you a contextual background of the specialty court programs within the state. I am then going to turn the presentation back to Ms. Silveira, who is going to give you a breakdown of the specialty court data. She is going to explain what data we relied on, what sample we used and then discuss trends in admissions and releases from the specialty court sample.

Specialty courts are an alternative to incarceration intended to address an individual's alcohol, drug or mental health needs. Nevada law specifically defines a specialty court as a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffers from a mental illness or abuse of alcohol or drugs. Nevada has 74 specialty courts operating within the state. This number includes courts of limited jurisdiction that are specifically for misdemeanor offenses, as well as courts addressing a unique

population, such as veterans courts, youthful offender courts, medication-assisted treatment courts, reentry courts, family drug courts and so on. There is a great deal of regional variation in where these courts are located and what types of services they provide to participants. However, the three most common specialty courts for felony offenses include adult drug court, mental health court and felony DUI court. These are the three we will be focusing on during the presentation because they exist most prominently across the state.

The most common specialty court program is the adult drug court. This program typically lasts 18 months and uses a multidisciplinary team approach with judges, treatment providers, case managers, court staff and Parole and Probation supervisors. Participants generally have a substance use disorder, though it is not required for every drug court program. The way that a substance use disorder is identified differs by county, with self-reporting and treatment provider evaluations being the most common methods. What is notably missing is the use of a risk and needs assessment tool to identify the high-risk offenders who research has shown benefit the most from such an intensive program. We talked about using effective tools to reduce recidivism in our first presentation in August and about how the Risk, Needs and Responsivity Model informs these practices. Research has found that intensive interventions such as specialty court programs should be directed exclusively to those who are assessed as a high risk to reoffend. In fact, for low-risk offenders, intensive interventions can actually increase the risk of recidivism. Currently, risk and needs assessments are only being utilized in two judicial districts within the state, and they have only been recently implemented. The wide variation in eligibility criteria and the identification process we see among adult drug courts effectively renders different judicial treatment by geography.

As drug courts focus on participants with substance use disorders, mental health courts target individuals within the justice system who have a serious mental illness. A person's mental illness is identified differently throughout the state. Some jurisdictions use assessments, others use treatment provider evaluations and others require documentation of a mental illness. The program uses a team approach similar to that of drug court and typically lasts anywhere between 1 and 3 years. This court provides services such as medication compliance, residential placement, counseling and testing for alcohol or drug abuse. However, the lack of any required clinical assessment or standardization of identifying mental illness leads to significant jurisdictional variation in the treatment of the mentally ill within the justice system.

Unlike both mental health court and adult drug court, felony DUI court is standardized, with its process and eligibility criteria outlined in state statute. In order to be eligible for felony DUI court, an individual must be facing a third DUI conviction within 7 years and be determined by the court to have a drug or alcohol problem that is likely to be rehabilitated. This is the only specialty court program that, by statute, requires an evaluation by a clinician to determine eligibility. Another unique facet of felony DUI court is that, by statute, it requires a charge and subsequent sentence reduction by virtue of completing the program. This is really important to think about as we look at the data in

the following slides, as we will see that DUI specialty court programs have the highest success rates.

As I mentioned in the previous slides, each county runs their specialty court program a little bit differently, which likewise means there are a variety of ways a person can enter a specialty court program. This slide lists those possible ways ([Agenda Item V](#)). Though some jurisdictions do permit pre-adjudication entry, the majority require a plea to participate. Through our interviews, we have learned that the most common paths for participants are the result of a plea agreement or a condition of probation. It is also important to note here that the only type of entry into specialty court that would allow a person to avoid a criminal conviction upon successful completion is a deferred sentence into treatment. Otherwise, all other paths result in a criminal conviction. This is noteworthy because participation in specialty court programs are the primary alternative to incarceration used by the justice system for individuals facing a serious mental illness or substance use disorder. It is also significant to mention that many of these paths' impacts require prosecutorial approval. Looking at all these possible points of entry, we see again how geographical variation can lead to inconsistent treatment within the system.

Lastly, as there are many different ways to enter a specialty court program, there are a variety of different outcomes. The left-hand side of this chart outlines what happens if someone successfully completes a specialty court program for their respective path of entrance. The right-hand side denotes what results when a person is unsuccessful. From our interviews, we have heard that the most common outcome for those other than in the felony DUI court is completion of the program and a continued period of probation. Again, it is important to highlight here that we see only one way a person can walk away from completing a program without a criminal conviction.

Now that we have a little background on the specialty court programs, I will turn the presentation back to Ms. Silveira, who will go over the data about specialty court participants. While you're looking at the data, remember the lack of standardization for eligibility criteria, the vast regional variation and the limited availability of no criminal conviction.

Ms. Silveira:

Thank you for that context, Ms. McNamara. The Administrative Office of the Courts provided detailed individual-level case data for all participants entering specialty court programs across Nevada in recent years. We will be presenting on just the last year of data, however, as it was the most complete. As discussed previously, the analysis presented here may not match other AOC reporting due to distinct methodologies and samples, and lastly, as a reminder, and this is one of them, though the AOC typically reports their data in fiscal year, all the slides in this section will pertain to the 2017 calendar year.

I would like to walk you through the sample we used. As we've just heard, there are a number of distant specialty court programs operating across the state, and they vary greatly in their scope, target population, eligibility requirements and procedures. For the purpose of this presentation, we have limited our analysis to 25 specialty court programs operating across the state. This sample contains adults with criminal cases that involve felony charges or convictions, who are participating in a specialty drug court, a mental health court or felony DUI court that is offered at the district court level. I'm not going to walk through each of these court programs one by one, but for your reference, here on this slide are the 14 drug court programs included in our sample, and on the slide following are the 4 mental health court programs and 7 DUI court programs included in the sample.

We will start with admissions. Last year, 1,118 individuals with felony cases were admitted to one of the 25 specialty court programs in this sample. As you can see, the vast majority of participants entered the drug court programs. Of those 1,100-plus participants admitted, 70 percent were unemployed at the time of admission. This is important to note because a number of these programs impose fairly significant monthly fees for participation. Moreover, nearly 70 percent of new participants last year had a criminal record upon admission. Unlike the data presented previously from the NDOC, the AOC's data system tracks any prior conviction, not just felonies. Here, misdemeanor convictions represent around 40 percent of participants admitted last year, and felony convictions represent another 28 percent, and 31 percent entered with no prior conviction in the state. As one might expect, given the nature of the specialty court programs in our sample, 81 percent of participants reported a prior history of substance abuse at the time of screening. Notably, however, only one-third of participants had previously accessed treatment for substance abuse. For a bit more context, we also looked into the habits of offenders admitted to the drug court programs in the sample. Here, we see that at the time of screening for admission to specialty court, more than half reported methamphetamine as their primary drug of choice, followed much later by heroin. It is important to note that these individuals were not necessarily charged with drug crimes to enter the drug court. Many may have come in the door for property offenses or other crimes. This is simply their self-reported primary drug of choice upon enrollment.

Next, we examined the status of participants' court cases upon admission to the specialty court program. As Ms. McNamara described, each court in each region vary in the practices with which specialty courts are used. Here, we see that the vast majority of participants in Clark County were admitted as a condition of their probation sentence—that's denoted by the sentence category—while the majority of cases in western-regional were admitted on deferred sentences. Washoe County appears fairly split. When we break this out by court type across all regions, we see similar variation. Sentence deferrals are less common in the drug court and mental health court settings than participation as a condition of one's probation sentence, while in the DUI court setting, as we would expect, the majority of individuals enter on a deferred sentence. While over 1,100 were admitted last year in 2017, more than 1,250 individuals were

released from specialty court programs. More than half of them left after successfully completing the requirements of their program. Just under one-third were unsuccessful, and another 9 percent voluntarily withdrew. That option I've included here as separate, though while it is considered a failure, it allows participants who leave the specialty court to more easily reenroll once they believe they are able to comply with the program once again. Across the courts in our sample, release data show that the participants in the DUI court were the most successful, with 77 percent of individuals released last year having successfully graduated from the 3-year program. You will note that the mental health courts and drug courts each graduated 42 and 47 percent of their respective release cohorts within our sample, and while there hasn't been a lot of research on the success rates of mental health courts, a study by the National Drug Court Institute found that the proportion of clients who successfully complete drug courts around the country typically ranged from 50 to 75 percent. When we compare success rates by the sentencing status at the time of admission to specialty courts, we do see a distinct trend for individuals participating on a sentence deferral, who experienced a success rate 15 percentage points higher than their counterparts. Though I'm not showing these on separate slides for this one, I can tell you that this divergence is also apparent across all three court types analyzed, as well as all three regions. Furthermore, when you compare individuals admitted with no prior criminal history to those who have at least one prior conviction on their record, we see that success rates across these two groups are relatively stable.

This final slide demonstrates some of the potential outcomes experienced by specialty court program participants. We see here that for successful graduates of the specialty court program last year, 27 percent received case dismissals, 33 percent received charge reductions and 59 percent received sentence reductions. When looking at variation across court types, we noted that drug court graduates are more likely to receive sentence reductions, while mental health court graduates are more likely to access case dismissals. As we would expect based on statute, DUI court graduates nearly all received charge and sentence reductions on release.

Here we have a few final takeaways regarding the specialty court data sample. Within the sample that we analyzed, we saw that specialty court participants were by and large unemployed and had a prior criminal conviction in the form of either a misdemeanor or a felony. We also found that 81 percent of participants at the time of screening reported a history of substance abuse, yet just one-third had accessed treatment prior to entry. Lastly, we found that certain case-specific factors, including sentencing status, may affect participants' success in the program, with folks on sentence deferrals experiencing much higher rates of success than those without.

Now we have concluded the slides in the data presentation, and I will open it up to the floor to any questions you may have about the information presented here today, unless the Chairman had anything he wanted to say first.

Chair Yeager:

No, I just wanted to thank you for that presentation. That was a pretty impressive way to get through 100 slides fairly quickly, I think in less than an hour, so kudos to you and your staff for making what were simplistic slides but that carried a lot of information. Obviously, I know there are going to be a lot of questions, and there are a lot of conclusions or maybe surprising things in the slides. A couple that I just wanted to note: I think all of us should be somewhat concerned about the aging prison population, in terms of what that potentially could do to our prison budget in terms of health care, and I was surprised to see the increasing female population, and that's obviously a concern because we are already above capacity at our only facility here in Southern Nevada, Florence McClure. Before I open it up for questions, I had one statement and then a question I wanted to ask, and I'm sure that others here and in Carson City noted this as well. Obviously, there is a huge driver here, and that's burglary and attempt burglary. As many of the Committee members know, not all burglaries are created equal. I think Nevada perhaps has the most expansive definition of burglary, maybe in the country. I say maybe because I'm not 100 percent sure about that, but burglary is a very expansive crime here in the State of Nevada. My question is, I don't think you have this information today, but going forward in this process, is there a way to get a further breakdown on the burglaries and attempt burglaries? For instance, a residential burglary where someone breaks into someone's house is a very different variety of crime than someone who enters a casino to cash a bad check or enters a commercial establishment with the intent to steal something. So, do you anticipate going forward that we might have some additional data so we can further analyze what kind of burglaries we're talking about?

Ms. Silveira:

Yes. Thank you for that question. There is one other thing I want to note, and then I can speak to that specifically. We have burglary here described, as you may have noticed, as a property crime, as it is classified by the NDOC. We understand NDOC has a number of different classifications, so in the event that a burglary involved the use of a deadly weapon or some other type of harm, it is not classified here as a property offense, it is classified separately as a person offense. The other piece I wanted to note is that home invasion is listed as a separate offense as well, if it is charged as such. With respect to the underlying conduct for these—what we'll call—regular burglary offenses, we are planning, and I think we mentioned this in our earlier presentation, to do a more detailed-level file review. So, as the Advisory Commission decides what pieces of information that we're unable to identify in the data sets provided they would like to know more about, we are in the process of working with the Division of Parole and Probation so that we can access a sample of pre-sentence investigation (PSI) reports, and then we will read case-level data, for instance, concerning burglary or attempted burglary cases, to better understand the types of circumstances underlying those offenses. There will be a number of things today I'm sure you all have questions about, and I will try to note whenever possible if we think that's a type of question we

don't have answers to now but we might be able to answer in this file review, and I will ask for you all to kind of keep that in the back of your minds as well. What are the sorts of things that you would like us to look into further?

Chair Yeager:

Okay, great, thank you. I saw almost everybody furiously taking notes during the presentation, and it looks like everyone has questions.

Chuck Callaway (Police Director, Las Vegas Metro):

Thank you for the information. It is a lot of information to cover in a short time, and I appreciate the work you've done on it. I wanted to basically make some comments about one of the very first slides that talks about the prison growth in Nevada, and the reason I make this comment is—to paraphrase Justice Hardesty, the intent of my comments are not to kill the messenger, but to make sure that the messenger delivers the proper message so that we all get a realistic look at the data and we see the totality of the circumstances ([Agenda Item V](#)). One of the frustrating things for me sitting on the Advisory Commission for a number of terms, and going back to studies that were done by the Pew Institute and Dr. Austin, where many of the same data was presented, is that we often don't get a totality of the circumstances. An analogy that I would make is that I have an apple tree in my yard, my neighbor has an apple tree in his yard, and when my neighbor goes out, he picks the apples and throws them over the wall in my yard, and I look out back and see apples on the ground and I assume that those apples fell from my tree, but until I look closer and I really take a look at it and find out the totality of the circumstances, that my neighbor actually threw those apples over, I'm getting maybe a false snapshot of the total picture. Just to illustrate a point, when we look at the prison population growth, I believe it is slide five or six where it says, "After decades of growth, the Nevada prison population continues to climb." A quick look at the Nevada census shows that in 1978—I'll start with 1978 because that's the first date on your chart—the population in Nevada was approximately 700,000 people. Today, in 2018, the population is over 3,000,000 people in the state. Approximately 2,000,000 of those folks live in Clark County, which goes to later data that you show about the increases in Clark County compared to the rest of the state. In addition, we are one of the top five tourist destinations in the world. I believe 43,000,000 tourists a year come to Nevada. I believe in a previous meeting of the Advisory Commission, it was Director Dzurenda—I don't remember the exact figure. I want to think off the top of my head it was that 10 percent of the prison population are folks from out of state. It's easy to say Nevada is 15 percent higher than the national average when it comes to incarceration, but just like those apples, unless we're looking at how the growth of Nevada's population, why it has occurred, if we're not looking at the tourist numbers, if we're not looking at the totality of the circumstances, it's easy to just say Nevada's over-incarcerating people, and especially to the point made by Chair Yeager, if we're talking crimes against property rather than crimes against a person, it's easy to say we're over-

incarcerating people who are committing nonviolent crimes in the state without looking at the totality.

To further the point, my sister-in-law is a property crimes detective, and she has literally thousands of burglary cases a year, so many on her desk that many of them go uninvestigated if there is very little suspect information, and people get highly frustrated because their homes are broken into, their property is stolen and the detective has to turn around and tell them, "Sorry, I don't have time to look at your case because I'm concentrating on these other cases where we actually have good suspect information." If we have literally thousands of burglaries occurring in Clark County a year but we're seeing an admission—I think it was of 400 burglars into the prison system, if I remember the number correctly. I don't have the slide right in front of me, but 400 people going to prison for burglary. Back to the point of looking at the totality of the circumstances, how many of those folks that did go to prison for burglary had previous burglaries where they either had it reduced through plea-bargaining to a petty larceny or trespassing and they had multiple chances until finally the judge said, "Listen, I'm sick of you in my courtroom committing these crimes, I'm sentencing you to prison," so I guess maybe more so than a question but a plea to you, as you gather this data, to not just give us a surface, "Hey, Nevada's this percentage compared to the rest of the country."

I'll make one more point and then I'll shut up. I was in a working group meeting recently where we were receiving data regarding Wyoming's prison rate compared to Nevada's prison rate, and the question was asked, "How many people does Wyoming have in their prison?" I think the number was less than 3,000 that they had in prison in Wyoming. We've got more people than that in the Clark County Detention Center, so comparing apples and oranges doesn't give me a good totality of the circumstances. So, to wrap it up, I would just plead to you that as we gather this data, we make an effort to look at the whys and the behind-the-scenes rather than just the base numbers. Thank you.

Ms. McNamara:

Thank you very much for that, and we definitely are listening to you and are aware of the questions that you presented. In terms of the conversation about burglary and the way it's being charged and the source of the conviction that we're analyzing, that's something we definitely hope to and want to look at. As Justice Hardesty indicated, we haven't received court data yet to be able to track that, so the data we've examined today is just post-conviction, so it's just whatever was on the judgment of conviction, so we don't know the precursor to that, but we hope to be able to delve deeper into that story. We've heard from you before and from several of our interviews with stakeholders about the tourist population here, and it is a state that has experienced a wide amount of population growth. That is definitely something too that we can look into in terms of comparing with other states that might experience similar levels of tourism. It's hard to compare to Las Vegas, but that's something we can definitely look into.

Ms. Silveira:

One other response on the topic of prior convictions, the NDOC data set provided only included at this point a tally of the number of prior felony convictions. If that is an area of interest to the Advisory Commission, it's the type of thing we can look into when reviewing and doing a file review of pre-sentence investigation reports.

Judge Sam Bateman (Henderson Justice Court):

I just had a follow-up on a couple of the statements that Mr. Callaway said. When I'm looking at your data, I'm trying to decide whether it's controlled for population. So, for instance, when I see parole violation admissions to prison go up 43 percent, that's kind of like a big number, so that gives me some concern, but I don't know if that means—do we have 40 percent more people on parole today than we did in 2008, so it really only went up 3 percent, for instance? Maybe you guys can help us as you're going through this control for a population change so that I know whether the percentage change you're talking about is actually a significant change in the way we're doing business as opposed to just more people coming in, because I think as of last year, we're now back to being like the second fastest-growing state, and I'm sure we're going to continue, with things like the Raiders and everything. Whether that's good or bad, I don't know, but that's one question I had. I don't know if you want to take that right now, because when you're talking about driving prison population, some of the things that stand out to me when I'm looking at it is are we doing something different than the national state average? That's one thing I think we would want to look at. If we're doing something that's kind of crazy, out of the norm, then I think we'd want to look at that, and then I'm looking at it in terms of have we ourselves changed the way we're doing business over the last 10 years significantly, and that's when I'm looking at your percentages. That's one question I have. I have a couple others. Maybe you want to answer that for me first?

Ms. Silveira:

Sure. With respect to Parole and Probation populations, I'm glad you asked that. We will be coming back in November to present almost exclusively on community supervision populations. We have some preliminary data regarding those populations, but the Parole and Probation data we've received thus far we are still working with the agency to confirm. It looks like those populations have gone in different directions, so we will want to come back to those numbers when we have the overall populations over the same time period and evaluate that further. But we will be bringing that in November.

Judge Bateman:

Thank you. That's just one thing as we go forward I want to see if I can kind of figure out. When you were talking about people going into prison with prior felony convictions, I heard you say a couple times, and I just wanted to clarify, that's no felony convictions

in Nevada? I think, going to what Mr. Callaway said a couple times about tourism, what I've noticed in my time is that tourism is one thing, but Nevada is a place where people come a lot who have problems in other places, and so I wouldn't be surprised that the type of folks that are going to prison in Nevada tend to have criminal histories from other states more than some of the states you've been in. I'm guessing in Utah when you guys were up there, you weren't getting a ton of people coming in from out of state, as much as it would be from Nevada, for instance. Maybe you can answer that question, just looking at prior felonies in Nevada.

Ms. Silveira:

The NDOC data is limited to prior felonies in the State of Nevada. It is something we can keep an eye out for in the review of the PSI reports, though I don't think I can say confidently that that information would be comprehensive with respect to out-of-state convictions. I think I recall a question as well at the prior presentation regarding out-of-state residents and whether we can identify them. We cannot in the NDOC data. The AOC data that was provided did include state of residence. I think it's pretty clear that a specialty court program is going to be pretty exclusively used by folks who are available to participate regularly, so we were not surprised to find that more than 98 percent of those participants were residents of Nevada. Obviously, that's not the population you're referring to, but in case that's of help.

Judge Bateman:

When we were talking about admissions, part of what drives—I'm assuming what's sending our crime and who is being sent to prison is going to be that criminal history, and if it's significantly different here than, say, Utah, you're going to have different numbers. The other question I had is that you had a lot of slides on admissions and what was driving admissions, but from the start of your presentation you talked about population, and what drives population is in part the length of stay, so when you said you found that 8 of the 10 top admissions were property crimes, what I'm seeing on your slide where 56 percent of the people in the prison snapshot are for violent crimes, it sounds like what you were talking about was stacking, as you're getting a lot of people who are in there on violent crimes for longer sentences, and the 8 out of 10 that are coming in on property crimes that you said were the biggest drivers of admissions, they must necessarily then have much, much shorter sentences. Am I understanding your data right, because otherwise it would seem to me that the property crimes as a percentage of your total prison population would be much higher if 8 out of 10 of your top admissions are property crimes or nonviolent crimes? Am I making sense in my question?

Ms. Silveira:

Yes, I believe you are correct in rearticulating the stacking effect as I described it. We will be back in October to have a full presentation just on sentencing and length of stay

and release mechanisms, how long people are in custody before completing their sentence, being released on mandatory parole or discretionary parole, so we will be able to speak to those respective sentence lengths both by category of offense, by offense type as well as by specific offense for the most common admissions in much more detail than. But yes, when you look at the top offenses in the current snapshot, you'll see a number of offenses which have many fewer folks sent to prison every year, but if those folks are serving for 10 to 20-plus years, many for life sentences, then they're not going to be represented in the same way.

Judge Bateman:

My point is, a lot of those are top admissions, but they might not be driving the prison population as much as we think because there are so many people that are there on violent crimes. The biggest bang for your buck are violent crimes. I'm looking at the slide that I think had a snapshot of the prison populations ([Agenda Item V](#)). This was consistent with what I think we saw from Director Dzurenda earlier on in 1 of our meetings, where 56 percent of the people currently in prison—this was in 2017—are there for violent crimes, 20 percent for property crimes, 10 percent for drug crimes. It's back and forth, so I can't give you the exact numbers. It's page 48 on my handout, but the question I was going to ask is, is this consistent with state averages? My understanding is that it is, so 56 percent are in on violent crimes, 20 percent property, 10 percent drugs, which is actually quite a bit lower in Nevada than the national state average, and then 14 percent other, so that's pretty consistent with average state populations, correct? Am I correct in that?

Ms. Silveira:

The national average that we cited is 47 percent for those 3 categories combined, for the property, drugs and other categories. I don't have the specific breakdown of property, drugs and other within that in front of me, but if that's something you're interested in, we can grab that and get back to you.

Judge Bateman:

I think it's probably pretty consistent, that's all I was pointing out, so I want to figure out if we're talking about what's driving prison population. It's largely violent offenders, and probably the length of stay, correct?

Ms. Silveira:

When you think about the equation that we showed at the beginning, I think it's important to think of those two levers in conjunction, and I realize it's a little challenging that we've split up the two pieces into separate presentations, so I apologize for that. They happen in equal measure. If you're bringing in many more property offenders or drug offenders on very short sentences but the proportion is so high that they're taking

up a lot of space, even if they're being released quickly, they're going to be driving up the population. If the more serious offenses that are coming in the door, property offenses, are for much longer periods of time, then those could be playing a bigger part of the story. It is unfortunate that we can't show those pieces here, but when we have the data presentation in October, we'll be able to put these two parts of the story together and be able to say kind of in concert how are those two elements working and do they seem to be balancing each other out? What's happening overall?

Judge Bateman:

The other question I had was, at the back of the PowerPoint, it talked about subgroups, and I don't know what that means. Maybe we can talk about what that's going to be in the future, what you mean by subgroup. The Chairman is correct about the burglary statute. This has been a bone of contention since I was involved back in 2008 with this, and I think Justice Hardesty was right at the time to talk about B felonies and burglary generally in the length of stays and what they were. I remember sitting down with Dr. Austin and I think a public defender from Washoe County up at the Legislature in 2009, and we actually sat down with like 100 PSI samples of burglaries to see what these burglaries were. I don't know when you say subgroup—or if, Chairman, you want to have members of the Committee involved in looking at, for instance, PSIs on burglaries, because I think that's obviously a driver here that we're going to continue talking about, and I think it would be helpful if some of us who have experience in it could sit down and maybe even do a sample or look at a snapshot of everybody that's in on a burglary and see if we can get some ideas about how they got there and what those PSIs looked like, because I thought it was helpful back when we did it in 2009. It was a little bit eye-opening about how people got in there on burglaries, so I think we should be active with participating in trying to determine who is in on burglaries and what those burglaries are from the Committee's standpoint. Thank you.

Chair Yeager:

Thank you, Judge Bateman, and I will get to further description of where we go from here once we finish with the questions, but I am hopeful that, with the sampling at least of the pre-sentence reports and some of the court data, I think we will be in a position where hopefully we will be able to give better context to burglary, because as you say, this has been a bone of contention for as long as I can remember about what these burglaries are exactly, so I look forward to hopefully hearing that kind of data in the October and November timeframe.

Christopher DeRicco (Chairman, Board of Parole Commissioners):

My thunder got stolen a little bit with regard to the foreign with prior felony convictions in Nevada. That was my main comment that I was going to look and follow up. Looking at some of these numbers with regard to parole and probation revocations and looking at the data as a whole, I don't see—and maybe it's coming at a later point in time with

regard to sex offenders. Are you going to explore that a little bit separately with these? Certainly, I could see where some of these can be considered person offenses, or nonperson offenses with regard to pornography and things of that nature and how they're going to be included in this, so I want to see a little bit more focus on how that was going to be handled, and maybe it is down the road?

Ms. Silveira:

Sex offenses are included in the person offenses category. As described, we use the NDOC offense classification to create the dichotomous person and nonperson offenses. There were a couple of items we moved into the person category as well that wouldn't necessarily traditionally fall into the category of sex offense, and those include things like possession of pornography, child pornography and so forth, so those are in the person offense category. I don't know that we have a specific analysis plan for those offenses further, but if there's something in particular that's either represented here or elsewhere you would like us to look into, we can put it on our list of follow-up questions or look into it during a file review process, if that's of interest to the Advisory Commission.

Amy Rose (ACLU of Nevada, Inmate Advocate):

I just want to first say thank you so much for all of your hard work on this. Your entire team obviously has put in an enormous amount of effort and time to get this data for us today. I think it's extremely helpful for us as a Commission. It will be extremely helpful to legislators and people who want to address these problems and to start figuring these things out, so I think this is very invaluable to us, and thank you very much for putting this together and for being here today. I appreciate that. I have a couple of questions. The first one is just about the admissions based on community supervision failures. It looks like there is a pretty large chunk of people, both for parole and probation violations from both parole and probation, who are going back to prison because of technical violations. Can you just, so we can all understand and be on the same page, explain what a technical violation is?

Ms. McNamara:

For this slide specifically, it was Parole and Probation's data, so it's Parole and Probation's definition that they use for technical violation. It is in their manual. I can read it off for you, if you'd like.

Ms. Rose:

Sure. I think that would be helpful for the record.

Ms. McNamara:

According to Parole and Probation's manual, they define a technical violation as any violation of a rule or condition of supervision not including an arrest and/or conviction of a new criminal offense or absconding from supervision. That's how Parole and Probation is defining it. I know one of the problems that has been talked about previously by the Commission is that there is no uniform definition of a technical violation or other key terms such as recidivism, and that might be something that the ACAJ members yourselves want to discuss and come to a determination about whether or not there should be a standardized definition and what that definition might look like. When we talk about definitions on these slides, we're going to use the definition used by that respective agency that is providing that data with that term. So, the technical violations that you're seeing on that slide is that specific definition, but we know the Board of Parole Commissioners might have a different definition. They're not going to abide by Parole and Probation's definition, but we're just going to offer the definition from the data set that we're exploring.

Ms. Rose:

Thank you, I appreciate that. Also on this topic, I know recently the drop-in centers have been created to try to avoid people committing technical violations of their terms of parole and probation. Do you have any data from that? I know obviously those are new creations, and I wonder if maybe those might have helped to drop this number a little bit, if that's something you can look into just to see how those are working in comparison to what's been happening before?

Ms. McNamara:

We don't have any data specifically about the day reporting centers. Like you said, it's been very new, and I don't know what Parole and Probation has been tracking with respect to those day reporting centers, but that's definitely a follow-up question that we can investigate. We have spoken to Don Morgan, who runs the day reporting center in Clark County, and he has given us a lot of information about how the center runs and his experience in seeing the rates decrease and it being an effective resource, but we haven't actually examined data about it.

Ms. Rose:

Thank you. On slide 26, I believe, Ms. Silveira, when you were going through the slides, you had mentioned something was surprising on this slide, and I just didn't catch exactly what you were saying was surprising, and maybe you can explain for us why that was surprising to you.

Ms. Silveira:

Sure. I actually have different slide numbers on my notes in front of me. Would you mind reading me the title of the slide that you're referring to?

Ms. Rose:

No problem. It says over one-third of property and drug admissions had no prior felony conviction.

Ms. Silveira:

Great, thank you. The slide we see here shows the information provided in a prior slide which broke out prior felony convictions in the State of Nevada, broken out here by the offense groups. So, what I mentioned when we were on this slide is that 51 percent of individuals admitted for person crimes last year had no prior felony conviction on the record. This aligns with what we would expect based on criminological research, and so what I had noted was more surprising is the fact that over one-third of property and drug offenders were in with no prior felony convictions in Nevada, and that could be for a number of reasons, but I think one of the things that people typically point to is folks in on person crimes are serving for much longer terms, and so the habits of the individuals entering and exiting the prison for those sorts of offenses are different than those for the property and drug offenses.

Ms. Rose:

Thank you, I appreciate it. On the slide talking about the specialty courts, and I guess I can just ask the question, there is the slide that over half the specialty court releases graduated from the program and there was the data on successful completion versus unsuccessful completion. Can you tell us a little bit if you have that data, and if you don't, if you could get the data on why people were unsuccessful? I know you had mentioned a large number of people in these programs are unemployed and the programs cost money, just so we can get a better concept of why people aren't completing them.

Ms. Silveira:

I don't believe we have specific reasons for failure to successfully complete the program. There are certain stats that we could pull or have looked at which involve the length of time and duration of participation prior to being released on an unsuccessful venture into a specialty court program is something we can try to look back into that data set. They began tracking this information in 2014 but have only recently come to a point in the AOC where they feel confident about the completeness of the data provided, so they have a wide variety of variables in there, many of which are still not regularly completed by courts. I can go back and see if there's anything else that might

Speak to that, but at the moment, what I recall primarily is that we have measures of time to completion or time to release.

Ms. McNamara:

This is actually something that we were speaking with Chair Yeager about yesterday and the potential for the court data to maybe have some deeper analysis about why someone was revoked from that condition of probation if it was a specialty court program and back to the completion of a sentence. We don't know at this juncture if it's going to contain that information, but hopefully it does.

Ms. Rose:

That is all for me. Thank you very much. I appreciate your time and the effort again that you've put into this. Thank you.

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

Thank you for allowing me to participate telephonically. Actually the question I had is on the same question that was previously asked about the one-third of the property and drug admissions having had no prior felony convictions, so at this point I don't have any other questions. Thank you.

Justice Hardesty:

I will obviously move through the Commission members' questions here, but before I do, there is something I think that needs clarification, and it arises from Judge Bateman's questions, and that has to do with the issue of prior convictions. Anybody who's looked at a pre-sentence investigation report—and I just confirmed with Chief Wood that the PSIs that are used at sentencing include prior convictions from all jurisdictions, not just Nevada, so I want to clarify at the outset the observation that Ms. Silveira made that the NDOC data is showing Nevada prior convictions and not the prior conviction history or prior criminal history that is reflected in the PSIs. That comes as a big surprise to me, given the fact that PSIs do include prior conviction history of the defendant outside the jurisdiction of Nevada, not just Nevada convictions, so before we get into other questions, I was wondering if we could circle back with Ms. Silveira and ask, is it actually the case that the data you're looking at when you say prior convictions are just Nevada, and if so, why is NDOC's data showing only Nevada priors and not the priors that are contained in the PSIs? That doesn't make sense to me for classification purposes.

Ms. Silveira:

Our understanding of those figures representing only Nevada felony convictions is based on consultation with members of NDOC who we've been working with throughout

the analysis. I'm more than happy to go back and speak with them again about this, and I would be thrilled to learn that that information is contained there and wouldn't require a separate analysis. My understanding is that the NDOC systems involve data entry from the judgment of conviction. The PSI is not electronically entered into NDOC's offender management system. As such, I think it's possible that elements from there are entered, and I'm sure members of this body may be more familiar with that process than I am. We're happy to look into it. I would be thrilled to learn that that is a more representative figure than we've included, and I will put that on my list of follow-up questions.

Justice Hardesty:

I think, Ms. Silveira, that is a very important question for two reasons. First, I can't imagine the prison making classification decisions based solely on Nevada priors. That doesn't make sense to me. Secondly, I don't want the Commission members to be operating on the assumption that this data in capturing these offenses is only reflective of Nevada priors. It implicates Mr. Callaway's apple hypothetical, which would not be accurate, at least with respect to criminal history, if in fact the criminal history data that you provided reflects that criminal history that is included in the PSIs. Now, I think that it's a fair observation that there have been some concerns about the Criminal History Repository in Nevada and nationwide. That's a different subject for another day, but at least insofar as the PSIs are used, we know the effort that's given to the development of those PSIs by Parole and Probation, and I think most of us in the system would believe that those are the most accurate summary of a defendant's criminal history. Maybe Director Dzurenda if he is still there can comment on this, but I think it's important that we get that issue clarified when we are assessing the admissions data that you presented.

Natalie Wood (Chief, Parole and Probation):

First of all, I wanted to thank you very much. I know you've put a tremendous amount of effort into this study, and I'm very excited about the data that comes out of it. Regardless of how it impacts the Division, it's nice to have that, so thank you very much. Going back to Ms. Rose's question about technical violations, I can answer that. The Division's definition of technical violations—I think it's actually pretty clear—is if they've not obviously absconded from supervision or committed a new crime, but it's also a takeaway that we really have to look at. It may not be their first technical violation. I can tell you in my history with the Division, I have yet to see a violation report that's just nonpayment of restitution, nonpayment of supervision fees. It's a plethora of technical violations within one report, such as court-ordered conditions that they attend a substance abuse program, they abstain from alcohol, they have no contact with minors. So, what I'm trying to say is while the technical violation might not rise to a new charge, such as a misdemeanor or a felony, it's still egregious in the sense when you look at the totality and the efforts the Division has made to continue to work with the offender, so I just wanted to mention that. We do consider the person's criminal history. We consider that it might not be their first technical violation. They may be back before

the judge and this may be their second, third or fourth violation report with the various amount of technical violations within that, so it's very important here. It's not just the Division taking someone back on revocation because they've caught them drinking once or they've had one or two positive tests. I think that's counterproductive to what we're trying to do, especially since I've taken over the agency and moving forward. Reentry and reinvestment are very important to me personally. It is also important as we go through your slides to note that, yes, the Division makes recommendations to the Parole Board and to the courts, but if technical violations have actually gone up in revocations, that's partially contributed because the courts have agreed with those revocations and the Parole Board has agreed with those revocations and determined that, yes, this recommendation from the Division is appropriate. I think we have to look at that with regards to the impact you'd stated technical violations have in here. This Commission, I believe, 1 1/2 years ago actually looked at previously category B felonies, revocations that went back, and I believe Mr. Jackson did, and at the time Justice Stiglich, because I think there was concern that some of those category B's coming in that were coming back on technical violations were relatively minor in nature. Not everybody reviewed all of them, but I can tell you the feedback the Division got from some individuals was that when those offenders were revoked, there were significant criminal histories. The technical violations were significant in and of themselves. So, I guess what I'm trying to say is a request to consider that I think we are doing ourselves a disservice if we do not do a deep dive into what the technical violations are, and obviously we signed our MOU. I would be more than happy to provide multiple examples. You can select them randomly if you want, of what technical violations and what has resulted in revocations, because I think it's important to know that if you've got a two-page violation report, this is not just someone that's been caught drinking or using once or twice. They've probably failed a program. So, I would request that you do a very deep dive into the technical violations, how many times they faced revocation before and been reinstated before they've actually been revoked, and also the efforts the Division has made to work with the offender, because if there is a breakdown there, I would like to know about that so I can actually work on that. I think it was brought up earlier, maybe by Ms. Rose again, the Division, obviously, in the last couple of years, we have made great strides. We were very fortunate last session to get some major enhancements to help our officers with intermediate sanctions, such as state-funded house arrest, our day reporting centers and even indigent funding. That started with getting an effective risks and needs tool so we could focus more on the high-risk than the low-risk offenders. You never want to over-supervise someone. We adjusted our supervision module to adjust to that scoring tool, but I think it's really important to see where the Division was 5 years ago as to where we are now, not only from a population standpoint. The Division supervises roughly 19,500 offenders, which is far greater than the population of the state prison, which it should be, but that has grown. I guess that would be my request. Technical violations come up all the time. What is the definition? What is really a technical violation? I absolutely want to have someone independent such as yourselves look at it and give an educated response to—look, this is not just a simple violation. The Division's either worked with the offender or not, multiple appearances before the courts on revocations, several reinstatements, and at the end

of the day, the Division recommends for revocation, but we certainly don't have the power to actually follow through with that. It is the Parole Board and the courts. That's my speech. Thank you very much for the work that you do.

Ms. Silveira:

Thank you, Chief Wood. Just as a brief comment about a couple of the categories of information you mentioned, we've been working with Parole and Probation to look into what the process would be, both to review pre-sentence investigation reports as well as violation reports. If it is of interest to the Advisory Commission, we are more than happy to include a review of technical violations as part of the file review that we are planning on. The other area with respect to your comment about the final decision-makers on the revocation side, both on the courts as well as the Parole Board, we've been working with the Parole Board to look at revocation hearing data. We expect to be able to present some of that in November at our third presentation on community supervision. In the early samples of the data we've received from the Washoe County District Court, we have also requested, and we are in the process of requesting this from Clark County as well, information regarding folks coming in the door on probation-related hearings, so if it's a request for a modification of conditions, if it's a request for revocation and what the resolution of those motions was. I don't believe we will be able to see the higher-level detail in the court data. That's what the file review of violation reports would provide, but we hope that with the court data sets that we will receive, we will at least be able to probe this question that you mentioned about how many times has an offender perhaps appeared before a judge, been reinstated, returned to supervision before an eventual revocation, and then on the Parole Board side, we understand their tracking system involves a number of categories that may explain the reason for revocation, and we will be bringing that back as well. I don't expect we will have either of those to present in October, so those will both be coming up in the November presentation.

Ms. Wood:

Thank you very much. I appreciate that. I do have one correction to make. It was category E felonies, not B felonies, we were asked for. But thank you very much. I look forward to seeing the information.

Mark Jackson (Douglas County District Attorney):

First of all, I appreciate the comments of Justice Hardesty at the beginning of this agenda item, really kind of setting out exactly what was provided, the capturing of the data by the Crime and Justice Institute (CJI) from multiple state agencies, and with the understanding that some of the agencies still have not provided information, but hopefully that will be very short in coming. But I also share Director Callaway's comments following the presentation. I kind of see this presentation—and I appreciate everything Ms. Silveira and Ms. McNamara provided to us, but I see this a lot along the lines of what Director Callaway described as the surface view. It goes a lot to answering

some of the initial who and what questions, but we need to answer the why, and that's the drill-down. Some of the whys would be the connection with the probation violation reports that Chief Wood talked about, and a lot of it is going to come from the PSIs, not only from the criminal history but also the underlying offense associated with any particular crime.

I am going to go through a couple of slides, because I had some comments that kind of go towards the why. The very first slide I'll be talking about is slide 27 ([Agenda Item V](#)). This is the 8 of top 10 offenses at admission for nonperson. Chair Yeager addressed kind of the first one, the burglary, and he asked a question about more of a what, a drill-down on the what. The fourth one down, the possession of a controlled substance of a schedule I through IV substance of the first offense, there is a number of 275, and this needs the drill-down of the why. I don't know how else we will be able to get that except through not only looking at the PSIs, but there would probably be the probation violation reports associated with it, so I would request that all of those 275 cases be looked at. I do have a question, because slide 60 probably is related. This is the top 10 offenses for the female admissions, nonperson, and I'm assuming that number of 64 for the possession of a controlled substance is part of the same 275 on slide 27. Could you just start off by answering whether or not that is included in the total 275?

Ms. Silveira:

Yes, it is.

Mr. Jackson:

On slide 31, I was a little bit confused that the trafficking of a controlled substance is schedule I greater than 27 grams and the asterisk and what you had described there, and I note that on slide 4, 1 of the bullet points you had was that the data presented by the CJI may not match the NDOC reports, but in this particular instance you chose to take what is a category A felony and nevertheless match it up to the NDOC reports. So, my understanding of our trafficking offenses as they currently are codified is that we have three levels of trafficking. The first 2 levels are category B offenses, a level 1 is 4 grams or greater, but less than 14 grams, and that would be a category B felony carrying a sentence range of 1 to 6 years in prison. Our level 2, a category B felony, would be 14 grams or more, but less than 28 grams, and that would carry a 2 to 15 term, and our level 3, which is 28 grams or more, is a category A felony which carries only 2 possible sentences: 10 to life or a definite term of 25 years with a minimum parole eligibility of 10. Maybe this question would be more towards the Nevada Department of Corrections and Director Dzurenda. I'm just not really sure that I understand how the prison could take a level three drug trafficking category A yet categorize it somehow as a category B. I think this is one instance I would request that this data not match what NDOC may be reporting and that those types of offenses should properly be categorized as exactly what the Legislature has stated, which are category A felonies. The next slide is slide 36.

Justice Hardesty:

Excuse me, Mr. Jackson. I think Ms. Silveira might have wanted to respond to that last observation, which is an important one. Is that right, Ms. Silveira?

Ms. Silveira:

Yes, that's correct. Just to offer clarification if it's helpful, on slide four where you mentioned the comment about different methodologies for analysis can cover a wide number of things, so as an example, NDOC's data system will include anyone under NDOC custody, including folks who are sentenced to the regimental disciplinary program, otherwise known as boot camp, and so those folks are not individuals we would consider part of the prison system. They are not included in this analysis. That's one of the types of methodological decisions that was made based on the information we are presenting here, because we are limiting it to the prison system. With respect to the trafficking offense, this is something we've also looked into. Each offense was provided by the NDOC with an attached felony category level. So, as mentioned, these were provided as felony category B offenses. There were also offenses in the system with the same description of greater than 27 grams as felony category A. Those offenses carry the sentencing range that you described, with a maximum sentence of either life or a determinate sentence of 25 years. We have included the trafficking greater than 27 grams on this felony category B list that you described. For the category B, we reviewed these all for a third time yesterday before this presentation to confirm none of them fall into that category A sentencing range, so we believe that this may be the result of human error in terms of typing in of the selection of the trafficking offense when it is being entered into the system or some other issue of that sort, but they appear all to be within the felony B sentencing range. Again, as with many of the other things we've discussed today, if this is an area that is of particular interest to the Advisory Commission, we are happy to try to look into some sort of a representative sample through a file review process.

Mr. Jackson:

Through Chair Yeager, I would request that that information be provided to the Commission.

Ms. McNamara:

To add to that explanation, part of the reason that we left the category A description that was attached to that offense on the slide but put an asterisk was because we know that is a category A description. We didn't want to impose our own understanding or our own definition of what that conduct was, even though we knew from the sentencing ranges from the data set that it was a felony category B sentencing range. I just wanted to clarify that. Sorry to interrupt.

Mr. Jackson:

Thank you. No, I understand now why you did it that way. I'm not really sure how else you could have reported that, but I think we would all like to know if there is a mistake that the mistakes are corrected, as it was entered by the NDOC. On page 36, and this is really just me saying ditto to what Chief Wood had described about the technical violations, I think that, again, we need more as to not only the who, the what, but obviously, the why, and my question may actually be answered by Chief Wood. I just kind of wanted to give an example, and it's a case that I have in mind of a person who is convicted of aggravated stalking, which is a category B felony. It carries 2 to 15 years in prison. In this particular case, the prosecutor argued for prison time. The judge, exercising his discretion, decided that the person could receive the benefit of probation. One of the conditions of probation is that the individual have no contact with the victim. A few months after the sentencing date, the defendant contacted the victim. While it could have resulted in a prosecution for new charges, the person was arrested solely based upon the violation of the condition of probation, and based upon an admission to that in an agreement that the probation be revoked and that they be sent to prison, no new charges were filed. So, my question would be based upon that type of scenario. Would that then be reported only as a technical violation?

Ms. Wood:

Yes. If there were no new charges, that would actually roll out in the form of a violation report listed as a technical violation. That's why I think it's important to really look at the technical violations and what the contents of them are.

Justice Hardesty:

If I can interrupt, but the key point is since this is a reflection of NDOC's data, how does NDOC report that case? I guess it's a question for Ms. Silveira. They may not know the answer to this, but going forward, how does the Advisory Commission think it ought to be reported and how do we capture that to better understand these issues? Ms. Silveira, do you know in connection with Mr. Jackson's hypothetical whether the data that you are looking at reflects only the technical violations, so-called even though there was an associated alleged crime for which charges were dropped?

Ms. Silveira:

It depends on which slide we're referring to, but my understanding is that Mr. Jackson was referring to a slide on probation revocations for technical violations, so Chief Wood's explanation would certainly hold. In terms of the NDOC data that we supplied earlier in the presentation, NDOC does not track technical violations. They track whether or not there is a new felony conviction associated with an individual who has been brought in on a probation or parole violation, so that certainly would not fall into their definition.

Mr. Jackson:

I believe once we get the drill-down as to looking at those probation violation reports and even parole revocations, we will be in a better position as a Commission to perhaps better define what technical violations are, because currently, if it's not absconding for parole, a new misdemeanor conviction or a new felony conviction, everything else falls into the technical violation category, which I would then anticipate would be exactly as it appears on slide 36. I'm not surprised by the data that you captured based upon the definition that you followed. The last slide would be 47. This one may be more difficult because it is a large number, the 2,500 community supervision violators with no new felony conviction in the current prison population. As of 2017. I know this is just data that you captured and you're reporting to us and that's it, but it really begs the why for me also. I know that that would take a lot more time to answer the why as to why these particular individuals are currently in the prisons, but I think it's important as part of the drill-down that we've been looking at, as Justice Hardesty said, for a decade. But thank you very much for the data that you have provided. I hope that all the other agencies will cooperate and give you the data that you need, and I'm looking forward to the future presentations.

Ms. Wood:

What I'm hearing then is that NDOC, in the definition of technical violation, which is obviously different from the Division's, they're not counting misdemeanor convictions, just felony convictions?

Ms. Silveira:

I don't believe that they are tracking technical violations as such. It's not a term that they have used with us and it's not a term that I would like to attribute to them, so we have requested information on the type of violation underlying the community supervision violator admissions, and what they were able to provide was whether or not a new felony conviction was associated with that. I don't think it would be fair for me to represent that NDOC has characterized all other conduct as technical violations. They haven't. That's just the only information that they were able to provide to speak to that question.

Ms. Wood:

Thank you very much.

Assemblywoman Lisa Krasner (Assembly District No. 26):

Thank you for compiling this data and your presentation. Most of my questions have already been addressed. Just one quick comment, I'm a little concerned about all the data as it relates to females in prison, so I'm glad you brought that up. Also, a question

on page 73 ([Agenda Item V](#)). It starts with data use. Offense data is for the most serious offense at admission. What about somebody who is a habitual criminal and has a long history of committing multiple offenses over a period of time? Do you not think that might be valuable to include in the data? That's my first question. The second one, at the bottom where it says, "Data presented here may not match AOC reports due to different methodologies for analysis," do you have any concerns about that?

Ms. Silveira:

Thank you for those questions. With respect to habitual criminal offenders, individuals who were admitted to prison over this 10-year period that we have data for who were admitted on a conviction under 1 of the habitual offender laws are represented as such, so you will see—I believe it may just be in our standing prison population slide. They appear on 1 of the top 10 lists. We have not broken out the underlying charges, so if an individual was charged with a habitual criminal offense, that may mean, for instance, burglary was involved in that case, that if there was an associated burglary conviction, our figures for burglary may be underrepresenting that population. If that's a follow-up question you all would like us to look into, we're happy to bring it back. What the NDOC hierarchy relies on is, first, the highest felony category, and then the sentence term associated. If there is a tie with the most serious offense, and because the habitual criminal statute takes on both the highest felony category as well as a significant sentence term, it becomes the most serious offense, but we're definitely able to look into the associated charges on that prison admission to look at prior charges and prior charge history, which would be in the form of a file review and other associated information that wouldn't be in this data set, but I think would come through the PSI process.

Assemblywoman Krasner:

Thank you.

Ms. McNamara:

Just to add onto that, one of the interesting things about the habitual offender statute in Nevada as opposed to some other states is that, as an offense, it takes over the underlying offense. It's not used as an enhancement or an additional sentence, where in other states it is, so it's hard to see. It takes over that offense, so that would be something, as Ms. Silveira mentioned, in doing our file review and reading those PSIs for the underlying conduct that would be able to tell us what is the conduct that led to that habitual offense, because as it's listed alone, we just know it's a multiple of something, but we don't know a multiple of what.

Ms. Silveira:

In response to your second question regarding AOC reporting, it is not a concern of mine, but I'm happy to talk through some of the thoughts going into that comment. I think anyone who does statistics or research is very cautious about what they're sharing and how it might be compared. I know for a fact the AOC's reporting is all done on a fiscal year, and they were concerned that if we didn't provide a disclaimer regarding the calendar year, folks might try to line up those figures and be concerned when they don't align. Because the AOC has been collecting specialty court data but has not yet felt confident about its completeness until the recent year, I don't believe they have produced much in the way of reporting besides annual numbers and their annual report appendix tables that track the number of admissions to each court by program, as well as the number of releases and, I believe, the number of graduates who successfully completed the program. In terms of looking at some of the underlying demographics, case characteristics and so forth, I don't believe they have reported anything publicly. My understanding is that they are looking forward to having 2 or 3 years of complete data to be able to analyze in cohorts. They can do a cohort analysis. I don't think there is anything that would be conflicting at this time. I think it has more to do with the time periods being reported, so that folks aren't confused if they look at those underlying appendices.

Assemblywoman Krasner:

Thank you very much, and I just had one quick follow-up. It goes back to Mr. Callaway's comment at the very beginning. Is there a way to get the data and show, as population increased, did it match arrests and convictions, or are we totally out of whack? Is there a way you could get that data so we could just take a look at that, please?

Ms. Silveira:

We are in the process of completing an MOU with the Clark County Detention Center (CCDC). We are hopeful to receive data, given CCDC's role in the state. We believe that information concerning individuals coming in on arrests in Clark County, as well as exiting that system as a result of adjudication of their court cases, would be able to speak to that question a great deal. It's not clear at this time what the timeline will be for receiving that data and whether or not it will provide sufficient headway to analyze it and bring it back. Ideally, we would be able to share that in the November presentation, and we will have to let you know when we are able to access it and what we end up receiving.

Assemblywoman Krasner:

Great, thank you.

Julie Butler (Representative, Central Repository):

I just had a couple of observations. A lot of my questions have already been covered. I appreciate the information, but looking at slides 40 and 41 about comparing the US prison population to the Nevada prison population, the time periods are slightly different, so I'm just wondering if that percentage change would be the same if we actually had the same time periods?

Ms. Silveira:

That's correct. The most recent reporting from the Federal Bureau of Justice Statistics is for the 2016 year. They haven't yet come out with their figures for 2017. If we were to cut Nevada's prison population at 2016 similarly, you would show a higher percentage growth, because I believe there has been a slight increase in releases during the last year, so rather than having a 7 percent population decline nationally and a 7 percent population growth, you would have a higher percentage. I can look up that number, but I don't have it in front of me.

Ms. Butler:

Okay, thank you. I just had another observation. We've talked a little bit about criminal history and comparing arrests and population, and I note that there hasn't been a memorandum of understanding issued or requested with the Central Repository for Nevada Records of Criminal History, so I'm curious why and if that would be beneficial or if the feeling is that there are some flaws in the data or exactly kind of what the rationale is for that.

Ms. McNamara:

We did speak with you, Ms. Butler, and you had talked to us about what agencies send you their criminal history information, so one of our thought processes was to go to those agencies directly in order to get the criminal history that they are sending to you. We can talk further to see if you might have something to supplement some of the criminal history information that we've been talking about, but that was just an explanation of kind of what we were thinking.

Ms. Butler:

I guess I'm just a little confused, because all of the agencies statewide send it to us, so I appreciate that you would get the information from CCDC, but we have a statewide picture, so rather than you going out to each agency individually, the whole point of the Central Repository is there is one place to get it. That's just an observation. I don't need you to comment or anything, it's just an observation.

Al McNeil (Sheriff, Lyon County):

I echo many of the comments about getting through the slides as quickly as you did. I've enjoyed our conversations on the telephone. We've had some conversations. I want to echo what the Chair had said about the burglary, that no two burglaries are alike, but from a public safety standpoint, to classify residential burglaries as nonperson, I think that does a disservice to our communities. From that standpoint, you want to drive up community fear, have a lot of residential burglaries. When you come into somebody's space in their home, they feel violated. They are traumatized, and it lasts them almost a lifetime. There are adverse effects to their psyche and their bodies living in that constant state of fear, so I am concerned that we are minimalizing burglaries, and I think it's more of what I'll just call a soapbox comment to echo my concern on that. I would hope that when we say an individual gets caught breaking into a garden shed out back and that he is convicted of burglary, because that is another burglary, we're not sending them directly to prison, but trying to work with them.

I want to go to slide 26, which has been a topic of many discussions, and as I look at the property-type crimes and I see all of the admissions that are coming in there with no prior felony convictions, I'm wondering, are these, I guess, technical violations or program deferments that we tried working with the individual and they failed a program and now they're in the prison system? Is that reflected? If they had no prior conviction, but we worked with them? I think it sets a different picture, so I don't know if it's possible to break those out, to capture what is a program failure or program deferral failure that is now an admission into prison?

Ms. Silveira:

With respect to the property offenders you mentioned, we can break out that figure. Unfortunately, I don't have it in my notes here by whether or not those individuals were admitted directly to prison, sentenced directly to prison from the court versus whether they were placed initially on probation, went through a revocation process or had returned on a parole revocation, so we can look up those figures and either send them back to you or send them to the Chair and have him circulate them. With respect to their criminal history, again, I think that would be part of the PSI review process.

Sheriff McNeil:

Yes, thank you. I think that would help the Commission greatly to understand are our programs working or are there problems with some of the programs and what those percentages are. I would think that it's not just the property crimes, but also drug offenses and also the personal offenses. Are we trying to divert them out of prison through programs, and what is that program failure? The last one is, maybe you covered it generally in the specialty courts, I'm a bit confused in that I don't know the difference between sentence and deferred sentence. Can you explain the difference to me and what is the impact here to us?

Ms. Silveira:

Sure. I appreciate that, and I apologize for any confusion on these slides. The individuals coming into the specialty court process, as Ms. McNamara described when we were going through some background, can come in in a number of different ways. Most commonly, individuals come in as a condition of their probation sentence or on a deferred sentence, and so a deferred sentence allows an individual who successfully completes the program the opportunity to have their case dismissed. They have the potential to complete the program without a felony conviction, whereas coming in on a probation sentence and having this as a condition of one's sentence means that successful completion does not have any effect on the existence of that conviction. That is the distinction. Wherever you see a sentence listed next to a deferred sentence, the sentence means they're participating as a condition of their sentence rather than as a deferral.

Ms. McNamara:

Different specialty courts use the deferred sentence mechanism in a variety of different ways, so some jurisdictions will use the deferred sentence as a specific court. Washoe County, for instance, has a specific diversion court for all offenders who go through that court process. They are being put on a deferred sentence. If they successfully complete that court, their case will be dismissed. Other jurisdictions use the diversion statute. It is Nevada Revised Statute (NRS) 458.300 and NRS 453.3363, I believe, are the 2 different mechanisms they use within their existing adult drug court so individuals within that adult drug court can both be participating as a condition of their probation as well as a deferred sentence, so it's used differently by varying jurisdictions.

Justice Hardesty:

Thank you, Sheriff. I had the opportunity to visit with the presenters and raised a number of questions during my meeting with them, but I wanted to highlight a couple of points in the specialty court area to follow up on the Sheriff's observations, and they have more to do with the inconsistencies that exist among the various courts with respect to the use of how defendants are accessing the court, the risk and needs assessments that should be used as a basis for the admission of the defendant, the eligibility variations, which fluctuate not only as described on slide 71 but also are limited based upon individual prosecutors' decision making. My concern is that these slides to me highlight variations in our drug courts throughout the state, and I think these various issues need to be examined by the Advisory Commission. I would note that there is a bit of a difference between the statutorily mandated DUI courts and the drug court, adult drug court, for example. First and foremost, the DUI courts are a 3-year period. They are statutorily there on deferments, so the motivation for the defendant to successfully complete it is very high, given the consequences of a prior if they are picked up later. In drug court, where the substance abuse is methamphetamine or heroin or opioids, 18 months is not a very long period of time to effectuate that

individual's transition from that substance abuse. These are all areas, I think, that we need to take a look at, so comparing DUI courts under its statutory construct with the substance abuse courts is a little bit of a different arrangement, because those courts have consistently requested resources in order to be able to produce better results and more effective results. The mental health court, I think, stands out because those resources are vastly different, and I just wanted to mention to the Advisory Commission, Mr. Chair, if I could, the Sentencing Commission made a recommendation at its last meeting to follow the approach being taken by Oregon to request the Legislature to double down on its general fund appropriation to help support these courts, particularly in Clark County where the mental health issue is so dramatic. Judge Togliatti, who is a member of the Sentencing Commission, stressed the seriousness of the mental health court funding capabilities and resource capabilities, or lack thereof, in order to be as effective as they could be. I am pleased to see these slides, and to Assemblywoman Krasner's point, I think the major difference in data is that the AOC compiles its data in order for budget purposes. As we have to do, so all of our reports come through on a fiscal year basis, but quite frankly, much of what we are doing in these reports and this analysis is based on calendar year analytics, and frankly, the AOC has 2 1/2 staff members and not very much information technology (IT) support to be able to compile and develop all of these statistics, so it's pretty demanding to be able to convert a lot of their stats to calendar year stats. I know the justices make requests of them all the time to do that, and it's a rather huge challenge to see that develop.

Chair Yeager:

Before we move on, did anyone have a follow-up question?

Mr. Callaway:

It's more of a suggestion, I guess, than a question. To go back to a slide on page 26, and this pie chart's been talked about a lot, and it kind of sparked the idea in my head, at first glance, when you look at this 41 percent no priors, you go, "Oh my goodness, we're putting people in prison who haven't done anything before this," and that's kind of scary. But then you start thinking about it. You have many crimes like DUI where they elevate as you commit multiple offenses. Domestic violence, DUI third offense is a felony, so we're talking strictly felonies here, so theoretically, this 41 percent, they could have committed a gross misdemeanor where they served almost a year in the Clark County Detention Center. They could have committed two domestic violence offenses before they got their third felony one, or three DUIs. So, what I would suggest is that we take this 41 percent that says no priors and we do a random sample case study of, I don't know, 10 individuals or 15 individuals from that 41 percent, just pull their names out of a hat, so to speak, and look at their past history, look at their first encounter with the criminal justice system, look at plea bargains they may have been given, what crimes they might have originally been charged with that were plea-bargained down. Maybe they were charged with a felony but they were convicted of a misdemeanor or convicted of a gross misdemeanor because of a plea-bargain. Look at what programs

might have been offered to them, diversion programs or some type of program to keep them out of the criminal justice system that either they took advantage of the first time around or maybe they snubbed their nose at, and kind of look at a case history of how they ended up being part of this 41 percent, because just my guess from doing law enforcement for 29 years is that the majority of those folks, that's not their first rodeo, so to speak. Yeah, there's probably some people in there that, for whatever reason, they got a judge that was in a bad mood or they got a jury that didn't like the way they looked or whatever and they ended up in prison the first time around, I get how that works, but I would guess if I was a betting man that a big chunk of those folks have had some significant run-in with the criminal justice system that ended up eventually with them in that 41 percent, so my recommendation would be a sample case study as you do your work. We don't need names, but "Subject A, this is the totality of the circumstances." For me, that would give me much more assurance with the data when we're looking at those samples.

Ms. Silveira:

Thank you for that suggestion. It brought up one other point that I don't think we've touched on in the Q&A, which was that, as part of the court data we hope to be receiving shortly, we are hoping to be able to do an analysis of the plea-down behavior. So, if we are able to receive these data elements to be able to look not just at 10 or 15 cases, but to look at the much larger scale across the Eighth and the Second District Courts what the initial charge was and what the ultimate charge of conviction was, if we are able to receive and analyze that data, we would have it at the third presentation in November.

Justice Hardesty:

To Mr. Callaway's point and to Ms. Silveira's response, yesterday I did request that they do research into what I call the plea-agreement influence on these numbers. There may be other questions, Mr. Callaway, that plea-agreement involvement would influence these numbers. I don't have any answers. I'm not looking for any particular outcome, I'm just curious. It seems to me it's important to have that conversation, and to the extent that their expertise can offer how plea-agreement activity is influencing the decision-making process, I think that's important.

Judge Bateman:

Following up on plea agreements, I was going to complicate your specialty court deferred sentence versus sentence. What's taking place, and I think Chair Yeager would probably echo this in Clark County, as a substitute for deferred sentence, when you said that drug court is probably the primary specialty court being used as a condition of probation, what I think is largely happening in Clark County is that the prosecutors and the defense attorneys are utilizing drug court, yes, as a condition of probation, but also if they are successful with that, they're reducing the sentence at the

end. It's part of the negotiation that they may actually get the dismissal or they may get a misdemeanor instead of a felony, and I would guess that, to the extent drug court is negotiated as part of the plea, you're going to see a lot of cases if you look at the guilty plea agreement where the prosecutor and the defense attorney are working out a de facto reduction, a deferred sentence in a sense, so that might complicate what you guys are looking at. I don't want it to seem like everyone who does drug court and is successful just gets stuck with the felony that they ended up pleading guilty to on the front end, but I think that's appropriate given the discussion about—you'll see there that what Justice Hardesty just said and what Mr. Callaway was saying about the plea process is it complicates things, and you have to look at the plea process to see how some of the results are occurring.

Chair Yeager:

Seeing no further questions from Committee members, wrapping up this agenda item, I want to go back to just the last few slides that we hadn't gotten through to kind of give a lay of the land to the Committee and to the interested public on where we go from here in terms of next steps. Picking up with slide 90, our next step is Wednesday, October 10, when we have our second data presentation. You've heard a lot about that today. We are going to be covering sentencing, time served and release, so I think we will obviously get some really great data from that as well. Going to the next slide, it kind of gives you the rest of the calendar for the Advisory Commission throughout the rest of this interim. As you can see, we have the second presentation on October 10. The third presentation is going to be November 8, and that is also going to be data. These next two presentations are data. Then, you will see subgroup meetings one and two with a couple different dates there. I had referenced this before, but essentially what we're going to do is break the Advisory Commission up into two separate subgroups, and each subgroup is going to meet twice. The dates look a little off, but we're just trying to make it work with the calendar. For instance, each subgroup is going to meet on December 18, and then you're either going to meet on November 27 or November 29 depending on how we break up those subgroups. By the next meeting, I will have a better idea of what those subgroups are going to be about, and then I will be able to take some comments from Committee members about if there is a particular subgroup you would like to be involved in. The point of those subgroups is going to be to look at this data, to analyze it and make potential recommendations to the entire Advisory Commission about legislation that we may want to advance in the next session. You're going to see that the report and recommendations will be out on January 11, so that is when the subgroups will report back to the entire Advisory Commission, and we will at that point have our work session related to not only this agenda item but other items that I will speak to in a moment. Just to recap, we are essentially going to have three more meetings as an entire Advisory Commission meeting, and then a couple additional meetings as subgroups as well. I wanted to tell everyone who sat through here today, first, thank you for all your great questions, and second, if there are members who were not here but watching online or you get a chance to watch the video of this, if you have additional questions—this happens to me all the time, where I get home and I start

thinking about the data and I have another question—reach out to whoever you are comfortable with. If you want to reach out directly to our presenters, you can do that. You have their contact information on the second to last slide, so feel free to reach out directly. If you'd rather go through myself or Vice Chair Hardesty, that's fine as well. If you'd like to go through our legal staff, that's fine as well. Make sure you get those questions answered. As I said, we expect a really good data presentation in October, so I want to thank you and your whole team for being here. I don't know that you can tell in Carson City, but basically the whole team is down here in Las Vegas, so thank you for your work on this. We will look forward to seeing you on October 10 for the next data presentation.

Ms. Silveira:

Thank you very much for having us.

Chair Yeager:

At this time, I'm going to close agenda item V. I will open up agenda item VI briefly, and we covered part of this already in terms of where we go from here with respect to Justice Reinvestment. I did want to mention to the Committee, as many of you know, we do have some other items that the Commission is working on right now. Ones that come to mind, we have our Criminal Justice Information Sharing Subcommittee that is chaired by Ms. Butler. We also have an informal working group with what I will call the Innocence Project Potential Reforms that I know Mr. Callaway is heading up. My intent is, probably at the next meeting in addition to our data presentation, I will agendize those two for updates. Some of you may recall that early on in this process, we talked about looking at our enabling statute for the Advisory Commission and potentially making some changes to that statute given the existence of the Sentencing Commission. I still think that's probably worthwhile to do. As all of you know, looking at our mandates under statute, there's really no way we can ever get through all of those things that we are tasked to do, so I think it probably makes sense to make some of those discretionary. My hope is that in the next meeting or the meeting after, perhaps I will have a mockup of that that we can discuss in anticipation of potentially making a recommendation. The other matter that I wanted to cover, and Justice Hardesty referenced it, the Sentencing Commission had their final meeting and work session and made various recommendations for additional funding for various departments. One would be specialty courts, but I think there were others as well, like Parole and Probation, so it may make sense for this Commission to take up that issue, because I think if we would like to do that, we need to get those letters out to the Legislature and to the Governor much sooner than our January 11 meeting, at which time the budgeting is more or less done at that point for the state, so look for that. I may agendize an item for the next meeting where we may take a vote to write letters kind of piggybacking off of what the Sentencing Commission has done so that we have those requests aligned.

Other than that, that's all I have. Does anyone else have anything under agenda item VI that they would like to bring up at this time?

Mr. Jackson:

I will be out of state at the next meeting on October 10. I'm going to request that Christopher Hicks, the Washoe County District Attorney who also sits on the Sentencing Commission, attend and appear in my stead. If he is unable to, I will reach out to another district attorney that is a member of the association.

Chair Yeager:

Thank you, Mr. Jackson, for that. Obviously, I know it is hard to schedule all of these at a time where everyone can make it, so even if Mr. Hicks does attend, I certainly encourage you to watch the archived video. I think all of you know that these meetings are archived, and usually they are available the same day or shortly thereafter, so if you're able to tune in at a later time and you have additional questions that weren't asked, again, feel free to reach out directly on your own to either our presenters or to myself or Justice Hardesty.

Ms. Wood:

I would just like to let you know, I responded by email, but I will also be out of town on October 10. I have asked my Deputy Chief Major Carpenter to attend in the audience should any questions come up for Parole and Probation.

Chair Yeager:

Thank you, Chief Wood. Is there anyone else under agenda item VI?

Assemblywoman Krasner:

For the meeting on October 10, 2018, Wednesday, could we move it from 9 a.m. to 1 p.m., do you think, so that I can attend that meeting? It sounds like a lot of people have an issue with that October 10 meeting, so what do you think about 1 p.m.?

Chair Yeager:

I think I will think about it. Let me touch base with other folks. We have some traveling logistics as well, and just so the Committee knows, probably that meeting will be run from Carson City. I probably will be in Carson City for that meeting, so let me logistically figure that out. For now, I think it is agendized for 9 a.m., if I'm correct, in terms of the website, but let me look into that. I certainly understand your desire to move it, but I need to make sure that's something that works for our presenters, primarily. Seeing

nothing else from Commission members, I will close agenda item VI. That takes us to agenda item VII, which is our second round of public comment.

Mr. Corrado:

I just had one question. I was wondering if there is some kind of statistical analysis being done with the correlation between the drug problem or the drug offenses and, as Chief McNeil suggested, the burglaries, because my fantasy is that there is an awful lot of burglaries because of the drug problem. It's not the other way around. That's all I have to say. Thank you.

Chair Yeager:

Thank you, Mr. Corrado. I don't know the answer to that, but I will follow up with our presenters after the meeting today.

Ms. Brown:

I have been listening to the presentation dealing with the mental health issue, and I know this has never come up during any of the Advisory Commissions that I have attended over the years, and maybe I am going in the wrong direction, but I think there could be some underlying factors to this. It deals with mental health versus hormonal imbalances in females. We know that the drug females are now being incarcerated, more women are going to prison, they're more into drugs and crimes than before. That is something I would like to possibly see somewhere down the road, statistics prior to pre-sentencing for women who are born with hormonal imbalances or during pregnancy develop a hormonal imbalance that goes unchecked. These women tend to go towards drugs and alcohol. They have no idea what's going on with them, so that could be an underlying factor to this. Men don't deal with hormonal imbalances, but I'm sure that your significant other possibly has, so you might have an idea what women kind of go through. Also, hyperactivity as a child. Studies on that, that possibly—for example, I know of someone who was hyperactive, they put them on Ritalin, turns out they were allergic to it. They later became addicted to drugs. So, studies possibly on hyperactivity, drugs and the crimes as a result, and schizophrenia that comes out of those types of drugs. How about the offender who has been mentally and physically abused that led to drug and alcohol abuse and crimes, leading them to commit crimes and violent crimes? Does the NDOC check for the female? When the female inmate comes into the prison system, they test them for this and that, but do they ever test them for a hormonal imbalance at the beginning, and do they check at the end prior to the release, because they could be medicated and it could result in them going back out and not doing the drugs and the alcohol because they have now determined that they actually have a physical problem and it's not mental. We talked about the PSI reports and NDOC. Now, I know I've seen the files of an inmate and I have seen documentation, so I do know that some of the questions that they do ask and they have access to is the first time that you've used drugs and your first sexual experiences, so there is information in there that

I think that NDOC would have that maybe could be used for statistical purposes, not having anybody identified, but some of that information is in the history and it could be brought out that way as far as some of the statistics go. Then, they talked about the data for the sex offenders and the non-sex offense, and I brought this up in 2007 during a hearing. Not the ACAJ hearing, but another hearing, in which crimes were being committed. Sex offense crimes were being committed. They were being charged for crimes when they really weren't, and that would be, for example, homeless people having sex in public places and urinating in public. What are the statistics on that? This is at the discretion of the district attorney, according to what the panel was told. If the district attorney wants to pursue a sex charge against someone urinating in public, then he can be labeled a sex offender. Same way going with someone who could be homeless and having sex in a public place. Although their home might be under a bridge, it is their home, but they are seen and they get arrested and they're charged with a sex offense. I guess that's all I have to say.

Chair Yeager:

I want to thank our presenters for being here today, thank the Committee members for your thoughtful attention and your questions, and we look forward to seeing you at our next meeting. This meeting is adjourned at 11:56 a.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 III A-1	Paul Corrado	Public Comment #1
Agenda Item III A-2	Paul Corrado	Public Comment #2
Agenda Item III B-1	Tonja Brown	Public Comment #1
Agenda Item III B-2	Tonja Brown	Public Comment #2
Agenda Item III C-1	Mercedes Maharis	Public Comment #1
Agenda Item III C-2	Mercedes Maharis	Public Comment #2
Agenda Item IV	Jordan Haas, Interim Secretary	Draft Minutes of the August 2, 2018 Joint Meeting
Agenda Item V	Staff of the Crime and Justice Institute	Justice Reinvestment Presentation #1