

**MINUTES OF THE 2017-2018 INTERIM  
ADVISORY COMMISSION ON THE ADMINISTRATION OF JUSTICE'S  
SUBCOMMITTEE ON CRIMINAL JUSTICE INFORMATION SHARING**

**October 11, 2018**

The meeting of the Advisory Commission on the Administration of Justice's Subcommittee on Criminal Justice Information Sharing was called to order by Chair Julie Butler at 9:01 a.m. at the Legislative Building, Room 3137, 401 South Carson Street, Carson City, Nevada, and via videoconference at the Grant Sawyer Building, Room 4412, 555 East Washington Avenue, Las Vegas, 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):**

Julie Butler, Division Administrator, Central Repository for Nevada Records of Criminal History; Chair  
Jackie Bryant, Clerk of Court, Second Judicial District Court  
Pam Del Porto, Inspector General, Nevada Department of Corrections  
Captain Tom Lawson, Division of Parole and Probation  
Jennifer Noble, Chief Deputy District Attorney, Washoe County District Attorney's Office  
Fred Olmstead, General Counsel, Nevada State Board of Nursing  
Sergeant Corey Solferino, Washoe County Sheriff's Office  
Rick Stefani, Deputy Director-IT, Administrative Office of the Courts

**COMMITTEE MEMBERS PRESENT (LAS VEGAS):**

Steve Grierson, Court Executive Officer, Eighth Judicial District Court  
Brian Kochevar, Chief Deputy District Attorney, Clark County District Attorney  
Alan Peto, CJIS Supervisor, Las Vegas Metro

**COMMITTEE MEMBERS EXCUSED:**

Undersheriff Robert Quick, Lander County Sheriff's Office; Vice Chair

**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:**

Carla Fair-Wright, NIBRS Project Manager, Records, Communications and Compliance Division  
Julie Ornellas, Special Services Manager, Records, Communications and Compliance Division  
Erica Souza Llamas, Repository Manager, Records, Communications and Compliance Division  
Alison Lopez, Criminal Records Manager, Records, Communications and Compliance Division  
Robin Miller, Sheriff Support Specialist, Washoe County Sheriff's Office  
Mark Covington, Chief Investigator, Washoe County District Attorney's Office  
Dale Kaduk, Information Technology Supervisory, Washoe County District Attorney's Office  
Laura English, NCJIS Compliance Unit, Records, Communications and Compliance Division

**Julie Butler (Division Administrator, Central Repository for Nevada Records of Criminal History, Chair):**

I will now open the fourth meeting of the Advisory Commission on the Administration of Justice's Subcommittee on Criminal Justice Information Sharing. Undersheriff Quick had some issues to deal with in Lander County preventing him from attending today, so he is excused. At this time, I would like to open public comment. Seeing none, I will close public comment and move on to agenda item IV, approval of the minutes of our meeting held on June 29, 2018.

MS. BRYANT MOVED TO APPROVE THE MINUTES FROM THE JUNE 29 MEETING OF THE SUBCOMMITTEE.

MS. DEL PORTO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Butler:**

I am now going to move down to the presentation table here in Carson City. Mr. Fernley, since our Vice Chair is not here, how does that work?

**Bryan Fernley (Commission Counsel, Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau):**

You can just designate any of the members to chair while you are down there presenting.

**Chair Butler:**

Great. Mr. Stefani, would you like to chair while I am down there presenting? Thank you.

I wanted to give the Subcommittee an update on where we're at with the Nevada Criminal Justice Information System (NCJIS) Modernization. If you have attended the working group meetings back in July, you may have seen this presentation before, and I have given it in a couple of other different forms, but for others of you, this will be kind of the first time you're seeing this, so I'll go ahead and move forward. Just a little bit about our Division, Records, Communications and Compliance, we are comprised of 2 bureaus, the Records Bureau, which mainly is where we intersect with all of you, with 118 full-time equivalent (FTEs) ([Agenda Item V A-1](#)). We house the Central Repository for Nevada Records of Criminal History. We are the Federal Bureau of Investigation's (FBI) CJIS systems agency for the State of Nevada, meaning that for any of you that access—and all of you do in your jobs—information from the FBI through the National Crime Information Center (NCIC) or the Interstate Identification Index (III), which is the FBI's version of their criminal history repository, our systems enable you to do that and to have that access.

We also have various other programs within our Bureau. We have a Civil Applicant Program. Mr. Olmstead had made a presentation at our last meeting about how the Nursing Board as one of those civil applicant agencies uses the information from the Central Repository, but that is applicable to any of our occupational licensing boards: the Department of Education, the Board of Nursing, the Realtors Board, etc., anybody in positions of trust. We have our Firearms Point of Contact Program. For anybody wishing to purchase a firearm over the counter, you know you have to fill out a form, go through a background check, etc., and I have staff that facilitates that background check. The Civil Name Check Program is essentially name-based background checks, serving mainly casinos in Southern Nevada as a way to vet their non-gaming employees. We have the Sex Offender Registry and we have the Domestic Violence Protection Order Registry. We have our Uniform Crime Reporting (UCR) program, which you will hear a little bit about in a minute with the update on the National Incident-Based Reporting System (NIBRS). As you know, we have a Compliance, Training and Auditing Unit which comes out to audit your agencies periodically to make sure you are in compliance with FBI's CJIS security policy. We have an Administration Unit and a Business Process Management Office because we have a lot of information technology (IT) projects within our Bureau. We also have the state's two dispatch centers, which primarily facilitate dispatching for our Department, Highway Patrol, and Parole and Probation being the main two, but we also work with allied agencies statewide.

We've talked about NCJIS being not really just one system but a conglomeration of systems intertwined and facilitating communication with the various criminal justice systems of the FBI. Our system was built in the 1990s, and it is built in a platform that's really very, very complex. At the time it was built, the technology that was used was modern at that time, but like anything over time, it's 20 years old and it's showing its age. At this point, it doesn't meet our business needs. The mechanism that moves the data back and forth between your agencies when you query our systems and you try to get responses back from the FBI and from our systems, the mechanism that allows that to happen is called the law enforcement message switch, or Justice Link (JLink). The message switch is a very busy piece of technology. It moves about 6,000,000 transactions a month. We did upgrade it in May of 2017 and that was a disaster, which I'll get to in just a minute. We actually wanted to start modernizing our systems in 2009, and then the economy took a big downturn and our reserves were swept. We had to postpone those plans, so we started making the recovery back around the 2012 Fiscal Year. We were able to obtain a grant to allow us to retain a consultant called MTG Management Consultants, and they are a firm that specializes in criminal justice information systems and helping large criminal justice agencies, agencies like the Central Repository and our counterparts nationwide, in acquiring these types of systems. They came in and did a study in 2012, because we knew we needed to start looking to replace NCJIS. What they found was really not a surprise to us, but it was kind of good to put it on paper, that our systems were outdated and were overly complex and were at a significant risk of failure. They recommended that we separate all of the applications from the message switch, from Justice Link, and replace the underlying architecture and use commercial off-the-shelf products where it makes sense to do so.

We had accepted those recommendations, but at the time, moving into Fiscal Year 2014, a couple of significant things happened, one of which was that we merged our Department of Public Safety (DPS) IT staff with Enterprise IT Services (EITS). The second thing that happened was that Enterprise IT Services had a very different opinion of how we ought to move forward with modernization. Whereas we were looking to outsource most of it, Enterprise IT decided that it would be better if we did an in-house modernization and basically rewrote most of the applications that are within NCJIS in-house, the two major ones being our Computerized Criminal History (CCH) system and Parole and Probation's Offender Tracking Information System (OTIS). Instead of replacing Justice Link with a commercial off-the-shelf product, it was decided that we would get a bigger bang for our buck with just upgrading that application rather than replacing it. In the 2013-2015 Biennium, we got a one-shot appropriation of a couple million dollars to begin this endeavor. We purchased some backend servers, middleware, then we started with some data migration of the Division of Investigation's case management system, which is another one of those applications under the NCJIS umbrella, and we moved that forward. They ended up decommissioning their case management system and putting everything into our Department's records management system, which is Spillman. Again, we decided to upgrade that message switch rather than replace it.

Moving forward to the next biennium, the 2015-2017 Biennium, we again received a \$2,000,000 general fund one-shot appropriation for in-house Computerized Criminal History system replacement, and then Parole and Probation received a separate one-shot appropriation to start its OTIS modernization (Agenda Item V A-1). Those projects, the main large applications within NCJIS, were supposed to have been upgraded and completed by June 30 of 2017, OTIS and the CCH. For the 2017-2019 Biennium, I had proposed to the Governor's IT Strategic Planning Committee and to the Legislature that at that point I wanted to use our Division's reserves to start working on our own applications in-house that facilitate our various background check programs: our Civil Applicant Program, our Civil Name Check Program and our Point of Contact Program, as well as our Accounting System. As you know, we collect a fee for every background check that we perform. We need to modernize the Accounting System to make sure that we are appropriately tracking all that revenue. I wanted to add a document management solution, because we are absolutely drowning in paper. A lot of our backend processes, although the information comes to us on the frontend electronically, for the most part, on the backend everything is manual. We wanted to add a user portal, because it would be really amazing if Mr. Olmstead was able to login to a secure internet site, pull down those background checks rather than waiting for them in the mail, and it would just put everybody to work faster and be a much more efficient process. By that time, we also had broken our CCH project into two pieces, because it's a massive endeavor. We were going to start with CCH Part Two. Also, an application under the NCJIS umbrella is that Domestic Violence Protection Order Registry, so we were going to have to replace that in the 2018-2019 Biennium, the current biennium. In reality, what happened, and most of you lived through the horror, we went ahead and went live with the upgraded message switch in May of 2017, and that resulted in hundreds of defects and nearly 5 weeks of system outages statewide. The vendor did not adequately test the product before going live. There were literally hundreds of defects. My staff and I set up kind of a situation room, working pretty much 24-7 for about 5 weeks to make sure everybody got up and functioning. So, that was pretty much a disaster. We deployed CCH Part One in May of 2018, so we were almost a year late on that. We are still working on some critical defects. The Domestic Violence Protection Order Application has also been late. I don't have a firm go-live date, but the latest is probably sometime in November of this year.

We had developed a request for proposal (RFP) for our Civil Request, which is our various background check programs, but we didn't release it because a new and higher priority has now emerged, and that is the vendor that supports the message switch, Justice Link, has informed us that he wants to retire in 2 to 5 years. That's obviously very concerning to us. Through Enterprise IT Services, we had them do an analysis of whether or not they wanted to take over the Justice Link product, and we had some preliminary conversations with our vendor about should the state purchase it and buy him out, essentially. But when Enterprise IT really looked at the product, our vendor unfortunately has not followed any sort of best business practices with respect to documenting anything on how JLink is built, anything as far as the software development lifecycle. It would just be really akin to that home you're going to buy and purchase and fix up and flip, and all of a sudden you get in

there and oh my goodness, it needs new plumbing and it needs a new roof and maybe it needs new wiring and all these things behind the scenes. It has mold and you just didn't know. That would really be akin to what Enterprise IT Services was going to be walking into if we had decided to buy them out, so we decided that it was going to be too risky for us to move down that path with acquiring Justice Link as a product. What we decided to do is take a step back from the craziness and we in lockstep with Enterprise IT convinced our collective leaderships that we really should bring in MTG again to assess where we are and recommend a best path forward, so that's what we did, and we executed that contract in April of this calendar year, 2018. So, MTG has since refreshed that 2012 study. They're just putting the finishing touches on it, and they are working with us to develop the scope of work for a message switch, the hot files and our criminal history system replacement. That might beg the question of, "Wait a minute, you just upgraded your CCH. What are you doing?" That's true, we did. We went live with upgraded CCH Part One in May of 2018, but it only provides about 70 percent of the functionality that we actually need to make it a usable product for my staff. Secondly, Part Two is in and of itself going to be a very major undertaking. At this point, a lot of the vendors out there in this niche area of criminal justice information systems provide combination message switch and CCH, and we may be able to take advantage of better pricing if we bundle that, and so that is going to be our intention to do that. Right now, we are working with MTG on the requirements for the message switch, hot files and CCH replacement. The other thing that makes this very challenging for us is that the vendor that built the message switch is also the same vendor that built our internal background check system applications, so Civil Request, Civil Name Check, Point of Contact and Accounting. They are all part and parcel of that message switch. It was used not only as a switch but kind of as middleware, and those were all developed in what's kind of a big spaghetti bowl mess of code that is embedded within JLink, so we can't just sort of separate that. We're going to have to replace all of those at the same time. It is our plan in talking with MTG that it was really pretty optimistic of me to think that we would be able to release our RFP in this fiscal year, probably looking at a Fiscal Year 2020 release of the RFP and contracting with a vendor sometime during Fiscal Year 2020, and then we will move forward with implementation.

I had mentioned a little bit about the refreshed study, and they basically came back and found that we really haven't made a whole lot of progress since the 2012 study. We have bought ourselves some time in that we did bring JLink into a supported state, which solves—even despite all the 5 weeks of downtime and frustration that that brought forth, we did end up bringing it into a supported environment, which is good from an IT perspective and from a security perspective. Also, CCH, although it's not perfect, it was in a platform that was not vendor-supported. It is supported now, but what they are recommending to us is basically the underlying architecture still needs to be replaced. We ought to look at a different middleware product than we have been using so far. There's still a lot of work to be done. This just lets you know that what we're doing ties part and parcel in with the Governor's goals: safe and livable communities, vibrant and

sustainable economy, efficient and responsive state government. We're trying to make sure that we keep those in mind as we move forward with our modernization.

So, what does that mean for the future? In terms of the timeline, for the first 3 or 4 fiscal years or so, you as a user community will not see a lot of changes as far as the modernization effort, because what we are going to be doing is a lot of behind-the-scenes stuff: replacing the middleware, replacing the underlying architecture, moving from an Oracle environment to a Structured Query Language (SQL) environment. There are going to be some data migration pieces. Looking at the application refreshes, those other components of NCJIS, the things that you as users won't really see until probably the 2022-2023 Biennium when we start looking at actually migrating everybody to the new message switch, whatever that looks like. Our plan, and MTG recommended it 6 years ago and we agree with it now and Enterprise IT Services agrees with it now, is that let's really look at what we do, what we and EITS do well, and where there is already a vendor product out there, let's not reinvent. Let's take advantage of what's out there already. I am very much interested in going with Cloud-based solutions. I really do not want to go with an on-premises solution if I can avoid it. That's not the way the industry's going. I think it makes sense to move in this direction. With Enterprise IT staff, there will still be plenty for them to do. They become systems integrators and they maintain the systems that we have as a Repository that are already in place. There are really not a lot of off-the-shelf products for state sex offender registries. There is one product out there that is really geared more toward local governments. It works really well for their needs, local police departments and sheriffs' offices, but it really doesn't lend itself to a state implementation, so we have an in-house solution that we have for the Sex Offender Registry. We will probably keep with the Live Scan network, all of those electronic fingerprinting stations that are in booking facilities statewide, as well as licensing entities. That is a separate network that Enterprise IT Services needs to maintain on our behalf. They will maintain our Protection Order Registry.

My Division in and of itself has 38 technology improvement notifications that we submitted through our budget process this time around. What does that mean? In English, that means we've got 38 IT projects that we've got stacked up in addition to the NCJIS Modernization that all need to get done. They're all priorities. Everybody says, "Well, which one's your highest priority?" We've kind of kicked the can down the road to the point that, at this point, they're all a priority. They all need to get done. Enterprise IT will work on those kind of one-off-type applications, and they will become integrators to make sure that everything that we pick, in terms of the new software products, plays well in the sandbox and it can communicate with all of the other products that we have out there.

The big question is, what is this going to cost? In 2012, the MTG study also encompassed OTIS, and we were looking at \$18,000,000 over 6 years (Agenda Item V A-1). Well, bad news doesn't get better when you wait, and so now we're 6 years down the road and the new upgraded figures are about \$58,000,000 over 7 years. You say, "My gosh, why the huge increase?" Well, a couple of reasons. We've had to really condense the timeline

because there's a lot of urgency with the message switch vendor giving us notice, and then we're looking at bringing in an integrator. The integrator would be responsible for making sure whatever products we purchase that everything can talk to each other, that it all talks to the systems that you all as our local criminal justice partners use out in the field. That person becomes responsible, that company—and I'm looking for one company basically on the hook to contract with to make sure it all works. That comes at a cost. We're looking at, for the 2021 Biennium, I think the biennial costs are about \$15,000,000. This \$58,000,000 is not in one shot. It's over the next 7 fiscal years. So, what I had directed my staff to do because the budgets were due before we got the cost estimate from MTG was to submit some placeholder costs to the Governor's Finance Office, and then we had indicated to them—we have been in contact with the Governor's Finance Office and the Legislative Counsel Bureau's (LCB) Fiscal Division throughout this process—that we would true-up during the Governor-recommended phase of the budget, which is where we are now, and in the legislative-approved phase of the budget. Our budgets will all go over to LCB Fiscal at the end of December, and we will still continue to true-up as we are in the legislative-approved phase. I had indicated that I wanted to use reserves to the extent that they are available, and I've indicated that to the Governor's Finance Office and LCB Fiscal, but I don't have \$58,000,000 in reserves. That then begs the question, where's the other source of funding going to come from, and I don't know, honestly. The general fund, I hope. Am I optimistic that that's going to happen? Not 100 percent, no. There are all kinds of other priorities and strains on the general fund as it is. Even though revenues are up a little bit, there are still significant costs when you look at a statewide level, Medicaid caseloads, etc., that always drain the budget. So, is there going to be money left over for this? I don't know. We are going to have a meeting tomorrow, actually, with the Governor's Finance Office and legislative fiscal staff to kind of brainstorm how we are going to fund this. Hopefully some good news will come out of that.

So, what am I looking for from you as a body? Obviously some endorsement of, yes, we support the need for NCJIS Modernization, we realize it's mission critical, and it is mission critical. These are the systems that you all use out on the street, that cop on the street at 3 a.m. not knowing who he's got pulled over and he calls into dispatch and says, "Who is this person?" If that system's down, he doesn't know. If that system had been down during the Las Vegas October 1 incident, that would have been a really, really scary situation.

What happens if we don't act? I'm really, really concerned. These systems are very, very fragile. They are going to fail, and when they do, if we haven't been proactive, then you get into this situation where you're trying to replace it on the fly and it's an emergency. Then it costs more and you never really get maybe the product that you wanted because you've rushed, and then you've got the time and effort responding to public scrutiny of why you didn't notice and why you didn't act. That's not a situation that we want to find ourselves in. Increasingly, we also find ourselves in a—we have a very, very difficult time trying to comply with new FBI mandates and new legislative mandates as they come down because of the overly complex and ancient way now that our systems have been



architected. It's just very, very difficult for us to comply with any time the Legislature comes up with a new program, a new group of folks they want us to background check, a new thing they want us to do. Like last session, for instance, there was a bill that would have put an animal abuse registry within the Central Repository, and we had put about a million-dollar fiscal note on that because our systems are so very old, and to go ahead and add that additional component—we got a lot of pushback from the sponsor of that bill. “Why is that going to cost so much?” Well, because our systems are ancient and it's just not easy to have things like that. We're just going to continue to fall farther and farther behind the more we delay this.

On that happy note, I will conclude there. We do have a work session item that will be coming up here in a minute later on in the agenda where I would be seeking the Subcommittee's support in expressing its support for NCJIS Modernization and looking for a funding source and letting leadership know that this is a priority for you all. Yesterday, the Advisory Commission on the Administration of Justice met and indicated their support to send a letter to the Governor for support of the NCJIS Modernization, and I would hope that the Subcommittee would also endorse that. With that, I would be happy to answer any questions that you might have. Keep in mind, I'm not an IT person, so hopefully you won't want to get too far in the weeds as far as technical questions, but I will do my best.

**Rick Stefani (Deputy Director-IT, Administrative Office of the Courts):**

Seeing no questions from the Subcommittee, thank you.

**Chair Butler:**

Thank you very much. I will move back up.

I will now move on to agenda item VI, an update on the National Incident-Based Reporting System (NIBRS).

**Carla Fair-Wright (NIBRS Project Manager, Records, Communications and Compliance Division):**

I will be giving you a status overview of the project (Agenda Item VI). I will give you also an explanation about why we are doing this and what NIBRS is. What is NIBRS? I will first give you a little bit of definition around that, and then why are we changing to NIBRS? What are some of the motivating drivers behind that? I will also talk about the Nevada timeline and end with a project update.

The future is NIBRS. It is how we are going to move forward. If you have ever been the victim of a crime or know someone who has been the victim of a crime, this will impact you. It is a statewide and nationwide initiative. There are a lot of misconceptions about what NIBRS will do and what it will not do, and I will be addressing those as we go through

the slides. So, the NIBRS journey. Today, agencies are reporting using a system called Summary, and it's exactly as it sounds. It is a summary of crime counts: so many murders, so many rapes, so many arsons. It doesn't give us enough information as to the nature of crime. Beginning January 1, this was mandated by former Director Comey, all states will switch to a different system, a system that is based upon not a count, but based upon the incident that has occurred. For instance, if someone breaks into my house and I am assaulted, what would be reported is the assault under the old summary system. However, under the new system, the incident-based system, both offenses that had occurred within that incident would be reported. Not only that, but the victim, the offender, the arrestee, all of this information would be generated and sent forward to the FBI. The state is going through a change. It is a mandated change, and all law enforcement agencies that are currently submitting crime statistics to the Repository will be required to comply. This transition is necessary for us to remain in compliance with statute, as well as with the FBI mandate.

So, a brief overview of UCR and NIBRS. I don't want to give you too many numbers. I was going to skip over this slide, but I think it's important. The Summary System collects what are called categories of crimes, those 10 categories, and NIBRS takes those 10 categories and it expands them. So now, we are collecting over 52 offenses, so we've gone from 10 to 52. You can see the detail is much deeper in what we are reporting. It's much richer and it provides more information. Again, under NIBRS, you're going to collect the offender information, victim information, the offense. Every offense that has occurred within the incident is reported, up to 52. There is also something called arrests under Group B, where we collect an additional 10, so altogether 62 offenses. As you can see, this is definitely going to be a game changer going forward into the future.

So, why are we changing? Of course, we are mandated, but it is also an improvement. It's a way forward. We will be able to give you better quality, timeliness. It's much more fluid. We move away from some of the rigidity around the counts. Once the counts are sent forward, they exist forever. It's a major improvement over how we are reporting crime statistics in the United States today. It's a national initiative, so every single state will be making this transition by 2021. The FBI has said they will no longer accept summary data, which means that we would not be able to send our crime statistics forward, which we have to in compliance with the Nevada Revised Statutes (NRS).

Now, to the status report. In 2016-2017, we began another journey, and that journey towards NIBRS was to determine what do we need, where are the gaps and how are we going to fill those gaps? Are we even ready to move forward with this? I've gone to almost every agency in the state. I've talked to a lot of the sheriffs and chiefs. I've talked to the agencies to let them know to find out what their current processes are, how moving to NIBRS is going to change those processes for them. We brought all this information back, and we put together a pretty comprehensive explanation of how we're going to move forward, a roadmap, if you will, which we then used to submit for our grant. We did receive that grant under the National Crime Statistics Exchange (NCS-X) program, which is

currently coming underneath the Bureau of Justice Statistics (BJS), but the FBI has also partnered with them. We submitted our grant, and we received funding of \$3,400,000 in order to move forward with this initiative. We are currently building the data repository. It is in place. We have been testing with it. We are going to move forward into actual production in 2019. We are on schedule to meet the 2021 deadline. I talked about \$3,400,000. That is a lot of money. In 2017, we were awarded the \$3,400,000 based upon our needs for equipment, for consultants, contracts, working with the vendors to upgrade our current systems, working with the vendors to replace aging hardware that was reaching end of life. It really didn't make sense to load the new software onto a platform that was about to fail in a couple of years, so we were able to get funding for that as well. So, where did all of the money go? Most of the money has gone for equipment and for consultants and contracts. It's about a 50-50 split, a little more on the consultant side as we are dealing with the vendors and services.

Here's our plan (Agenda Item VI). I apologize that it's not very clear, but I'll talk you through it a little bit. In the beginning, I talked about this a little bit. Our goal is to be NIBRS-certified as a state by the third quarter of 2019. What does that mean? Well, to be NIBRS-certified as a state means that we can begin to certify each and every agency. Until we reach this milestone, all of our agencies will be certified via the FBI. Any agencies that are ready before us will be certified by the FBI. Once we are certified, then we can begin to certify our agencies using our guidelines, which are a little less stringent than the FBI's. We won't require 6 months of dual reporting. We know that's a hardship for some agencies to have to report in the old Summary and report in the new NIBRS. Once we become certified, our criteria will be 3 months, and we will be watching that carefully through the data repository. We have some tools for that, how to monitor that and how to measure in the reporting. The Reno Police Department is one of our pilot agencies. They received funding as well to upgrade their systems. We did not pick the pilots. The pilots were selected by BJS. Mesquite was also one of the pilot agencies that was selected, and Las Vegas Metro was selected as well, but they have received a separate grant from us and they are moving forward on their own. They have told me that they will be ready in the third quarter of 2019 to begin that process of certification with us. We have our two pilots on the timeline.

One of the major accomplishments that I would like to give some kudos to the Nevada Offense Codes (NOC) team was how do we go from statute to offenses? How do we map all of this information? We have over 10,000 NOCs. How are we going to do this? The NOC team stepped up. Judy Christenson stepped up and took the lead on this and was able to go through and map over 10,000 NOCs. We're done, we're ready, and we have them. We're just validating and verifying now, but that team did an awesome job. From our UCR program as well, we had Tammy Viera working with them, and we also had some volunteers from the Mesquite Police Department that came on board as well. We were able to get this done through teamwork and coordination. It was a massive task. There were some letters of recognition going out from the Governor to the team for the work that they did. I want to make sure that I give some kudos to those folks.

We are currently under budget. We are currently on schedule. We are moving forward. As I said, our pilot agencies have been identified. A master implementation schedule is on its way. We just completed an FBI audit with no findings. In fact, she said it was one of the best audits that she had been on so far, so we got some props also from the FBI on this. We put up and have ready to go an online computer-based system in which people can come and either get their NIBRS training. The only piece that we're lacking right now is going to be the Nevada specifics, such as domestic violence and crimes against the elderly. These are not reported to the FBI currently. It would stay within the state as our statute requires. We understand that some of the smaller agencies may not have the funding to add on a "NIBRS module," so there has been some funding set aside for those smaller agencies and midsized agencies. We haven't quite worked out how we're going to do that with local criminal justice agencies. They will put down the terms and I will work with them as well to kind of define what is going to be the criteria for awarding the funding. How are we going to do this?

We have a NIBRS training program in place, thanks to the UCR program. We will begin training in January. Training will be once a month here in Carson City for all law enforcement agencies. We are not restricted just to that. If an agency needs us to come out and have trainers on site, train the trainer, train the officers, we will also be able to do that. We have two trainings coming up which will be FBI provided. One will be here in Reno in November, but we also will have a second training in Las Vegas for that area as well, and then we will have a third training for the northeastern portion of the state, and that will be about first quarter, second quarter of 2019. We're still trying to make arrangements for where we're going to do this and who we're going to be working with up there.

The NIBRS certification process is a three-legged stool. It begins with preparation. We will be working with the agencies to make sure that they are ready for this transition, then the actual transition itself and then that movement into certification. There is good news and there's bad news, of course. All agencies have to be in compliance by 2021. This has been mandated by the federal government. Summary data will no longer be accepted. We understand that some agencies may have funding—they may have staffing issues. Within the data repository that we currently have, we have added a portal, an interface, where agencies can go in and they can manually enter their information. So, no agency will be left behind. There will be something in place for everyone to have them move forward. Agencies that are not in compliance will not have their statistics included in the FBI book which is published every year. Agencies will also be out of compliance with Nevada statute if they are not able to report in NIBRS. Again, we have some training coming up. We're helping the agencies. We're working with them as closely as we possibly can. We do have short staff, but we have automated some of the processes. One of the things that we found very successful is having these open calls. We're going to have an open call with the FBI, SEARCH and the Institute of Justice Information Services (IJIS) where agencies can again call in if they have questions or if they have any concerns. They can ask questions directly to the FBI. This will be the second time that

we've done this. We're really looking forward to it. A lot of things come up, and you can see there's almost like an easing of the tension, because now people understand what the expectation is.

I've given you a brief overview. There's so much to this program. There are so many legs to it. Are there any questions, or do you need clarification on anything?

**Chair Butler:**

I have a couple of questions for you. Can you talk a little bit more about Reno and the whole Tiburon consortium and what that means to all of the law enforcement agencies on the Tiburon system?

**Ms. Fair-Wright:**

The Reno Police Department (RPD), again, they were selected as a pilot. These selections were random. They were done in categories. The RPD is unique in that Reno shares their software with six other agencies. We have the Washoe County Sheriff, the Reno Municipal Court, we also have Sparks, and some of the tribals are also embedded in that. They are a consortium, and what I mean by a consortium is that they share a central software application. They have their own databases, of course, but they are sharing this application together. So, when Reno goes live, then they will bring with them six other agencies as a group, because we will change out that module that they have. The Tiburon module will be added, and then all of those agencies will be accessing that same software piece.

**Chair Butler:**

Thank you. Can you also speak to the Record Information Management System (RIMS) consortium out in Eastern Nevada and what's going on with that?

**Ms. Fair-Wright:**

When we began talking with that group of agencies, we realized that they also were working with the same vendor. So, what we found, the FBI, as well as BJS, loves leveraging the finances. What we've done is we've gone back and said, "Hey, we have a group of agencies. They're working with this vendor, Sunridge. If we can negotiate a multiagency contract at a much lower rate, would you be willing to reallocate a portion of the funding that we received in order to supplement?" The FBI and BJS said, "Yes, we're willing to do this." They love these models. They love the consortium model. I've been talking with agencies about, "Hey guys, get together." We're doing this with the Spillman agencies that are not on the server. We've gone back and we've renegotiated down to about \$6,000 per agency. I think Sunridge is at \$20,000, and we've gotten them down below \$20,000 and we've gotten Spillman all the way down to \$6,000. Having these

agencies come together and negotiating as a block gives them much more leverage than an agency trying to go in there and go it on its own because, remember, it's not just the State of Nevada. The entire country is moving forward, so a lot of these vendors, they're really either using this as an opportunity, not only that but they may not have staffing, so of course prices are going to go up because now there's a war for talent as well on the vendor side.

**Chair Butler:**

Thank you, Ms. Fair-Wright. I appreciate that. Just to back up the train a little bit, Ms. Fair-Wright had mentioned "the book." For those of you not familiar, Chapter 179A of NRS requires the Central Repository to put an annual publication together called *Crime in Nevada*, so all of the law enforcement agencies were reporting on a voluntary basis to our office using the Uniform Crime Reporting summary version or summary method of reporting those crime statistics. As Ms. Fair-Wright had indicated, they only captured like 10 categories of crime, and it was based on hierarchy so only the most severe crime was reported. As Ms. Fair-Wright mentioned, if her home was burglarized and she was robbed and she was assaulted, it would only be the assault that would be reported because that would be the most severe. Moving to NIBRS, we start capturing all of the different offenses and we also start capturing victim information. In the summary reporting, victim information was only captured on murder victims, and so this will capture victim information for all the different types of crimes, so it's really going to give us a much richer view of what's really going on and really going to give decision makers in our law enforcement communities a lot better information as to what's occurring in their communities.

Ms. Fair-Wright had also mentioned the data repository, and I want to let you know that prior to acquiring this contract for this data repository, the way that my staff was putting together this *Crime in Nevada* book was through a series of Excel spreadsheets. It's a very labor-intensive effort. They start this process about February or March of every year, trying to get all the information and the data collected from the different law enforcement agencies. It's very labor-intensive, and it's clunky trying to deal with multiple spreadsheets. Part of the funding we got that Ms. Fair-Wright mentioned was for a contract. There are vendor-supported products out there for states to use in their NIBRS collection for a data repository, so that's one of the pieces of technology that we are going to be acquiring. We are really excited because that makes those Excel spreadsheets disappear and it will be much easier for my staff. It will be much easier and hopefully will provide automated reporting for our law enforcement agencies that have to report this information, so it's going to be a huge improvement. Is there anything you'd like to add to that, Ms. Fair-Wright?

**Ms. Fair-Wright:**

No, I think that says it all. We've gone from months to possibly weeks because all of that will be automated now.

**Chair Butler:**

The other thing that the FBI is doing and they're piloting right now is something called the Crime Data Explorer, and that's going to also enable users to go to a website and pull down UCR data in more real time so you can really drill down. Again, using the NIBRS data will really allow us as criminal justice practitioners to see what's going on in our communities in more real time rather than having to wait once a year for the annual *Crime in the United States* or the annual *Crime in Nevada* books. I just wanted to plug that as well. Are there any questions from Subcommittee members? Seeing none, thank you very much for the update.

I would now like to move to agenda item VII, a presentation on the federal Fix NICS (National Instant Criminal Background Check System) Act of 2017 and implementation of the act by the Central Repository for Nevada Records of Criminal History.

**Julie Ornellas (Special Services Manager, Records, Communications and Compliance Division):**

I'm here today to present to you information on the Fix NICS Act of 2017. I have with me today Erica Souza Llamas, and she is the Repository Manager. She is also here to help me answer any questions that you may have. The Fix NICS Act of 2017 is a United States federal law passed as part of the Consolidated Appropriations Act, signed as Public Law 115-141 by President Donald Trump on March 23, 2018 (Agenda Item VII). The law applies penalties to government agencies for not reporting to the National Instant Criminal Background Check System. It was introduced in the 115th United States Congress in the wake of the Sutherland Springs church shooting. The Fix NICS Act in part requires federal agencies and states to establish a NICS implementation plan that focuses on practices, policies and procedures to increase NICS record sharing with the goal of preventing prohibited persons from receiving or possessing a firearm. The Records, Communications and Compliance Division (RCCD) is currently working to draft Nevada's NICS implementation plan to meet the requirements of the Fix NICS Act of 2017.

I'd like to share a little bit about some of the practices and procedures that we currently have in place and have had for quite some time, along with some more recent activities that we implemented just to improve our own processes. I'd like to go over those first. Our Brady Point of Contact (POC) Unit which does the firearm background checks is currently conducting basically an audit of 7,600 mental health entries into the NICS indices to ensure all of our backup documentation has been obtained and all identifying information is available and entered into the system. This is more of an accuracy verification just to

ensure we have all the complete information in there. Also, our Criminal Records Unit (CRU) which Erica Souza Llamas is over is kind of in a joint effort with our Brady Unit right now supplying our Brady Point of Contact Unit with possible domestic violence convictions as our CRU enters those records into the Computerized Criminal History (CCH) system. The Brady Point of Contact Unit is completing research on those convictions to determine the relationship to the victim as well as the conviction to determine if it's federally disqualifying. If it is, they are entering that into the NICS indices so we are again entering that information so it's available during firearm background checks. Since May of 2018, the Brady POC has entered 248 domestic disqualifications into the NICS indices.

**Chair Butler:**

Do you mind if I stop you there? For the Committee's benefit, when you indicate over 7,600 mental health entries, how do those mental health entries come to the Repository?

**Ms. Ornellas:**

Thank you for the question. By state statute, the courts are required to report those mental health individuals that have been adjudicated as a mental individual. Those individuals' information is required to be reported to the Brady Point of Contact Unit by the courts, and so the Brady Point of Contact Unit takes that information and enters that into the NICS indices based on the court order and information that's included in those documents. Did that answer your question?

**Chair Butler:**

Yes, thank you.

**Ms. Ornellas:**

Moving forward on current practices, the Criminal Records Unit is providing the Brady Point of Contact Unit with felony conviction documents as they enter the dispositions into the CCH for research and data entry into the NICS indices on qualifying convictions. Again, the CRU is sharing those pieces of information as those convictions come across since they are federally disqualifying, and the Brady staff is entering those in. Since May of 2018, they have entered 495 additional felony convictions into the NICS indices. The Criminal Records Unit is conducting ongoing outreach to our criminal justice partners relating to the submission of arrest and disposition information. This outreach is focusing on each individual jurisdiction. Again, this is really something that's very, very important about the mission of information sharing. Without that information provided to the Repository and for entry into our systems, we are not aware of that, and so it gives us those opportunities to not only use them for employment background checks or officer safety but also preventing these firearms from getting into the hands of individuals that



should not have those, so that's a really key element with the outreach. Also, in our current practices, and this happens on a daily basis, information found during a firearms background check, information that is federally disqualifying for Nevada convictions or felony level crimes, crimes of domestic violence or recent drug-related crimes are also entered into the NICS indices. So, if an individual presents themselves at a federal firearms-licensed business and tries to purchase a firearm and that background comes through the Brady Point of Contact Unit, if there is something that appears to be a disqualifier, that purchase is delayed and then that goes into what's called a research status. Upon our research, if we find that that individual has been convicted of something that needs to be entered into that NICS indices, it is done so at that time. That populates that information, so that's another way that NICS gets information from Nevada. Also, extended domestic violence protection orders are entered into the NICS indices upon receipt from RCCD as either a federal disqualifier or a state disqualifier depending on the relationship criteria. There's a caveat here. It says RCCD enters a small percentage of protection orders on behalf of courts that don't enter on their own, and I don't know if you'd like to expand on that at all, Ms. Souza Llamas?

**Erica Souza Llamas (Repository Manager, Records, Communications and Compliance Division):**

I oversee activities for the protection order registry. My staff does manual data entry on behalf of courts that do not have the ability to data-enter into the protection order repository. We do a small portion of this data entry. We do it for the smaller courts. We provide and share the orders that are extended to the Brady Point of Contact Unit for entry into the NICS indices. Again, we only enter a small portion of those, so for instance, we don't enter for Washoe County or Clark County. All of those orders that get extended in those two counties don't get entered. They're not forwarded to our Brady Point of Contact Unit and they don't get entered into the NICS indices if they qualify.

**Jackie Bryant (Clerk of Court, Second Judicial District Court):**

I just want to understand what you said. When you said they don't get entered, are you saying that the courts themselves don't enter them, or are you saying they don't get entered?

**Ms. Souza Llamas:**

The courts themselves don't enter them. They fax them to our office and our staff in our Criminal Records Unit actually does the data entry for those courts

**Ms. Bryant:**

For the smaller courts, correct?

**Ms. Souza Llamas:**

Yes.

**Ms. Bryant:**

But for the Washoe County and Clark County courts, those courts enter directly into the system?

**Ms. Souza Llamas:**

Yes, that is correct.

**Ms. Bryant:**

Okay, thank you.

**Chair Butler:**

Ms. Ornellas, you've talked about relationship criteria. Can you explain to the Subcommittee what that means, please?

**Ms. Ornellas:**

Thank you for the question. Basically, based on the federal definitions on whether or not an individual meets for domestic violence purposes, whether or not that individual meets those criteria as far as a domestic violence relationship, that's when they take that into consideration for entering whether or not they enter that as a misdemeanor crime of domestic violence into the NICS indices. Did that answer your question?

**Chair Butler:**

Basically what my staff has to look at is whether or not the individuals are either married or they're in a dating relationship or they have a child in common. If they are just roommates, that doesn't necessarily qualify for entry as a domestic violence incident under the federal definition, so when staff puts people into a delayed status, they have to look at the police report and get whatever additional supporting documentation there is, and that's part of that 3-business-day delay is they have to analyze the relationship of the victim to the offender to determine if it meets for domestic violence.

**Ms. Ornellas:**

Thank you, Chair Butler, for that expanded definition. Additional current processes that we are following: again, all mental defective adjudications are to be submitted to the

Nevada POC within 5 business days of adjudication per NRS 174.035. The majority of mental defective submissions received by the POC are entered within one hour of receipt, usually immediately but no later than the close of business that day. We try to get them in as quickly as possible. If we have something unforeseen going on or system issues or something, it might be by the close of that day, but we pay close attention to those coming in and make sure that those are posted very timely. We also do ongoing outreach that is conducted by one of the Brady POC supervisors. They partner with the Criminal Records Unit outreach and they go out to several locations per year. The focus on the Brady POC supervisor outreach is sharing the 10 federal disqualifiers related to firearm purchases and the importance of complete and accurate criminal history records, again for the purpose of putting that information in the indices to prevent those firearms from getting into prohibited hands.

Now I would like to move on to our future plan and hope to get support for this. Some of the projects that we would like to work on and add that we feel would really be a benefit to increased information sharing and support this initiative is established policies and procedures pertaining to fingerprint submissions and disposition reporting. We feel like that's a gap that we have, and Ms. Souza Llamas and her unit are currently working on drafting the policies and procedures, outlining the requirements for proper fingerprint submissions and what is needed for disposition reporting and some of those specific details that they might need for us to use that information and post that information appropriately. We would like to make sure that as we move forward with this that we are definitely going to be including our criminal justice partners and the working groups to ensure that we are sensitive to their processes and making sure that some of the decisions that are made are made not in a vacuum but taking into consideration their challenges and some of their processes. One of the other things is to submit draft language pertaining to fingerprint submissions and disposition reporting for a potential bill draft request through the working group. We did propose that, and Ms. Souza Llamas will be presenting that to you today as the CJIS Subcommittee and the ACAJ.

One of the other things that we like to do after the policies and procedures are drafted is currently we have a criminal audit program where, again, our Compliance Unit goes out and trains and educates our law enforcement partners on the use of the systems, the use of information, compliance requirements and to make sure that such things as storage and dissemination and those types of practices are being followed. We'd like to expand on those audits and include the fingerprint submission policies and practices, requirements and disposition reporting requirements once those are defined, so that's one of the things that we are proposing that would help us receive that information more complete, more timely, and that would be a benefit for that information sharing goal. The last item is the Brady Point of Contact will receive all extended protection orders entered statewide into the new protection order program to conduct research and determine if the records can be entered into the NICS indices, and I'd like to ask Ms. Souza Llamas to expand on that piece a little bit because that pertains more to her program.

**Ms. Souza Llamas:**

Previously in Chair Butler's presentation, she had indicated that RCCD is in the process of replacing our current protection order system. As part of that new system, the new protection order program will have the ability to provide notifications to Ms. Ornellas' Point of Contact Unit so any time a court anywhere in the state enters an extended order, the Brady Point of Contact will receive notifications to go in and review the record and determine if it meets the requirements to make the entry into the NICS indices.

**Ms. Ornellas:**

That completes our presentation today on the Fix NICS Act of 2017 (Agenda Item VII). If you have any questions, we would be happy to attempt to answer those for you, and if there are questions that we cannot answer, we will be happy to get that information back to you.

**Chair Butler:**

Do Committee members have any questions? Seeing none, thank you very much. We will move now into the FBI's National Use-of-Force Data Collection Program, agenda item VIII.

**Ms. Ornellas:**

I am also here to present on the law enforcement use-of-force (Agenda Item VIII). At times, the complex policing scenarios our law enforcement officers face are subject to heightened media attention. The ability to better understand and discuss incidents where law enforcement officers use force is often hindered by the lack of data on a national scale. In order to better understand and discuss incidents where law enforcement officers use force, the Federal Bureau of investigation, at the request of law enforcement partners, established the National Use-of-Force Data Collection Pilot Project. On June 7, 2017, the FBI's pilot project for the National Use-of-Force Data Collection was authorized by the Department of Justice and the Office of Management and Budget. The pilot project officially began on July 1 and ran through December 31, 2017. The FBI recruited multiple law enforcement agencies, those with 750-plus sworn officers, and 4 Department of Justice (DOJ) agencies to participate in the pilot study. The pilot study was designed to collect specific data values related to use-of-force incidents from the participating law enforcement agencies and DOJ agencies. The pilot study goals were to provide more information to the FBI's Uniform Crime Reporting Program on areas where there would need to be better instruction and guidance or possibly a change in reporting values that would increase the reliability of information on law enforcement use-of-force. The use-of-force pilot study was completed and the data was analyzed to determine the value of ongoing data collection. On September 5, 2018, the FBI received approval from the Office of Management and Budget to launch the official National Use-Of-Force Data Collection

Program. The FBI's long-term goal for the data collection program is to help law enforcement agencies improve communication with the community they serve, as well as communications with the media by having more informed discussions and increased transparency. The data collected will also allow law enforcement agencies to analyze the trends to help improve their training methods in an effort to reduce those use-of-force incidents. Right now, Nevada does not have a statute that mandates participation in this. While the FBI does encourage participation in the program, it is completely voluntary at this time. What we wanted to share and kind of get the message out today was that Nevada law enforcement agencies that wish to participate in reporting the use-of-force incidents for their agencies can do so through the FBI's use-of-force program through the use-of-force portal on the FBI's Law Enforcement Enterprise Portal (LEEP). This information did go out to the various agencies through the terminal agency coordinators (TAC) and the assistant terminal agency coordinators (ATAC), so if there is additional information that is needed, we're certainly happy to help by providing that to the law enforcement agencies. That concludes the presentation on the use of force. If there is anything that I can answer for you, I am happy to do so.

**Chair Butler:**

Mr. Peto, is the Las Vegas Metro Police Department participating in this? I thought they were a pilot agency. Do you know?

**Alan Peto (CJIS Supervisor, Las Vegas Metro):**

Las Vegas Metro is participating.

**Chair Butler:**

Thank you. I'm not aware of any agencies in Northern Nevada that are participating in this right now. I don't know. Sergeant Solferino, do you know if Washoe County's participating in that?

**Sergeant Corey Solferino (Washoe County Sheriff's Office):**

The Washoe County Sheriff's Office is not currently participating.

**Chair Butler:**

Thank you. We as a Central Repository had looked at combining this with our NIBRS effort, but we have decided that this would just kind of be one more program for the Repository to take on at a time when we've got a lot of IT projects ongoing, so we have decided as a Central Repository to just allow law enforcement agencies that want to participate can do so through the FBI's LEEP. We won't be adding this to our Uniform Crime Reporting Program within the Central Repository. Do the Committee members

have any questions about this program? Hearing none, thank you very much. We will move now to agenda item IX, a presentation concerning proposed legislation including revisions to NRS 179A relating to records of criminal history.

**Ms. Souza Llamas:**

I'm here today to provide an update on RCCD's efforts to improve information sharing and record reporting to the Repository. I have attended both the Northern and Southern Working Group meetings that were held in July of 2018 and September of 2018. In July, I provided an overview to the working groups of RCCD's disposition backfill progress. In this overview, I highlighted some of the challenges we have discovered along the way and have been facing as a result of the backfill project. We also took a glimpse of where RCCD was headed in the future with our continued efforts to make our criminal history records accurate and complete. On Tuesday, September 25, I spoke to the working groups again. I spoke of the need to fill the gaps identified in our existing criminal history through the backfill project as challenges have been encountered, specifically now that the cause of the gaps in criminal history record reporting and information sharing have been identified, the need to stop the bleeding of the incomplete records that we continue to receive and those that we were not receiving at all. Those are all contributing to the incomplete records and poor information sharing, not just within Nevada but on a national level. Nevada needs to take a proactive role in record accuracy, timeliness and completeness. Remaining in a reactive state will continue to produce incomplete records of criminal history and insufficient information sharing. In addition to the Northern and Southern Working Groups, a NOC Working Group has been created. The purpose of this group is to represent the needs of the criminal justice community for criminal offense related items. A NOC is a Nevada Offense Code, so we have a unit specific to NOC maintenance and creation. The working group is intended to collaboratively review and recommend offense retainability for inclusion on state and federal criminal history. It should be noted that RCCD only includes offenses in state and federal criminal history that have been determined to be retainable. The NOC Working Group will also continue to assist RCCD in establishing Nevada Offense Code policy.

The NOC Working Group met on October 3 to discuss their new role and began discussing some offense retainability items, specifically vehicular manslaughter. State statute currently makes vehicular manslaughter a non-retainable offense since it falls under NRS 179A.070(2)(g) as a misdemeanor traffic offense. The NOC Working Group discussed this offense in reference to statute and felt that it should be included in a record of criminal history and would like to make a recommendation to the NCJIS Subcommittee to consider including the offense of vehicular manslaughter in a record of criminal history. As such, I've included this in the proposed statutory language that I will speak of next. You should all have a copy of the draft statutory language (Agenda Item IX). I have taken this language from Idaho, which is one of our peer states, and have modified it to fill in what I believe to be the gaps in Nevada's criminal history information sharing. Idaho has been able to address their information reporting gaps by way of this language, and RCCD

would like to do something similar. The drafted language has been provided to the Northern and Southern Working Groups for their consideration. I also took existing language in NRS 179A.070 and have added some clarification to address record completeness concerns that have been experienced by RCCD. Additionally, this is where the reference to vehicular manslaughter spoken about previously has been included. The Northern and Southern Working Groups have been asked to review the proposed language and provide their feedback to me by tomorrow, October 12. The RCCD will be forwarding the collective recommendations to the NCJIS Subcommittee once it is received back from the group chairs. As I stated, you should have copies of the proposed language.

Would you like me to go through the language? Okay. For existing statute under NRS 179A.070, I have added NRS 484B.657, which would include vehicular manslaughter in a record of criminal history. I have also slightly modified and removed, probably midway down (Agenda Item IX), "district attorney" and changed it to "prosecuting attorney" so that it's not just specific to district attorneys and it will be specific to city attorneys as well. We have also included in the record of criminal history interim judgments and deferred adjudications so that we can receive this information to include on our criminal history. Further down is proposed new sections within that would fall under NRS 179A. This language is taken from Idaho.

Section 1 says the Central Repository shall establish policies and procedures regarding the taking of arrest fingerprints and the submission of those fingerprints under the section. This is pretty self-explanatory. The RCCD will work with the Northern and Southern Working Groups to develop these policies.

Section 2: when a person is arrested for a retainable offense with or without a warrant, a new set of fingerprints of the person shall be taken by the law enforcement agency making the arrest and submitted to the Central Repository within 48 hours of the person's booking into a detention facility. A law enforcement agency may contract or make arrangements with the jail or correctional facility or other criminal justice agency to take the required fingerprints from a person who is arrested by the law enforcement agency and who submits them to the Central Repository. This section imposes a time frame for the submission of arrest fingerprints to RCCD. Today, there is no time frame for submission of these prints and this has partially contributed to RCCD never having received the underlying arrest, some of which are serious offenses. This section will also ensure the Nevada criminal history is timely as to facilitate accurate criminal history record information sharing.

Section 3: if a person was arrested and is in the custody of a law enforcement agency, jail or correctional facility and a retainable information is filed for an offense separate from the offense for which the person is in custody, the agency, jail or correctional facility shall take a new set of fingerprints of the person in connection with a new offense and submit the fingerprints to the Central Repository within 48 hours of filing the new offense. This

section will ensure that RCCD receives additional arrest and charge information to include in the criminal history within the specified time frame.

Section 4: at the initial court appearance or arraignment of a person for an offense pursuant to a retainable information, the court upon notice from the prosecuting attorney shall order a law enforcement agency to fingerprint the person if he or she has not been previously fingerprinted for the offense. Section 4 will ensure that RCCD receives the fingerprints and associated criminal history in instances where a summons or indictment has been issued against a subject of the record. The RCCD has discovered through the disposition backfill project that this is not occurring and therefore is also contributing to the gaps of missing criminal history.

Section 5: when a defendant is convicted or otherwise adjudicated for a retainable offense for which the defendant has not been previously fingerprinted, the court shall order upon notice from the prosecuting attorney a law enforcement agency to fingerprint the defendant as a condition of sentence, probation or release. Section 5 will ensure regardless of the mitigating circumstances that may have resulted in missing criminal history information that RCCD will receive the fingerprints and associated criminal history for inclusion on state and federal criminal history.

Section 6: when the Central Repository receives fingerprints of a person in connection with an arrest or incarceration, the Central Repository shall make a reasonable effort to confirm within 24 hours the identity of the person fingerprinted. In an emergency situation when an immediate positive identification is needed, the criminal justice agency may request the Central Repository to provide immediate identification services. The RCCD currently processes criminal fingerprint submissions within 12 to 18 hours of receipt, sometimes within minutes to just a few hours. Section 6 just adds this metric for accountability purposes. The RCCD is already available 24-7 to make emergency identifications when assistance is needed by our law enforcement partners. Again, this is just providing accountability on the part of RCCD.

Section 7 says if the arresting officer, the law enforcement agency that employs the officer or the jail or correctional facility where fingerprints were taken is notified by the Central Repository that fingerprints taken under this section are not legible, the officer, agency or facility shall make a reasonable effort to obtain a legible set of fingerprints. If legible fingerprints cannot be obtained within a reasonable period of time and if illegible fingerprints were taken under a court order, the officer or agency shall inform the court which shall order the defendant to submit to fingerprinting again. On occasion, criminal fingerprints will be rejected for quality purposes. When fingerprints are rejected, the offense is not included in criminal history. Today, there is not an automated solution to notify submitting law enforcement agencies when fingerprints are rejected for quality purposes. It should be noted that Nevada does not reject any fingerprints for quality; however, the FBI does. Section 7 of the drafted language would impose requirements for law enforcement to obtain a new set of fingerprints if possible, and in some circumstances



would require the courts to order a new set of prints so that the offense could be included in records of criminal history. That concludes my presentation.

**Pam Del Porto (Inspector General, Nevada Department of Corrections):**

I have a concern about section numbers 3 and 7, but obviously we will do whatever we need to do to work with RCCD, the concern being that we have inmates that commit crimes within the facilities and we or they may not be in a position to do those fingerprints within that specified time frame. One of my supervisors asked, when we submit an Attorney General referral or a prosecution referral, is that when the 48-hour clock starts? Just some clarification comments that at some point we can meet and go through these.

**Mr. Stefani:**

We kind of have a question on the interim judgment deferred adjudications clauses. We feel strongly that if these were put in, it would really be detrimental to the specialty courts in the state. You're not going to have somebody who wants to go into the program if they're going to have a guilty plea on their record right up front. That is going to be very tough to get through, let's put it that way. The whole basis of that program is to go into it to not have that conviction on your record.

**Ms. Souza Llamas:**

We have received those concerns in the past. It should be noted, though, that those types of disposition informations are used in licensing and employment determinations in the interim and for Brady firearm determinations as well in the interim. While they are going through their programs, it is not yet dismissed and can be used as a disqualifier for employment or firearms purposes.

**Mr. Stefani:**

Thank you. It's not being dismissed, but it's also that they're not adjudicated at that point as well. There is no "you are guilty" here.

**Jennifer Noble (Chief Deputy District Attorney, Washoe County District Attorney's Office):**

Thank you for your presentation this morning. I can appreciate how difficult it is to draft legislation like this, believe me. I also have a concern, and it's with section 4. As I read it, it would require the district attorney or the prosecuting attorney at the time of initial arraignment to be present and also to be aware of whether or not the person has been previously fingerprinted. Is that correct?

**Ms. Souza Llamas:**

The way I interpret this language, yes.

**Ms. Noble:**

Thank you for your answer. My concern with this is that if the Washoe County District Attorney's Office, especially for misdemeanors or even driving under the influence (DUI), etc., we do not necessarily have a district attorney present for initial arraignments. Those are a lot of cases, and it's my understanding based on our staffing challenges that that would be very difficult for us. I don't know if in Clark County it's the same way, but even if we have a district attorney present, initial arraignments as you know have to take place quickly. If they don't take place within 72 hours, we have a district attorney present, but otherwise we don't necessarily. It would be a challenge for us to have a criminal history run and in the district attorney's hand indicating whether or not that fingerprinting had previously taken place. I'm just concerned about our ability to comply with this requirement.

**Ms. Souza Llamas:**

I would like to point out again, the Northern and Southern Working Groups are taking this language under consideration, and we are open to proposals and to amendments to this language.

**Chair Butler:**

As Mrs. Souza Llamas has indicated, our big challenge is that in order for a record of criminal history to go into our statewide repository, we have to have that set of fingerprints on file, and so that's really what's driving the gap. We end up with a situation that we really discovered through our backfill process, and that is we're getting dispositions on cases and, as we go back, we find out we never received the underlying arrest, and some of these are very, very serious offenses. Some of them can be murder offenses and things of that nature where someone was summoned or was never actually booked, and some of these have come to light through actually reporters' inquiries where they say, "Hey, why don't you have that so-and-so committed some pretty heinous crimes and it's not in your database," and we'll go back and look and it's a situation where we never received the prints. While we realize this proposal is not perfect, the underlying goal is to figure out some sort of mechanism for us to get those underlying fingerprints so we can have that accurate criminal history, which benefits everybody. Our intent here, and we will hopefully at least get approval to move this forward in concept during work session, but recognizing if this moves forward as a recommendation by the full ACAJ and somebody picks it up and sponsors it in the 2019 Session, that we would work with the parties during session to make this palatable. Having said that, are there comments from Committee members?

**Brian Kochevar (Chief Deputy District Attorney, Clark County District Attorney):**

I would just echo Ms. Noble's concerns in regards to section 4. We do have a prosecutor there for the initial arraignments, however that information as to whether that person had been previously fingerprinted for this offense would not be available immediately, so it would be very difficult for the prosecutor to be able to make that determination, especially with the volume of cases that are being heard on a very expedited schedule.

**Chair Butler:**

Thank you for that.

**Mr. Peto:**

As part of the working group, we do have the letter to be prepared to go to Ms. Souza Llamas regarding this NRS draft. Overall, we have issues with sections 2 and also 3. Basically, as has been echoed already with section 2, there can be different instances in the incarceration facility when they can actually take the fingerprints in different situations, which we will articulate as well too, but also the quality control piece of it as well. When these prints are taken, usually agencies will have a quality control or quality assurance portion of it, so having a 48-hour requirement is very impactful to agencies with Nevada personnel that's available, and the amount of shifts they would probably have to work to meet this requirement. Also, there was a question brought up regarding retainable offenses and what exactly are those, so that would be an important component. For section 3, basically the overall recommendation on that particular one if there's not been a break in custody, one set of prints is going to be the recommendation coming from the south, but we will do that officially with our letter. That will go to the Subcommittee as well.

**Steve Grierson (Court Executive Officer, Eighth Judicial District Court):**

I had a question about the process in section 4 and section 5 and using the court to enter orders to comply with fingerprinting. I'm just trying to understand why it is that the courts have to enter orders to require fingerprinting. Generally speaking, orders are entered because they're noncompliant with doing the fingerprinting or the law enforcement agency couldn't get them because they resisted it. I'm just trying to understand why you're using the court order process, or was there any thought about why you're using petitions from district attorneys to courts to enter orders to get the actual fingerprints. I'm just curious if you have that answer.

**Ms. Souza Llamas:**

Today we are finding that this would be in instances where the subject had never been printed initially where we don't have the fingerprints or the criminal history on file. If somebody is not being told that they don't have to go get their fingerprints, they're not

going to turn themselves in to go get their fingerprints taken. I have Alison Lopez, our Criminal Records Manager, up here, and she conducts our outreach.

**Alison Lopez (Criminal Records Manager, Records, Communications and Compliance Division):**

To kind of piggyback off of what Ms. Souza Llamas is saying, a lot of times I'm not necessarily—as a court order, it would be more if they're failing to comply with something. It would be a bench warrant being issued at that time ensuring that we get fingerprints in those situations, as well as getting the underlying arrests. It's very important, like Chair Butler mentioned earlier, that if we have dispositions for crimes that are retainable, we have no means of actually posting those dispositions. No one's going to know that these crimes have occurred except within your county so that's what we're trying to get the point across is that we really need fingerprints in order to post these dispositions. I hope that answers your question.

**Mr. Grierson:**

I understand the goal, but do you have all of the law enforcement agencies when they arrest and when they're in the correctional facility—essentially, the theory here is in the statute to make sure that everybody's getting fingerprinted. They'll be required by statute to do it. All the agencies and facilities will comply, so I'm curious as to how there will be a gap by the time they get to the court if all of the correctional facilities are required to do this. I'm just curious.

**Ms. Souza Llamas:**

The intention of this language is to fill those gaps, and hopefully by the time they get to those proceedings there is no gap to fill. They have already been fingerprinted. That is the intention and the hope here.

**Mr. Grierson:**

Okay, so when they get to the proceeding and someone recognizes they have a gap, why do you need a court order? If the folks that are statutorily required to get the fingerprints recognize that there is a gap and they're in custody, why do you need the court order to order them to take a fingerprint? I'm just curious about the court order side of it.

**Ms. Souza Llamas:**

Again, not being of a criminal mindset myself, but if the prints haven't been previously taken, and maybe I'm misunderstanding your question here, but if they haven't previously been fingerprinted for whatever reason and it's just left up to their option to determine whether or not they want to show up at a booking facility to lend their fingerprints to create

this criminal history, they may not be willing to do that, so if a court is telling them that they need to go do that pursuant to a court order, they may be more willing to do that. Does that answer your question? It's a means to enforce the requirement to submit the fingerprints.

**Mr. Grierson**

So this is in cases where somebody is already in the system and you're trying to get an accurate set of fingerprints after you implement the law? Because there are thousands of people that are out there that have their cases already adjudicated and you don't have an accurate set of fingerprints. They go into bench warrant and you recognize that you don't have an accurate set of fingerprints, because it's my understanding that if you do this the way that you have it written, which I think is very, very well done, on the front side these agencies and facilities will be collecting these fingerprints on everybody coming in whenever they come into the system whether they're arrested or whether they're detained, so the question—and maybe what you're saying is the folks that are already out there and they have their cases out there, if we recognize that they don't have their accurate fingerprints or up-to-date fingerprints, there's no way—you want to call them all back in and get them?

**Ms. Souza Llamas:**

Yes, that is correct.

**Chair Butler:**

There are those cases out there where somebody is maybe given a summons and they aren't arrested, and in those cases where somebody is summoned, we want to make sure that those folks are printed because then we again get down the road and realize we've got this disposition but then the person was never actually booked and fingerprinted. We can't do anything with it, and that's because the person appeared pursuant to a summons and we don't have any way to establish that in the person's record of criminal history. The intent is to provide a mechanism in those cases to go ahead and establish that record of criminal history.

**Mr. Grierson**

So essentially the court order process really captures folks that are maybe out of custody, not in custody?

**Ms. Souza Llamas:**

That's correct.

**Mr. Grierson**

Thank you.

**Chair Butler:**

Are there any additional questions from Subcommittee members?

**Mr. Peto:**

What will the severity be for the retainable offenses? Are we including misdemeanors in this, for example jaywalking, where they would have to be fingerprinted as well?

**Ms. Souza Llamas:**

We currently have RCCD and all of our user agencies using our Nevada Offense Codes for submitting these. Retainability is set up in the NOCs. Unfortunately, I haven't memorized out of the 10,000 NOCs which ones are retainable and which ones are not, so it's going to be business as usual for the booking facilities as to what they are submitting to the state. Retainable offenses do include misdemeanors, or can include misdemeanors.

**Mr. Peto:**

Thank you.

**Ms. Souza Llamas:**

I have Robin Miller from the Washoe County Sheriff's Office up here as well who would like to add on to our attempts at trying to explain the need for the court orders.

**Robin Miller (Sheriff Support Specialist, Washoe County Sheriff's Office):**

In answer to your question, we have multiple cases. For example, we had one individual who was cited for DUI. He had to go to the hospital, so therefore he was not brought into a booking facility or a jail, did not get fingerprinted, went to court, was convicted. It was after he was convicted we found out that he had never had fingerprints for the record, so he was brought back in on his conviction order to get fingerprints. He voluntarily did that, but we have a lot of people that we find out that come into custody later that have never had fingerprints or they were issued a citation for a retainable offense and had never gotten fingerprints. We have a good program with our Washoe County courts where they will do what we call book, print and release. They will either send them to the jail or we have another program that does the fingerprinting, so maybe that helps explain further why this might be needed after the fact.

**Mr. Grierson:**

In your scenario, though, under this new statute, the arresting in that scenario, the law enforcement agency making the arrest is required to get those fingerprints to the Repository within 48 hours. They're required to.

**Ms. Souza Llamas:**

The example that Robin Miller just provided was based off of a citation that was issued. The subject had never been arrested. He was issued a citation for a DUI and never was printed on that because it was a citation, so in this instance a court order having him come back in to do a book and release so that the Repository receives the fingerprints would provide us with the criminal history.

**Mr. Grierson:**

Okay, thank you.

**Chair Butler:**

Thank you very much. I appreciate the information. I will go ahead and close agenda item IX. I would like to open up agenda item X, a presentation concerning reporting criminal justice information by prosecutors in Nevada. I would like to give the Subcommittee just a little bit of back-story on this and why we had asked you to make a presentation today. Getting records of criminal history from prosecutors has traditionally been an issue that we have struggled with at the Central Repository, getting the information that we need to complete the records, and it's not just a Nevada problem. It's a nationwide problem that our counterparts in repositories nationwide struggle with. In speaking with Chair Yeager and Vice Chair Hardesty a few weeks back about records of criminal history and improving information sharing, the Justice requested that we have an agenda item on our next Subcommittee meeting from prosecutors with respect to reporting records of criminal history to the Central Repository, so it was in that vein that we asked for a presentation today. We appreciate you being here, so I'll turn it over to you now.

**Ms. Noble:**

I think most of the members of this Committee know who I am, but for the record, I am a Chief Deputy District Attorney in the Washoe County District Attorney's Office, where I oversee the Appellate Division. To my immediate right is Dale Kaduk. Mr. Kaduk is the IT Supervisor for the Washoe County District Attorney's Office, and he has a lot of knowledge about what we track internally in terms of information that changes a lot during the prosecution process. To my far right is Mark Covington, who is a Chief Investigator in our office, and he also supervises the TAC coordinators, I believe, in our office, so I have dragged him down here as well to help make up for what I do not know. I also wanted to

mention that, of course, Brian Kochevar is down in Las Vegas. Mr. Kochevar and I have had some discussions prior to today to kind of compare what our offices do in terms of our reporting to the Repository during and after the pendency of a criminal case. I wanted to start, if I could, with just a little bit of nomenclature. It may be different from what members of this Committee use, but it will be how I'm using it so we can make sure we're on the same page. An offense, as I will be terming it, is a crime that is listed by the arresting agency on a probable cause sheet. A charge is a crime that is listed by the prosecutor in a charging document like a complaint or an information. Those are two terms I wanted to get out of the way. As many of you know, NRS 179.070 requires us as district attorneys to report decisions not to prosecute a subject. In Washoe County, we call these decisions not to prosecute a person "no-issues." That is our terminology, but in Clark County they're termed denials. That's what I understand from Mr. Kochevar. This would be a scenario in which an individual is arrested by law enforcement or we receive a warrant request and for whatever reason we do not believe that we have probable cause or we cannot prove the case beyond a reasonable doubt based on the information that we've got. When that happens and the prosecutor declines to file a charge, we complete what is called in Washoe County a no-issue memorandum, and I believe in Clark County a denial or a denial letter. Those pieces of information, those denial letters or no-issues, are communicated to the Repository in two different ways by our two different counties. In Washoe County we send them via snail mail to the Repository, and in Clark County it is my understanding, and Mr. Kochevar, please correct me if I'm wrong, those are communicated electronically using their C-Track, which I believe is an internal Clark County District Attorney computer program. That is what we communicate as a matter of course during or after we decide not to prosecute a case.

With that, if it's okay, Chair Butler, I'd like to turn it over to you and members of the Committee to ask us questions about how other reporting works or doesn't happen during the pendency of a criminal case.

**Chair Butler:**

Thank you very much, Ms. Noble, for that information. We do struggle with this because our criminal history is offense-based, so we like to have a one-to-one matching, if you will. If they're brought in and booked on five offenses but the prosecution only moves forward with two of those, we aren't consistently receiving the other three and what happened to those statewide from different prosecutors or if the charge is amended. Say things were added to or what have you, we don't consistently receive those so it was really kind of to open up a dialogue to figure out—to let this group know that we are interested and do need those bits and pieces of information because they are important. We don't just like to assume that just because there were those five offenses and we have only got maybe two formal charges that that automatically means the others were dismissed, and so we like that proof positive via some sort of document or electronic record. Mr. Kochevar, do you have anything that you'd like to add to that?



**Mr. Kochevar:**

Ms. Noble correctly stated that our process is done electronically. We submit the information through the data exchange system of C-Track to the Central Repository. When a case is denied, as in the statute where it says if we decide not to prosecute a subject, we convey that information through C-Track electronically, and we've been doing so since 2006 to the Central Repository.

**Ms. Noble:**

Chair Butler, if I might follow up on your comment about the types of information you're interested in, I think it's important at the outset that we understand that there are two distinctions in the types of information you're talking about. There are decisions not to move forward on a particular charge requested or suggested by law enforcement on the probable cause sheet, and then there is a dismissal. While prosecuting attorneys can move to dismiss a case, we don't do that. A dismissal is a judicially created action. It creates an order of dismissal. For example, in plea negotiations, if I initially charge somebody with four offenses and negotiate the case, and as part of the negotiations it may be that the District Attorney's Office will move to dismiss count three. I still have to make that motion, and then the court has to grant the motion and the court orders that dismissal. The district attorneys do not have the power to dismiss anything. That is a judicial action. But in terms of deciding whether or not to go forward on a charge, those are decisions that we make. With respect to that second category, I want to sort of turn it over to Mr. Covington, if I could, for a moment to talk about the fluidity and how much of that there is during the pendency of a criminal case.

**Mark Covington (Chief Investigator, Washoe County District Attorney's Office):**

With regard to the fluidity during the pendency of a criminal case, often we have multiple charging documents that are filed with different charges, so amended complaints, amended informations, and it would be very, very difficult to give the Repository that information continuously. It would be an awful lot of information. I'm not sure we would even be able to do that. A lot of it is negotiations that are occurring between defense counsel and prosecutors as well. I am regularly contacted by my friends at the Repository to assist in what you were just speaking about, Madam Chair, with regard to what happens to an offense when it is not charged by the District Attorney's Office, and we always try to do our best to help out in those circumstances. We also get inquiries from the FBI who are trying to look into cases where they have contacted the court about a felony offense that is on an arrest report and the court says, "We never saw that." In those instances we also assist the FBI in trying to figure out exactly what happened with those offenses.

**Ms. Noble:**

Just a follow-up on Mr. Covington's comments, I did bring Mr. Kaduk down here because he did some research into our system, which is JustWare, to see how much this happens, say, in a given month, how many times charges are changed or not charged as suggested by the prosecuting agency, and so he has some initial sample numbers for you.

**Chair Butler:**

Fantastic.

**Dale Kaduk (Information Technology Supervisory, Washoe County District Attorney's Office):**

If we're looking purely at changes to a charge in our system, we're running at about 2,000 per month on average. So, that would be 2,000 times we send something down every month to be changed in the Repository's records. If we're going purely with our no-issues, we're looking at about 40 times per month on average.

**Chair Butler:**

Thank you for that information. I think that's really what we are interested in. We do get the notices from the court as far as the disposition, if charges are not filed or what have you, but it's really that initial decision between offense and charging that is really the gap, and sometimes that can make the difference between a person gets a job or not, a person gets a firearm or not, so that's really the population of where the reporting from the prosecutors comes in and where we are seeing a gap—and like I said, not just in Nevada. It's nationwide, and we're trying to do our best to do targeted outreach. Ms. Lopez is going out now into the counties and trying to bring all the criminal justice agencies within the counties together to see, okay, here are the arrests that we have and here are the dispositions we have and where are the gaps to try to fill them. I honestly don't know what that would look like statewide if we start receiving 2,000 change requests per month per agency. Obviously as we modernize, we've got to look at moving that information electronically, because as it is we're already drowning in paper. We've got to look at better ways to move this information electronically, and I may call Ms. Lopez back up here because it's news to me that the no-charges-filed are being communicated through C-Track, and I don't know if we were aware of that. Ms. Lopez is shaking her head no, so I'm going to actually bring her up at this point. Thank you very much, Mr. Kaduk and Mr. Covington. I appreciate it.

**Ms. Lopez:**

What would you like me to talk about first?

**Chair Butler:**

I'd like you to discuss just what you're seeing as far as the boots on the ground with the gaps and what we are seeing from the prosecutors. Are you actually getting that information in C-Track? The other thing is, I thought C-Track was going away, so that's a concern as well. If you could talk from a practitioner's perspective of what you're seeing on the other side, that would be helpful, I think.

**Ms. Lopez:**

Yeah, that was actually news to me too. I was under the impression that C-Track was going away as well and that information was kind of a sharing portal at one point until they could get the courts and the District Attorney's Office down there could get all of their information or their case management systems up and running, and then C-Track was going to go away. That was the last thing I had heard. As far as receiving electronically from C-Track, I have never seen anything come through our office as far as any of the denials or anything like that from Clark County. We receive faxes and we get memorandums from them that say they are either denying misdemeanor charges or upgrading them to felonies, things like that. Our biggest gaps that we're seeing are amended charges, so if the prosecution's not filing on one charge then what we're missing is the amended charges that are happening, or it's not being conveyed to the courts. If there were five offenses that they were originally arrested on and only two offenses are actually being filed on, the courts aren't necessarily getting information on the other three charges. Prosecution has access to criminal history and they see what they were originally arrested for. They get those booking sheets, and a lot of times the courts are only getting what's being filed on as the formal charges, and that's what we want to see. I understand that so much can change during the process and what we're needing is the actual final formal charges that are going to be adjudicated on. The courts aren't seeing what's not going to be filed on, necessarily, and therefore those are the gaps that we're seeing is that we're not getting that information relayed to us. Does that help?

**Chair Butler:**

Thank you. Do you want to speak to that, Ms. Noble?

**Ms. Noble:**

Yes, thank you. I completely appreciate the challenge that you just described, and I would only respond with this, and that is that the district attorneys' offices are trying the best they can to comply with the obligations that are currently outlined under Chapter 179, and that is to report decisions not to prosecute a subject. Our interpretation of that is we're not prosecuting that guy, not that we're charging something a little bit differently than the police officers thought might be appropriate. That's certainly something we can look at. I wanted to also mention that that 2,000 number that Mr. Kaduk was talking about, that's

just for Washoe County, so you can imagine in Clark County it would be a much greater number. I have no idea how great though.

**Chair Butler:**

Understood, and I think that just underscores the need for our own system modernization. We had talked in the Subcommittee a couple meetings ago about setting statewide IT standards. If we are not going to—and I don't know how we ever could—mandate one big super system statewide, at least to have specifications to which we are all going to code to so that at least our systems can interface, and I think that's really the way that we need to go because I realize in my perfect world, population one, we'd all be on the same system and everything would just flow, but we're not there and I don't think we're ever going to be there, so now the need for consistent standards statewide and moving the data electronically.

**Ms. Bryant:**

Ms. Noble, I have a question about process that I just don't know, so I need some education, please. When an individual is arrested, in your example of five charges, and the district attorney chooses to prosecute—what did you call it? You didn't call it a charge. You call it an offense? Yes? Thank you for that. For five offenses, the district attorney charges on two of those. Is the district attorney barred from 3 months later charging on the other 3?

**Ms. Noble:**

No, we are not. What happens often is we'll get a request from law enforcement, either a warrant request or an arrest report, and they will request various charges, for example home invasion and burglary. That's a good example, so let's say we have a case where law enforcement arrests this guy for home invasion and burglary, and based on the initial reports and the information that we have, we see that there is definitely evidence of home invasion. We are confident about that. We are confident about charging that, but burglary requires us to prove a specific intent when they entered the home and we are not confident that the initial reports we received at the time of charging reflect that intent, but we get additional information during the pendency of the case from law enforcement and after we receive that we say, "Well, you know, it looks like we can prove that beyond a reasonable doubt," so we go ahead and amend the complaint to reflect an additional charge of burglary. That's a perfect example.

**Ms. Bryant:**

Thank you. So, at what point in the process is the district attorney now barred from pursuing any additional offenses that were not originally charged? Let's say the defendant ultimately pleads guilty to the two—or now to the three because you've amended that. In

the other two offenses that were never charged but in the same incident the defendant is now sentenced, are those at that point—what I'm trying to do is identify at what point the district attorney's comfortable saying, "Yeah, we're done with this. We're not going to charge on it." Where is that?

**Ms. Noble:**

The point of no return would be entry of the judgment of conviction, because remember, folks can plead guilty at their arraignment in district court to a felony but then they can move to withdraw that plea, and if the judge lets them do that, we're back to square one. We can amend the information even during the trial any time prior to the close of evidence, and so that could happen quite honestly because we learn of new information through testimony that supports an additional charge. There are some tests regarding whether or not that's going to prejudice the defendant, whether or not he had adequate notice of the facts underlying that, so it's not automatic, but really that judgment of conviction would be the point of no return where we just can no longer amend anything.

**Ms. Bryant:**

Thank you. If I understand it correctly, the judgment of conviction is when you can finally marry up the differences between the arrest, the charge and the outcome. Am I correct in that?

**Ms. Noble:**

That is correct.

**Chair Butler:**

That's really a great point. I'm just wondering how burdensome that would be then in that judgment of conviction document to indicate they were arrested for five things and we moved forward with two and they were convicted of one, and here's what it is, Central Repository. Can you speak to that?

**Ms. Noble:**

I'm not sure about how burdensome, but it's definitely a question for the courts and the judges because the prosecutors do not create that judgment of conviction. Those are generated by the courts. The courts are the keepers and the deciders. So, for example, we had talked a little bit earlier today about diversion and other instances where somebody may be arrested on something, and DUI is an excellent example. You can have someone on a third time first felony DUI and they complete a diversion program. Well, that becomes a second for conviction purposes. At that point, the court is the entity

that generates that record. The court is the criminal justice agency that generates that record in the judgment of conviction.

**Ms. Bryant:**

Agreed, Ms. Noble, however wouldn't it be possible during sentencing for the judge to ask the district attorney what was the arrest, and then all of that information could be articulated on the record and then put into the judgment of conviction fairly easily?

**Ms. Noble:**

I am always loath to tell judges what I think would be easy for them to do. By that time, we should have the criminal history. We've got the probable cause sheet and we would know what we went forward on and what we resolved it for, so if your question is can we answer those questions for the court at sentencing, certainly I think we could do that.

**Ms. Bryant:**

Thank you.

**Ms. Lopez:**

We love judgments of conviction in our unit. They're full of information. The only drawback to them is that we don't get the original charge, so that would be wonderful if we could get what they were originally arrested on too, so that way we can do that charge-to-charge match. That would be extremely helpful for our unit.

**Chair Butler:**

This is a question for Mr. Fernley. I'm just wondering if that could be a recommendation of this Subcommittee for a future ACAJ meeting, that judgments of conviction include the original charges at arrest, what moved forward formally from the district attorney's office and then the final adjudication?

**Mr. Fernley:**

Yes, Madam Chair, I think that is a recommendation that the Subcommittee could make. You could decide to vote on that recommendation if you so choose, either at the end of this presentation or later in the work session, whatever you choose.

**Chair Butler:**

Fantastic.

**Captain Tom Lawson (Division of Parole and Probation):**

From my experience with the Nevada Citation and Accident Tracking System (NCATS) proposal and the database for that, the judges ad hoc as a mass were really against the comparative analysis of what was charged versus what was convicted and publishing that data, so that would be something that the panel should really explore with the judges' associations and the Administrative Office of the Courts before moving forward to find their opinion.

**Ms. Bryant:**

Agreed. I don't think that it would be appropriate to have a vote on the matter today, I just wanted to explore the need versus what's available for us to do.

**Chair Butler:**

Thank you very much, and thank you for that comment, Mr. Lawson. I appreciate that. Again, the issue that we in the Central Repository struggle with is everything we do is offense-based versus everything in the district attorneys' and the courts' world is case-based, and so there is that inherent struggle. But if this could be a potential mechanism to complete our criminal history records, which ultimately benefits everybody, and hopefully the judges through the judge's association might see that, I think that would be something that we should explore. Do you know, Mr. Stefani or Ms. Bryant, anything about the judge's association, how often they meet, anything about them?

**Ms. Bryant:**

Judge Robb in the Second Judicial District Court is the President of the Nevada District Judges Association, so I can check in with her and then report back.

**Chair Butler:**

That would be fantastic. Thank you very much. Mr. Fernley, could that be something that, if we don't take action on this today, and I don't think we are going to have another Subcommittee meeting before the end of the calendar year, can that be something that we could circulate to the members via an email vote or would we be barred from doing that?

**Mr. Fernley:**

I don't think the Committee would be able to do that. The Committee would be required to hold another meeting and have a notice and an agenda and a vote at that meeting. I think one option might be if information was provided to staff and then maybe we could coordinate with the Chair, and the Chair could then present it to the full Commission at

one of its later meetings. That might be a way to do it is to provide information to staff and then we work with the Chair to maybe get something from the Chair of the Subcommittee before the full Advisory Commission.

**Chair Butler:**

I like that option. I think that's great. Ms. Bryant, if you could reach out to Judge Robb and find out if that would be palatable, I think that would be fantastic.

**Mr. Stefani:**

I also believe that the Judicial Council that's chaired by the Chief Justice would have some very important input into this decision as well, so we would have to reach out to Chief Justice Douglas, or coming in January, Chief Justice Gibbons as well.

**Chair Butler:**

Thank you. Are there any other comments from Subcommittee members?

**Captain Lawson:**

I would also recommend reaching out to the courts of limited jurisdiction. There are associations beyond just the district courts that involve the justice courts and municipal courts.

**Chair Butler:**

The courts of limited jurisdiction, is that within the Administrative Office of the Courts?

**Mr. Stefani:**

They are also represented on the Judicial Council as well.

**Chair Butler:**

I will reach out through you, Mr. Stefani, if that is acceptable, and see if I can get some points of contact on that. That is a really exciting possibility if this can actually occur I think on the judgments of conviction because that would really be beneficial for our staff, and I could potentially see a situation where it avoids my staff calling all of you if it were just contained within that judgment of conviction document. It might ultimately reduce everybody's workload because we would just have it on that final document and we wouldn't have to be reaching out piecemeal for every one of these things, so that's a really exciting possibility. Thank you very much, Ms. Noble. Thank you, Mr. Kaduk, Mr. Covington and Ms. Lopez.



We will move forward now with agenda item XI, a report on the activities of the Northern Nevada Working Group, the Southern Nevada Working Group and the Nevada Offense Code Working Group. I would like to invite Mr. Peto and Robin Miller and Erica Souza Llamas to the table.

**Mr. Peto:**

I am the Chair of the Southern Nevada Working Group. We had our second meeting. The very first meeting was overall to give us an overview of the working group and also to appoint the officers. Our first meeting was September 25, and so we had a few different topics at that particular working group. We had the two staff papers presented by RCCD. One of the staff papers we decided to close out. It was regarding Department of Motor Vehicles (DMV) responses. We had two staff papers that we did make a decision on. There was working group topic number one (Agenda Item XI A-1). This is regarding the proposed process to adopt revisions and additions made to the NCJIS administrative policies. I believe you're going to talk about these also, but I will just kind of give a very brief overview and then our decisions. Overall, this is regarding having the working groups have input into the administrative policies for the NCJIS system and have it come through the working group so we can make recommendations, decisions and help the RCCD craft the language as needed. There were three different options on that one regarding accepting the proposal made by my agency, the Las Vegas Metropolitan Police Department: accept the proposal by the NCJIS Compliance Unit or accept no changes at this time. The Southern Nevada Working Group chose option one, to accept the proposal as written by the Las Vegas Metropolitan Police Department.

We also had working group topic number four (Agenda Item XI A-2). This is regarding adding a reason code for criminal history queries, a reason code of site security. This will go inside the NCJIS QH and QR screens, which are for the Interstate Identification Index with the FBI. The state did a review of that and found that there was not going to be that much programming effort involved, so there was one option to accept a proposal made by the Las Vegas Metropolitan Police Department, and the working group did accept that proposal.

I am going to go through our other topics as well too, but if you have any questions on this at the end, I will be glad to answer that. We also had some presentations by RCCD. One of them was by Ms. Souza Llamas regarding NRS 179A, which we have been talking about today. She provided an overview of the recommendations to NRS 179A, gave the working groups the feedback on it and said, "Provide us a letter of what the recommendations would be or feedback and commentary." We do have that and we will provide it today to Ms. Souza Llamas. Overall on that, we definitely appreciate the state coming to the working groups as part of that process to elicit our input and feedback. We definitely appreciate that and we definitely support the Central Repository in the efforts to get timely criminal fingerprints to the state. We definitely support that. We just would like to add also regarding our recommendations and suggestions if they were available along

with subject matter experts from the different agencies to help craft this language a little bit better as deemed necessary by RCCD. We also have some updates regarding NCIC in Canada and also regarding a discussion regarding NCJIS warrants. In the NCJIS system, we do have our warrant file inside there, and the question was, as we were having a standing topic of it right now, do we want to keep the NCJIS warrant system or do we want to go to NCIC, so that will be a topic we will be exploring more in our particular working group. We're looking at probably January 2019 for the next meeting date for the Southern Nevada Working Group. With that, I don't have any more reports to make on our agenda. I'll be happy to answer any questions.

**Chair Butler:**

Thank you. Are there any questions regarding the Southern Nevada Working Group from the Subcommittee? Hearing none, I will move up north. Ms. Miller, if you'd like to talk about the Northern Nevada Working Group's status?

**Ms. Miller:**

I am the Vice Chair for the Northern Nevada Working Group. We had our meeting on September 25. It was our first formal meeting, so we didn't have any topic papers that we submitted. However, we did review the topic papers that the Southern Working Group had submitted already. We agreed with Southern Nevada on topic paper one on the statewide vetting process of policies regulated as state criminal justice information systems (Agenda Item XI A-1). The Northern Nevada Working Group accepted proposal one of topic paper one. For topic paper four, which was the site security reason codes for QH/QR transactions (Agenda Item XI A-2), the Northern Nevada Working Group also reviewed and approved topic paper four. Ms. Souza Llamas also gave us a presentation on NRS 179A.070. We are reviewing it. Originally we needed feedback by October 5, and she did extend it until tomorrow. We've had one of our working group members actually bring up some more information, and we'll send stuff out later to you today for that. We also have the reviews of the Fix NICS, so some of the same items that were done in the Southern Nevada Working Group. We also were asked at the meeting if we were interested in having the FBI come out and provide training to us. We absolutely agreed that would be a great thing. As far as the NCIC or doing away with the NCJIS warrant process and going strictly to the NCIC warrant process, we decided to pass this down to our TAC meeting. It was addressed at our TAC meeting and we will bring it back up at our working group meeting, the results that we got from all of our TAC users in Northern Nevada, so we will bring that up at our next Committee meeting. We didn't have anyone that wanted to do away with the NCJIS warrant system for a lot of reasons. We are scheduled to have our next meeting January 22, down in Douglas County.

**Chair Butler:**

Thank you very much. Are there any questions for Ms. Miller? Hearing none, thank you very much for your report. Ms. Souza Llamas, you've kind of given us a briefing on the NOC Working Group, but is there anything that you would like to add?

**Ms. Souza Llamas:**

I may have jumped the gun and included that in my initial presentation to you. In the NOC Working Group, we also did discuss the retainability of business licensing where crimes have been committed under the business licensing chapter—I believe it was Chapter 43 of NRS—when there are penalties that are tied to offenses. Our Deputy Attorney General, who is on our NOC Working Group, is going to look into legislative intent on that in the interim between now and our next meeting with the NOC Working Group and, based on what she says, we will go from there and try to determine whether or not we need to make any recommendations to change NRS 179A to further define if those offenses should be included in a record of criminal history.

**Chair Butler:**

And those would be for specific crimes related to whether or not somebody could get an occupational business license? What would those be for?

**Ms. Souza Llamas:**

Correct, it would be occupational licensing. Running a business without a business license, that's the only one I can think of off the top of my head. Just related to occupational licensing, any crimes that could be committed under that chapter.

**Chair Butler:**

Thank you. Okay, very good. Are there any questions for Ms. Souza Llamas? Hearing none, I would like to go ahead and invite Laura English up to talk a little bit more about the topic papers. If you recall when we first were established as a Subcommittee in some of our enabling legislation, one of the things that I wanted this Committee to act as a place to vet some of the policies with respect to how criminal justice information is used within the State of Nevada and our Nevada criminal justice system information administrative policies. We talked about modeling the process after the FBI Advisory Policy Board process, so in that vein some topic papers were submitted by one of our user agencies through the working groups. Mr. Peto alluded to that. The working groups met to consider those topic papers and now, moving up in the chain of consideration of those topic papers, I've asked Laura English, who is one of our supervisors on our NCJIS Compliance Unit, to talk about the staff papers that we prepared as far as the analysis goes of those

requests and how the working groups voted, and then we will be talking about this and voting when we move into work session. I will turn it over to you, Ms. English.

**Laura English (NCJIS Compliance Unit, Records, Communications and Compliance Division):**

As Chair Butler stated, I work at the Department of Public Safety's Records, Communications and Compliance Division, Supervisor of the NCJIS Compliance Unit, and I'm here to present a couple of the staff papers. The first one was submitted by the Las Vegas Metropolitan Police Department in regards to the vetting of our policies (Agenda Item XI A-1). Prior to the formation of the Advisory Commission on the Administration of Justice and their authority to appoint a Subcommittee on Criminal Justice Information Sharing, Senate Bill (S.B.) 35, the Northern and Southern Technical Subcommittees were instrumental in assisting the Department of Public Safety's CJIS System Agency (CSA) with JLink system changes, upgrades and policy changes. In July of 2018, the policies governing the criminal justice system were updated by the CSA without input from the local or statewide criminal justice user community. The NCJIS Compliance Unit under the CSA creates and writes policy based on the need to clarify the implementation of federal and state rules and regulations governing the criminal justice system and its information. Currently, the agency coordinators may provide white papers to elicit change to these policies. However, there is no statewide discussion or coordination with agency coordinators. Since changes to policy can have both an operational and financial impact on agencies, the Las Vegas Metropolitan Police Department suggests, at a minimum, include the NCJIS working groups in the NCJIS policy revisions. This would include the working group reviewing current policy and making recommended changes and suggestions for any changes or additions by the Nevada CSA. It would be brought forth through the NCJIS working groups. Although the Northern and Southern NCJIS Working Groups are separated by distance and meeting times, both should come together to discuss the policy change. Either the two chairpersons should telephone or videoconference or email or meet in person, etc. This collaborative approach with the entire state and the Nevada CSA will ensure that NCJIS policy reflects requirements for state and federal mandates, policy requirements that help sustain the NCJIS network and the ability for local agencies to meet the compliance requirements. Creating a structure for policy updates and changes would have a slower change release date due to involvement of the NCJIS working groups. However, it would negate any subsequent revisions needed to address any concerns. For any emergent changes needed, chairs of the Northern and Southern NCJIS Working Groups would be contacted so they could expedite a meeting with their working groups to provide immediate feedback. This collaborative approach would provide the ability for local agencies to be actively involved in the policy requirements of the NCJIS network. By understanding local needs and any issues that would occur with the change to NCJIS policy at the local level, the Nevada CJIS Systems Officer (CSO) is able to make the final decision that works for the best interest of all user terminal agencies. The example and scenario given was either the Nevada CSA or local agency has an NCJIS policy change

request. It is sent to the Northern and Southern NCJIS working groups to review and make recommendations. The Nevada CSO reviews the recommendations from the working groups, who can and should make a joint recommendation to the Nevada CSO, and then makes the final decision with their input and experience, and then changes to the NCJIS policy are created along with the change document that is sent to the Nevada TACs and ATACs.

In proposal two, the NCJIS Compliance Unit proposes a similar process using the structure set forth by S.B. 35. A white paper would be created by an agency and brought to the ACAJ. The ACAJ would direct and appoint a Subcommittee on Criminal Justice Information Sharing for a feasibility study on federal requirements and implementation impacts to law enforcement agencies as a whole. It is also the intent of this unit to maintain compliance of federal requirements and mimic the release policy to the FBI's CJIS security policy on a yearly basis. We would ask that minor corrections to the policies such as errors and miswording, be corrected as found by the CSA when discovered without the use of the policy board process. As Mr. Peto said before, the options were to accept the proposal made by the Las Vegas Metropolitan Police Department, accept the proposal by the NCJIS Compliance Unit or accept no changes at this time. Both the Northern and Southern Working Groups had voted for proposal number one, but I would like to point out that this process is going to go to the working groups and then to the CSO and then back to the working groups and released. It would not come any further. Are there any questions on the first one?

**Chair Butler:**

I think we're good. You can go ahead and move on to topic paper four.

**Ms. English:**

Topic paper four was the proposal to add "C= Site Security" to the reason code drop-down menu for transaction codes. As Mr. Peto had stated previously, it is a minor change to our system. The background would be, currently a reason code for site security does not exist. The purpose code does, but not a reason code. Due to the fact that one does not exist, the user community does not have a proper reason code under Purpose Code C or any other purpose code that adequately describes the situations. The III is a heavily regulated system and being able to specify the proper reason is crucial for agencies that use this field. The reason code of "C= Site Security" was originally added by the FBI in 2015 via Technical Operational Update (TOU) 15-2. Federal regulation section 20-3(b): in addition to the site security for a criminal justice agency, the CJIS Advisory Policy Board (APB) recommended and the FBI Director approved using III for site security for federal facilities limited to contract personnel which requires follow-up of fingerprint submissions; off-site protection of very important persons; visitors to federal or state military facilities; firearm training events sponsored by law enforcement. In addition to the situations, a law enforcement agency may conduct a III criminal history record check when investigating a

criminal incident or has reasonable belief a person is acting in a suspicious manner, such as taking pictures or loitering at a critical infrastructure facility. A terminal operator should use Purpose Code C to conduct III inquiries for site security purposes. The results of the III inquiry cannot be disseminated for other purposes. It is believed this would be a benefit as site security purpose has been granted by FBI for III checks, and adding this reason code allows agencies to clearly specify that the reason for the query was site security. Further, it is believed that there would be no impact on state system users as this would actually save time by allowing an appropriate reason code to be selected. Current technical overview: at this time, the reason code of "C= Site Security" does not exist on any transactions with the Justice Link system. The request to add this reason code for Purpose Code C as instructed in TOU 15-2 was supplied with an example as follows by the submitting agency: terminal operators perform a III query in compliance with the decision regarding site security as explained in TOU 15-2 by using Purpose Code "C= Criminal Justice", reason code "C= Site Security" and the proper attention field format as specified by their agency and NCJIS policy. After technical review, it was determined that the addition of a new reason code "C= Site Security" would have minimal technical impact to the system when added to transaction codes QH and QR. This would require coding time to allow for the addition to the drop-down menus in the appropriate screens but would require no other coding efforts for the system to accept. After program review, it was determined that the addition of a new reason code "C= Site Security" would have minimal impact to the business processes when added to transaction codes QH and QR. This change would require minimal changes to business processes to allow for proper allocation of the reason code where needed or required, for auditing purposes as the state level. Outside of those business processes, it is expected that the impact to JLink users would only be beneficial as it would allow the users to properly denote the specific reason code for these situations. It is the recommendation at this time after review by RCCD and Enterprise IT Services (EITS) that this proposal be accepted as put forth by the requestor and moved for acceptance by the ACAJ Subcommittee. Options: accept proposal as made by the requestor, the Las Vegas Metropolitan Police Department, or do nothing, reject or deny the request and continue as current. Are there any questions on that one?

**Chair Butler:**

Hearing none, thank you very much. I appreciate it. We will now move forward into our work session. You should all have that as part of your agenda. This is where we will actually make some decisions and vote on some of the items that we have previously considered. Moving forward onto the recommendations, there are a few of them. Looking at the first one, adding the ability to enter into Justice Link site security as a reason for certain transactions within Justice Link. The options on that were to go ahead and accept the recommendations from the working groups to make that change. As you've heard, it's a relatively easy change for Enterprise IT Services, who provide our IT support services, to make, or no change. Do I have a motion?

MS. BRYANT MOVED TO APPROVE RECOMMENDATION NUMBER 1.

SERGEANT SOLFERINO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Butler:**

The second one would be to—can I revise this slightly, Mr. Fernley, to just say, instead of “draft a letter to the Governor,” which the ACAJ is already going to do, could we just indicate in that letter by endorsement that the NCJIS Subcommittee also endorses drafting that letter to the Governor and the Legislature to express support for increased funding for RCCD?

**Mr. Fernley:**

Yes, you can make that change.

**Chair Butler:**

Okay. Do I have someone willing to make a motion that the Subcommittee on Nevada Criminal Justice Information Sharing would be willing to express support to the Governor and Legislature for increased funding for our modernization efforts?

**Mr. Grierson:**

Could I just ask a question real quick before we—the draft letter recommendation talks about support for increased funding, and then later in the statement it says “fully fund.” Are those synonymous?

**Chair Butler:**

Good point. The way that this had been presented, I believe, to the ACAJ was also supporting for increased staff and funding for the Repository to support that staff, but we also need funding for NCJIS modernization. It's kind of both, if that answers your question. We have reached the point in the Records, Communications and Compliance Division that all of our programs need additional staff. For instance, in our 2020-2021 budget request, we had requested funding for additional personnel in the Sex Offender Registry to deal with caseload growth, additional staff in our Criminal Records Unit to add a supervisor position, and additional staff in the Fingerprint Examiner Unit to deal with the

backlog of identifying fingerprints of deceased individuals, as well as the needed funding that we're going to need for our modernization program. If the Subcommittee were to support that recommendation, I would be asking just that basically you add a "me too" to the ACAJ's letter to the Governor and the Legislature. Does that clarify it?

**Mr. Grierson:**

Yes. May I just suggest that maybe we change to word "to" before it says "fully fund" to "and" so essentially you're expressing support for increased funding for the Division and to fully fund the Nevada Criminal Justice Information System.

**Chair Butler:**

Absolutely. So, after it says "the Nevada Department of Public Safety," get rid of the word "to" and instead make it "and" fully fund?

**Mr. Grierson:**

Correct. I think so.

**Chair Butler:**

Thank you. Would that be a motion you'd be willing to make, then?

MR. GRIERSON MOVED TO APPROVE RECOMMENDATION NUMBER 2 AS AMENDED.

MS. NOBLE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Butler:**

Now, moving forward into proposals related to the collection, storage and sharing of criminal history among criminal justice agencies. We had a proposal on topic paper one (Agenda Item XI A-1) to propose a statewide process to vet the NCJIS administrative policies. It was moved by both of our working groups that we go with option one. The Subcommittee is not bound by the vote of the working groups. They could select option two, or no change. There are three options before you. You can accept the proposal made



by the working groups, which is option one, meaning that the policies are vetted through the working groups and then I as the CJIS Systems Officer make the final changes and then get them back out to the terminal agency coordinators and our system users for any changes to NCJIS administrative policies. Option two was made by the NCJIS Compliance Unit staff in my Division, which basically would allow my staff the ability to make minor technical corrections if we noticed spelling errors or grammatical errors or whatnot to just have the ability to make those changes without having to go back through the working groups. Option three would be to accept no changes at this time on topic paper one.

**Ms. Bryant:**

I have a couple questions for you. Under option two, it identifies a feasibility study that I did not see in proposal one. Is that correct?

**Chair Butler:**

I'm going to invite Laura English back up to explain a little bit more about that option.

**Ms. Bryant:**

Ms. English, my questions were what would be the cost associated and what would be the purpose.

**Ms. English:**

There sometimes could be a cost associated with it if the FBI will come down and say they need some kind of specific firewall or different types of physical security or things like that. That would be something that we still have to move towards, but we could—in what way are we going to implement it. It could cost our law enforcement community and sometimes the way they're going to report things, how fast they're going to do it. That could affect their processes.

**Ms. Bryant:**

But ultimately, if I understand it, we're going to do this, so the feasibility study would just be a middle step along the way. Is that correct?

**Ms. English:**

Not all the time, but sometimes NCIC is a little vague on how they want their details worked through, so we take our policy and we try to make it more clear where it's more vague, or if they don't cover it, we'll say we want it to be completed in this way, or we can be more strict than them. It could affect them if we were becoming more strict.

**Ms. Bryant:**

Thank you. As a follow up, was it considered to include that last line, that minor corrections to policy could be done without the larger process? Did you consider putting that one line into proposal one?

**Ms. English:**

Sure.

**Ms. Bryant:**

And was that idea rejected?

**Ms. English:**

I'm sorry, I misunderstood the question. I thought you meant would I consider it. Yes, I would consider it. It was not offered when the process started.

**Ms. Bryant:**

Thank you.

**Mr. Peto:**

Just to give a little background for the Subcommittee about why this particular white paper came out, when you see this policy was released, it was a shock to a lot of the TACs in the north and the south. We weren't aware it was coming and also the changes that occurred. A few different things happened. For example, there was one particular policy change inside there that was not very clear, so it took the north and south over a day to kind of figure out what that actual policy meant, that statement, and then we were told, "Well, you can go have a change. You've got to submit a white paper." However, it's still not clear in the policy. We were not included in part of that process like we were with the technical subcommittees. The overall proposal here is not to either circumvent the RCCD, the state or FBI's CJIS security policy or anything like that. It's to be collaborative in an approach where it would come to the working groups. The TACs and ATACs would be aware of what's going on so they would have a heads up. They could give feedback, and any type of grammatical errors or typos or something that's not clear, they can vet that out, talk about it before it becomes an actual document where it would require a white paper to go ahead and change that document. Kind of like the question that was just asked, what about minor changes as part of option one, proposal number two was given to us after the staff paper was created. Ours was proposal number one. I don't think we would have any concerns with minor typos or things like a column missing. I don't think we'd have any issue with that. It was more about being included in the process. Once

again, it's not to exclude the state or to say, "Hey, we shouldn't think NCIC or CJIS security policy requirements should be included," but it's to make it clear. I think our overall goal is we want local agencies to abide by NCJIS policy, and to do that, we want to make sure it's clear, understood and part of the process. Our proposal, we believe, would do that.

**Chair Butler:**

At this point, I would entertain a motion.

MS. BRYANT MOVED TO APPROVE PROPOSAL NUMBER 1 OF  
RECOMMENDATION NUMBER 3.

MR. STEFANI SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Butler:**

Moving along, we heard a presentation today on the implementation plan that the RCCD is considering as part of the Federal Fix NICS Act of 2017, including establishing policies and procedures relating to fingerprint collection at arrest and reporting of dispositions, expanding the auditing program to include submission of fingerprint requirements and reporting disposition that my staff currently does when they come out to audit our criminal justice agencies, and conducting additional research to determine whether a record of an extended order for protection against domestic violence can be entered into the NICS indices conducted by the point of contact program within the RCCD. This decision would be to draft a letter in support of that by the Subcommittee to forward to the ACAJ. I would entertain a motion for that. Seeing no motion, are there questions on what we're requesting of the Subcommittee at this point, or questions on RCCD's proposed implementation plans to comply with federal law at this point before I ask for a motion?

**Mr. Peto:**

Regarding expanding the auditing program, what would that include?

**Chair Butler:**

What we're envisioning is that right now, when my staff comes to audit our criminal justice agencies, they look at whether or not you have internal written procedures for the use of criminal history record information. They audit your purpose codes to make sure that you're not running curiosity checks or that valid purpose codes are used when you're using the system. They look at can you find underlying documentation for, say, warrants or what have you, the entries that you're making into the systems. What this would entail is also as staff works through the working groups to develop the policies and procedures for fingerprints and disposition submittal, we take a look at that too. As those policies and procedures are developed and vetted through the working groups and subcommittees, then we would take a look at as we go out to, say, the Washoe County Sheriff's Office, are they submitting their fingerprints within the policies and procedures that the working groups have collectively decided to adopt, as that's the policy and procedure, or if we go out to audit the Second Judicial Court, are they submitting the dispositions within the time frame that we're seeing or that the policies and procedures that have been vetted through these working groups and are they complying with that. It's really just intended to make sure—again, we're trying to get at that record completeness and quality aspect and incorporating that in our already-existing audit program. Does that make sense?

**Mr. Peto:**

It does, thank you.

**Chair Butler:**

Are there any additional comments or concerns with the plan that the state would like to put into place and report to the Department of Justice?

MS NOBLE MOVED TO APPROVE RECOMMENDATION NUMBER 4.

MR. PETO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Butler:**

Finally, the last recommendation was kind of in line with our Fix NICS implementation plan, but also a broader scale is to support the legislation that Ms. Souza Llamas talked

about to revise provisions related to records of criminal history, including expanding the definition of a record of criminal history to include misdemeanor citations for vehicular manslaughter, to require fingerprints collected at the time of arrest to be submitted within certain timeframes and require fingerprints if fingerprints have not already been captured for a particular offense when a person is rebooked, remanded or a new information is filed. At this point, I would be just looking for support of the concept of moving forward with a bill draft recognizing that there's still a lot of conversations that need to be had behind the scenes, and definitely if this were picked up as a bill draft request for the 2019 Session, we would certainly need to work with all the parties to make sure that the concerns are addressed as we move through session, so this would be just more or less for conceptual support of our bill draft request. Before I call for a motion, are there any comments or questions about that?

**Ms. Bryant:**

Just to be clear, Chair Butler, I share some of the concerns expressed earlier on this, so although you have proposed language, you are asking for a motion that does not support the proposed language but that supports changes to NRS 179A.070 which clarify the definition of a record of criminal history?

**Chair Butler:**

It's both. If you look at the proposed bill draft request (BDR), it proposed to make some changes to the definition of record of criminal history, but then we have that problem that we're trying to get at where we end up receiving a disposition and we don't end up receiving those underlying fingerprints and then we can't do anything with it. The BDR that we're floating would essentially be a starting point, so then if somebody were to pick it up, it would be at that point during the legislative process that all the parties would get together collaboratively and say, "We've really got heartburn with this. We need to strike that. That won't work, we need to amend it." Our BDR was kind of to get the conversation started and to recognize that there's support by this Subcommittee of yes, we recognize this as a gap in criminal history and at least your BDR is a starting point at which the conversation could be held. Does that make sense?

**Ms. Bryant:**

It does. It just presents some concerns. Sometimes whenever a BDR is presented with particular language in it, it's harder to get it out than it is to get it added later. My concerns are with the addition of the words "interim judgment" and "deferred adjudications." I think those have been shared earlier, as well as with sections 4 and 5 of the new language. If you are asking for conceptual support, that I'm comfortable with, but voting yes on the actual proposed language, I'm not comfortable doing that at this moment with respect to interim judgments, deferred adjudications, and sections 4 and 5.

**Chair Butler:**

Mr. Fernley, procedurally if the Subcommittee were to support conceptual support on a bill draft to address gaps in criminal history, could that be a recommendation of this Subcommittee, and then we could work with the parties between now and session if somebody were to express support to actually pick up a BDR on this particular topic? How would that work?

**Mr. Fernley:**

Yes, you can basically amend this to say you're just supporting a bill draft that would close gaps in information collection, and a couple of options follow after that. You can keep working on specific language, and maybe at the ACAJ when this recommendation is discussed, you can kind of work it out there, or you can present it to the ACAJ as this general concept. If somebody picked up the bill, it could be worked out as the bill went through the process.

**Chair Butler:**

Thank you very much for that explanation. Would the Subcommittee be comfortable with amending this to say, instead of "support legislation to revise," "support conceptual legislation to cover gaps in criminal history reporting" and leave it at that, or would that be too vague?

**Mr. Stefani:**

I think that's really vague. I think we need to be much more specific. I think if we're going to do something—I'm with Ms. Bryant. I can't support moving forward with that language in there. I don't know what the next step in the process is here.

**Ms. Noble:**

I would echo the sentiments particularly of Ms. Bryant. I have pretty great concerns about subsection 4, and it's not because we wouldn't want to do this, I just believe it presents a logistical nightmare. Last session was my first session, but I noticed that sometimes when language gets in a bill, it is hard to get it out, so that would be my concern. It's not with the overall idea, but I think if it's a conceptual motion to just put forth this concept, I agree with him that I think it's too vague and it leaves room for the type of language that would be very problematic for the Nevada District Attorneys Association.

**Chair Butler:**

Okay, thank you for that. Are there any other comments from members on that?

**Mr. Peto:**

We have concerns with items 2 and 3. From a financial and operational perspective, that would be impactful as well too and that's where we want to work with RCCD to come up with a system with some language of this as well and the concerns to work it out. Recognizing that our next meeting's probably not going to be until I think you said January, if we were to postpone this to that next meeting, would that be an issue, or how would we resolve this knowing that the working groups are submitting a letter from their members with the concerns, the questions, the recommendations that might actually help the Subcommittee? What would be the next steps in that case?

**Chair Butler:**

I think as Mr. Fernley indicated, one of the things we could do is, rather than take a vote on this today, maybe between now and—the ACAJ is going to meet again in November and December and January. Perhaps between now and then we can continue working with the parties and maybe refining the language and addressing some of those, and then at a future ACAJ meeting, I can bring this up in my Subcommittee report as to working through this and working with the parties and members of the Subcommittee so we can have something a little bit more palatable to all the groups that are represented. Would that be acceptable?

**Ms. Bryant:**

Thank you for the consideration. That certainly would be. If, however, you wanted to move forward a little bit, one alternative could be to take the proposed language, exclude the reference to interim judgments, deferred adjudications, and sections 2, 3, 4 and 5. I'm hearing from the group that that seems to be something that everyone would be comfortable with. If that's the case, we could move forward with that language and then work through any additions as we move through the legislative process. That's less vague, but it takes out the offending language.

**Chair Butler:**

Let me take a look at that real quick. Okay, thank you for that. I would want to discuss that with my staff with the implications of redacting subsections 2, 3, 4 and 5. I think what I'll do at this point rather than entertaining a motion, or at least a conceptual motion, at this time, what I'll do is direct them to continue outreach through the working groups and to come to a version 2.0 or 3.0 or 5.0 or whatever it is that we eventually get to and then bring it up through the ACAJ at a future meeting. I want to thank everyone for reviewing this to the extent that you did, and we do want to be sensitive to everybody's workload. As we know, we're all overworked and understaffed, so we definitely do want to take that into consideration.

At this point, I'm going to close the work session. We will move to public comment. Seeing none, I will adjourn this meeting at 12:05 p.m.

RESPECTFULLY SUBMITTED:

  
Jordan Haas, Secretary

APPROVED BY:

  
Julie Butler, Chair

Date: 6/26/19



<b>Agenda Item</b>	<b>Witness/Agency</b>	<b>Description</b>
A		Agenda
B		Attendance Roster
Agenda Item IV	Jordan Haas, Committee Secretary	Draft Minutes from the June 29 Meeting of the Subcommittee
Agenda Item V A-1	Julie Butler, Division Administrator, Central Repository for Nevada Records of Criminal History; Chair	Presentation on the NCJIS Modernization Project
Agenda Item V A-2	Julie Butler, Division Administrator, Central Repository for Nevada Records of Criminal History; Chair	Conceptual Diagram of NCJIS
Agenda Item VI	Carla Fair-Wright, NIBRS Project Manager, Records, Communications and Compliance Division	Presentation on NIBRS
Agenda Item VII	Julie Ornellas, Special Services Manager, Records, Communications and Compliance Division	Presentation on the Fix NICS Act of 2017
Agenda Item VIII	Julie Ornellas, Special Services Manager, Records, Communications and Compliance Division	Presentation on the FBI's Use of Force Data Collection Program
Agenda Item IX	Erica Souza Llamas, Repository Manager, Records, Communications and Compliance Division	Proposed Revisions to NRS 179A
Agenda Item XI A-1	Laura English, NCJIS Compliance Unit, Records, Communications and Compliance Division	Working Group Topic Paper #1
Agenda Item XI A-2	Laura English, NCJIS Compliance Unit, Records, Communications and Compliance Division	Working Group Topic Paper #4