

**MINUTES OF THE 2019-2020 INTERIM  
ADVISORY COMMISSION ON THE ADMINISTRATION OF JUSTICE**

**February 13, 2020**

The meeting of the Advisory Commission on the Administration of Justice was called to order by Nicolas Anthony at 1:04 p.m. at the Grant Sawyer Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada, and via videoconference at the Legislative Building, Room 3137, 401 South Carson Street, Carson City, Nevada.

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

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

Assemblywoman Rochelle Nguyen, Assembly District No. 10; Chair  
Senator Melanie Scheible, Senatorial District No. 9; Vice Chair  
Senator Keith Pickard, Senatorial District No. 20  
Chuck Callaway, Police Director, Las Vegas Metropolitan Police Department  
Aaron Ford, Attorney General

**COMMITTEE MEMBERS PRESENT (CARSON CITY):**

Assemblywoman Lisa Krasner, Assembly District No. 26  
Christopher DeRicco, Chairman, Board of Parole Commissioners  
Justice James Hardesty, Nevada Supreme Court  
Mark Jackson, Douglas County District Attorney  
Mindy McKay, Division Administrator, Records, Communications and Compliance  
Division  
Lieutenant Corey Solferino, Washoe County Sheriff's Office  
Holly Welborn, Policy Director, ACLU of Nevada, Inmate Advocate

**COMMITTEE MEMBERS EXCUSED:**

Judge Sam Bateman, Henderson Justice Court  
Kendra Bertschy, Deputy Public Defender, Washoe County  
Judge Jacqueline Bluth, Eighth Judicial District Court  
Charles Daniels, Director, Nevada Department of Corrections

**STAFF MEMBERS:**

Nicolas Anthony, Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau  
Kathleen Norris, Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau  
Tyler Sherman, 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:**

Victoria Gonzalez, Executive Director, Department of Sentencing Policy  
Paul Corrado  
Tonja Brown  
Jim Gibbs  
John McCormick, Assistant Court Administrator, Administrative Office of the Courts  
Anne Carpenter, Chief, Division of Parole and Probation  
Trey Delap, National Alliance for Mental Illness, Southern Nevada

**Nicolas Anthony (Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau):**

Good afternoon and welcome to the first meeting of the Advisory Commission on the Administration of Justice (ACAJ). We'll proceed to the next item on the agenda, and that's public comment.

**Victoria Gonzalez (Executive Director, Department of Sentencing Policy):**

I'm the Executive Director of the Department of Sentencing Policy, which was newly established in the most recent session. We house the Nevada Sentencing Commission which, as you know, was essentially born out of the ACAJ, and now we exist in the executive branch, and so I am here to introduce myself on behalf of the Department and the Commission. As you know, the Sentencing Commission is tasked with making data-driven policy recommendations concerning sentencing and corrections to the Legislature. Additionally, Assembly Bill (AB) 236, which is the omnibus criminal justice reform bill, tasks the Commission with tracking and assessing the outcomes from the enactment of AB 236, so we are a very active participant in the Justice Reinvestment Initiative. I'm just here to introduce myself on behalf of the Department and the Commission because I predict that we will be working together, and I've already had the opportunity to meet with a lot of the members of this Commission and I look forward to meeting with more of you as we work towards enacting these reforms and tracking the outcomes from these reforms, and that'll be through collecting data from the various agencies and stakeholders. Thank you.

**Mr. Anthony:**

Thank you, Ms. Gonzalez. Anybody else in Carson City?

**Paul Corrado:**

I'm a volunteer for the past 25 years in correctional settings and these are the comments that I'd like to make (Agenda Item III A). First of all, congratulations on the bail reforms. I think those have gone a long way towards making this state a better place. Secondly, Thinking for a Change, T4C, is a National Correctional Institution course. I've taken it, and no, you didn't pay for it. The Washington State uses this as one of their principal programs both inside and outside of the correctional institution. They have 30 people working and they believe it works. I think the data also shows that it works. That's Thinking for a Change. There's a Colorado reentry resource publication, it's 217 pages, and it's for people who are reentering society. I believe this state could benefit from that, especially the people who don't know where to go to get meds or housing or whatever else they need when they leave the NDOC (Nevada Department of Corrections). Committee make up: I don't see anybody here who is incarcerated and it always bothers me to think that the clients and everybody is talking around and about somebody who hasn't got a voice here, and that also includes correctional officers, and I can certainly understand the reticence of coming forward since it's been my observation that people within the system, especially corrections officers who make any noise, retribution has been, in my personal observation, a very serious and problematic issue.

Preparation for parole is one of the things that—I hope you got a chance to look at the letter that was in your packet. It was sent to Governor Sisolak, and I still believe that people who go up before a board should be able to prepare for it rather than ask the people who have just been at the board itself. I put this two pages together with the assistance of two of the Parole Commissioners previously, and I believe sincerely that this could go a long way towards helping them prepare. Now, I understand that there's no money in the budget for that, so I'll give \$1,000 towards reproducing that because I believe that you can be part of the problem or part of the solution.

The last thing I'm going to talk about is the references. First of all, there is a wonderful DVD, I guess, *The Violence Paradox*. It's a Nova presentation and I think everybody in the Commission might benefit from that. There's a Ted Talk that I think is also outstanding and it's by the lady who did the traumatic brain injury study for the NFL (National Football League) and it's called *The Surprising Connection Between Brain Injuries and Crime*, especially associated with female prisoners. I think this is—we say that there's 25 percent has serious mental issues and her statistics are much greater than that. The last one I'd like to talk to you about is *In the Age of AI*, which is a Frontline produce, and having a master's degree in planning, I think everybody on the Commission needs to think about what's going to happen next 10 to 15 years when 47 percent of the positions that are now being filled by people will not be fulfilled, will be automated. Artificial intelligence is going to be as big as the steam engine, electricity and computers and changing our society—and especially thank you, Justice Hardesty, for your work on the bail and all of you who worked so hard on that. I think it's going to make a big difference. Thank you.

**Mr. Anthony:**

Thank you, Mr. Corrado. Anyone else in Carson City?

**Tonja Brown:**

Tonja Brown, advocates for the inmates and for the innocent. I've provided you a letter from inmate Bruce Birch (Agenda Item III B). It deals with AB 236. He speaks of having nonviolent convictions and having life without and he refers to 236 and he would like to see some changes. The bill should've been—hopefully, maybe in the future—we need it to be retroactively because that's the only hope that he has. I'm here today to—I've submitted some documents and everything, so I'd like to say—I'd like to give some of our new members some information that has been presented over the years to the ACAJ. From 2007 I have been attending the Advisory Commission on the Administration of Justice meetings. Throughout the years there have been discussions on wrongful convictions beginning with eye-witness misidentification. On July 4, 2014, Rebecca Brown, the Innocence Project Director, gave a presentation to the ACAJ, and her studies you can find there. Since then, Nevada law enforcement agencies and states throughout our country no longer use this type of photo lineup array because it has led to wrongful convictions. I have provided you with a photo lineup array. This array has been shown to over 162 individuals. All have identified number 3, Mr. Klein, without any knowledge of what he or the suspect looked like, and that's page 1.

In 2019 there were actually 2 factual innocence bills introduced. On April 3, 2019, pages 6 through 14, Senate Bill (SB) 384—sponsored senate bill—David Parks. Senator Parks' bill included factual innocence posthumously, a public integrity unit commission and discovery changes. AB 356 by Assemblyman McCurdy did not. SB 384 died. On May 30 during the final stages of AB 336, I submitted a conceptual amendment to include factual innocence posthumously. That was Exhibit D and it was not accepted to the work session. For those who've had their loved ones wrongfully convicted and passed away, they still want justice for their loved ones. It should not matter because they are now deceased. The families left behind want justice for their loved ones and their loved ones exonerated.

During the October 10, 2018 of the ACAJ meetings, pages 11 through 19, Ms. Jennifer Noble had disclosed to this Commission that the Washoe County District Attorney's Office had implemented a conviction integrity committee to look into wrongful convictions. With that knowledge, I contacted Ms. Noble and spoke with Ms. Noble in great length regarding Mr. Klein's case and then submitted Nolan Klein's for review, pages 3 through 4 of the documents that you have been provided. During the September 2018 meeting, a letter from Mr. Klein's attorney, which was Treva Hearne, who was the author of the non-fiction book *To Prove His Innocence*, as well—she represented him—was submitted for the public record, pages 5 through 6. On February 9 or February 1, 2019, the Conviction Integrity Committee, the CIC, sent me a letter with their decisions, pages 7 through 8. On February 11, 2019, I received an email from Ms. Noble regarding Ms. Noble's letter where she states—my first question if she's going to look behind jury decisions and appeals,

what is the purpose of her committee? Are they only looking at confessions that didn't appeal? That certainly would make for light for workload. Did she read the book? She failed to mention there was exculpatory evidence never turned over, i.e. the report from Fallon police turned over to box, also the report of the officer who went to the hotel to investigate further on Zarsky. The pattern of the crimes with the same MO wasn't turned over either and the two victims of low pattern crime didn't identify Nolan. She didn't mention the flawed lineup and the undue influence on the victims by the police. There were so many missing issues from her letter it is glaring, but if she's confining herself to non-jury pleas without an appeal, then this isn't it. The Washoe County District Attorney's Conviction Integrity Unit is flawed as to the way they review their wrongful convictions. They are basing their decisions on previously filed district court and Supreme Court's decision instead of where they should be looking, which is at the actual post conviction petition, writs of habeas corpuses previously filed in the courts and including federal courts. They are only considering the petitions that were filed. They are not considering those who have been filed but have been procedurally barred. One instance that a petition could be procedurally barred is if the courts have issued an order denying the petition despite the fact that the petitioner's claims have not been fully addressed by the court or the Nevada Supreme Court, even if those claims in the petition did have merit and the court simply chose not to address those claims. Those unaddressed claims could have led to a new trial reversed on appeal or a person being exonerated. The petition will then be filed to the federal court and the federal court may or may not give the petition the opportunity to return back to state court to address those claims that the petitioner had raised. Fortunately, ours was.

**Mr. Anthony:**

Ms. Brown, I believe the Committee has those documents in front of them and they'll be submitted for the record (Agenda Item III B), so we'd ask that you please wrap up.

**Ms. Brown:**

Okay, so I would like for you to take notice of the letter written by Jennifer Noble and the information that I have provided you that kind of shows where it wasn't really reviewed. They are just doing a customary "we looked at the orders," and I should also state that after she had written this letter I had gone down to the Washoe County Court's office to pull up the petition. It was not in the computer system. They actually had to send—I had to put in a request. It was in another off-site facility in storage. They brought it back, scanned it through and now the petition is there, so she couldn't have looked at it because it wasn't there, and same way with the Nevada Supreme Court. There were two cases that were not filed within the Nevada Supreme Court, and that raises concerns for those who are maintaining innocence on the factual innocence bill, and hopefully posthumously bill, because if a person is looking for the case, it's not there, and according to the Supreme Court they too have not been able to have the time to put all the files of a defendant into the computer system, so Ms. Noble couldn't have found it online because it wasn't there. I had to go to the law library. Thank you and I'll finish up later

**Mr. Anthony:**

Thank you, Ms. Brown. Anyone else wishing to make public comment at this time, either here in Las Vegas or in Carson City?

**Jim Gibbs:**

Commission members, I appreciate you hearing me this afternoon. I sent you a packet which I assume that you all have (Agenda Item III C). Of course, Ms. Brown has addressed that. I would like to sidetrack just for a moment on the back side of that packet that I sent you, and that is regarding the harassment that I personally have experienced from Ms. Brown and an organization called Reno Cop Watch. Putting it bluntly, they are just cop haters. In this day and age when the news is filled with precincts being attacked by gunmen, officers being attacked in their cars by gunmen, it has to be a concern of anybody and everybody that comes to the attention of these hate groups. I'm not saying that Ms. Brown is a hater, per se. You can look at her Facebook page and she has things that seems to honor law enforcement, but she plays off—in her challenge to have her brother exonerated, she plays off this Reno Cop Watch. They use her information to in turn attack, and there is a long list of the people, and anybody that had anything to do with the case of Nolan Klein she has badgered and harassed, and then I came in her target when—I belong to an organization called Cops and it's for survivors of fallen police officers, either their family members or coworkers, and I published some photographs that I had taken of our August meeting in Sparks, and Ms. Brown and this Reno Cop Watch took those from our Facebook page, which is the history of the Reno Police Department, and posted them with derogatory remarks, and I originally asked them politely to remove them, and I won't repeat what I was told back, and since that time I have gotten some help from Facebook in getting their comments and their posts of myself personally, my wife's photograph, information that I didn't give them permission to use, and they are definitely for the purpose of harassing me, and it is a threat. It has to be considered a threat, because they are cop haters.

What I wrote to you about is I was aware of the fact that Ms. Brown was going to continue her campaign to have her brother exonerated—he died in 2009—and I would just like to wrap up by essentially using somebody else's material, and that is Jennifer Noble, but in March 16, 1989, the jury of Nolan Klein's peers found him guilty of two counts of robbery with a deadly weapon, one count of sexual assault with a deadly weapon and one count of burglary. I believe that the letter that Ms. Brown made reference to by Jennifer Noble, who is the Chief Appellate Deputy for Washoe County District Attorney's Office, makes a valid argument to reject any thoughts whatsoever of asking for an exoneration of Nolan Klein. On December 28, 1989, the Nevada Supreme Court affirmed Mr. Klein's conviction for the first time. The Nevada Supreme Court has considered or rejected Nolan Klein's appeals over the last 30 years, including in 1993, 1994, 1998, 2002, 2009 and 2011, absent any substantive new and credible evidence which they failed to provide, and that's the reason for these rejections. There should be no exoneration of Nolan Klein by legislative process, it's that simple. I believe that you have access to all the information

that you need to make an intelligent decision. I know that Attorney General Ford is in the audience on the Commission, and I would like, I would hope, that after I leave he has my contact information, that he'd reach out for me. There is—I can absolutely, unequivocally prove that the anonymous person behind Reno Cop Watch and Tonja Brown harassed not only me personally but witnesses that testified against her brother, including the rape victim. That can't happen. If she wants to work toward exonerating her brother, if she would have taken a different approach—quite frankly, I'm a licensed private investigator. I would been more than happy to help her if I thought she had a case, but she has alienated me obviously through her actions and she's alienated just about everybody that she has approached trying to get her brother exonerated. I beg of you, do not fall for her story. I thank you very much.

**Mr. Anthony:**

Thank you. Anyone else wishing to make public comment? Then, seeing none at this time, we'll close public comment and move on to the next item of business before the Commission, and that's election of a Chair. Pursuant to NRS (Nevada Revised Statutes) 176.0123, the Chair must be a legislative member. The Chair is currently vacant at the moment, so at this point I would entertain a motion for Chair of the Advisory Commission.

MR. CALLAWAY NOMINATED ASSEMBLYWOMAN NGUYEN AS CHAIR.

SENATOR SCHEIBLE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Assemblywoman Rochelle Nguyen (Assembly District No. 10; Chair):**

Thank you, I'm honored. I think at this time I would also like to open up nominations for a Vice Chair, and if it's possible, I would like to nominate Senator Scheible.

CHAIR NGUYEN NOMINATED SENATOR SCHEIBLE AS VICE CHAIR.

ATTORNEY GENERAL FORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Nguyen:**

Congratulations.

**Senator Melanie Scheible (Senatorial District No. 9; Vice Chair):**

Thank you all.

**Chair Nguyen:**

Well, I guess I'll start on taking over. Thank you everyone and welcome. Again, I am Rochelle Nguyen. I'm the Assemblywoman for District 10, and I know that I've worked with a lot of you during the session on Assembly Bill 236. That came out of the work that this Commission did in preparation for the 80th Legislative Session. I am very excited to continue to work on some of the things. I'd like to think of AB 236 as the groundwork and the foundation, but we need to continue to work on fleshing out some of the things that are known problems, and there's some concerns. Not every piece of legislation is perfect, especially one that was this large and voluminous, but I think it gives us a good starting ground, and I know that, having worked with many of you before, we will be able to continue to do that.

One of the things that I would like to kind of put out there, and I don't know if it would necessarily be a motion or just to have it as part of the history of this Commission, is that this is the first session in light of the changes to the make up of this Commission in addition to the number of the people that are present on it, as well as the fact that it must be chaired by a legislative member. I think that going forward in the future, much like some of the other legislative commissions, I think it would be appropriate in the future that it go between the houses. I think that's an important distinction to make. Right now, obviously, I'm in the Assembly, so I think that it would be appropriate in the coming years when there's a vote that it goes back to the Senate and goes back and forth like some of the other commissions that are legislative commissions. I know in the past this has been open to the various members on the Commission and that has changed, and I would like to just make it known that I think that would be appropriate to go forward in the future. But with that, I would like to move to agenda item VI, the discussion of legislation creating that, and I think we are going to have a presentation at that point by Nick here, so I'll turn it over to him.

**Mr. Anthony:**

Thank you, Chair Nguyen. Nick Anthony, nonpartisan staff with the Legal Division of the Legislative Counsel Bureau. It is my pleasure to be serving as staff to the Advisory Commission once again this interim. With me I will also have Tyler Sherman from our office, who is here in Las Vegas, and Kathleen Norris assisting as well, who are attorneys with the Counsel Bureau. She's up north currently in Carson City. We also have Angela Hartzler as the Commission Secretary and Jordan Haas as an assistant to Ms. Hartzler.



With that said, real quickly I'd like to just point out a little bit of history of the Advisory Commission, some of the recent legislative enactments affecting the Commission, the deadlines and duties of this Commission, and briefly touch on the final report from last interim since there are new members to this body. The Advisory Commission grew out of the former Sentencing Commission which started in 1995 and was passed by the Legislature in 1995 during what was known as Truth in Sentencing legislation. The Advisory Commission was originally housed in the Attorney General's Office and laid dormant for many years, and then the Legislature saw fit in 2007 to create this body, the Advisory Commission on the Administration of Justice. It is currently made up of 19 individuals from all different areas of criminal justice, including victims, judges, prosecutors, defense attorneys, legislators and the like (Agenda Item VI A-1). A quorum of 10 members is necessary and then a majority of those present to carry any action by the Committee. The duties of the Commission are spelled out in NRS 176.0125, and as you may note in the legislation provided to you, AB 112 from last legislative session revised those duties substantially (Agenda Item VI A-2), and the duties now pertain to anything impacting the criminal justice system at the discretion of the Chair. So, it'll be up to this body to decide what you all wish to study this Interim. As well, AB 112 removed a lot of the subcommittees. There's only one subcommittee remaining and that's the Subcommittee on Criminal Justice Information Sharing.

This Commission is advisory in name only and in nature. It does not have bill draft requests specifically allocated to it. In the past, members of this body who are legislators or chairs of the Senate or Assembly standing committees have carried bills on behalf of the Advisory Commission, and so that would be the same this time. There is no statutory authority for a bill draft request. The deadlines for this Commission and the budget: this Commission is allocated approximately six or so meetings subject to legislative appropriation from the last session. That'll include a work session that'll take place in the fall when the body will vote on all recommendations. The final report of this Commission was amended by AB 112. The deadline for staff to complete and submit a final report is now December 1, 2020 of the even year, so after you all wrap up your business, staff will prepare a report and submit that to the Counsel Bureau for distribution to the next legislative session.

As we discussed earlier, there is one remaining subcommittee, the Subcommittee on Criminal Justice Information Sharing. It's made up by a member appointed by the Department of Public Safety and remaining members appointed by the Chair of this Commission. In addition, the Subcommittee is authorized to have working groups underneath it. It should also be noted that if the Commission chooses, the Subcommittee could function as an outset of this whole body without the need for any additional Subcommittee meeting but rather to be placed on individual agenda topics in the future.

Then lastly, we'll quickly cover the final report from last legislative session (Agenda Item VI A-3). You all should have a bound copy of that in front of you, as well as there's a copy online. Last interim, the 2017-2018 Interim, this body was chaired by Assemblyman Yeager and vice chaired by Justice Hardesty. The Advisory Commission undertook a

great deal. They had over six meetings plus additional subcommittee meetings plus working group meetings. They were fortunate to get the assistance of the Crime and Justice Institute, CJI, and so that took a great deal of their time last Interim. Ultimately, the Commission voted to approve two recommendations for legislation, AB 107 which requires custodial interrogations in places of detention (Agenda Item VI A-4) which passed, and AB 112 which we briefly touched upon which made changes to the Advisory Commission. Those bills were both recommendations from the Advisory Commission, as well as the omnibus bill AB 236 (Agenda Item VI A-5) arose from a recommendation where the Advisory Commission voted to approve the final report of CJI. The final report of CJI included 25 recommendations, broad sweeping changes to criminal justice reform with an eye towards saving the state over \$600 million in incarceration costs and having those incarceration costs turned back into frontend services that will be staffed and managed through the Sentencing Commission which Ms. Gonzalez referenced earlier. With that, Chairwoman Nguyen, I'd be happy to answer any questions on the Advisory Commission.

**Chair Nguyen:**

Does anyone have any questions?

**Justice James Hardesty (Nevada Supreme Court):**

Madam Chair, I have a question for the counsel.

**Chair Nguyen:**

Go ahead.

**Justice Hardesty:**

Mr. Anthony, I believe the duties of the Commission as revised by the last session of the Legislature are outlined in NRS 176.0125. I would like to know, for the benefit of those who previously provided oral comment, if there is anything in that statute that allows this Commission to consider individual requests for legislative action to posthumously exonerate an individual defendant.

**Mr. Anthony:**

Thank you, Madam Chair. As you correctly point out, Justice Hardesty, the duties are outlined in NRS 176.0125. The duties of this Commission are written fairly broadly to allow an evaluation and study of the elements of this state's system of criminal justice at the discretion of the Chair. So, with that said, my reading of that would be that it is extremely broad and this Commission can take up any topic related to the criminal justice system in the State of Nevada.

**Justice Hardesty:**

But I understand those topics to relate to the systems as opposed to individual cases.

**Mr. Anthony:**

Thank you, Madam Chair. Yes, that's correct, the system of criminal justice in this state. Where that line is drawn would be up to the Chair. That is, it's a pretty broad charge. It does not say—you are correct, it does not specifically state individual cases, but the argument could be made that it relates to anything relating to the criminal justice system in this state.

**Chair Nguyen:**

Thank you. Any other follow-up questions? Thank you so much for that presentation. If we could move to agenda Item VII, the presentation by the Administrative Office of the Courts. Mr. McCormick, I'll turn it over to you.

**John McCormick (Assistant Court Administrator, Administrative Office of the Courts):**

Thank you. I am here today to do sort of a crash course—rather, overview—of the Nevada judiciary and then a few other issues as identified on the agenda. I see a number of familiar faces, so I think a number of you have been subjected to this presentation before.

Here initially you'll see just a map depicting the 11 judicial districts for Nevada's 17 counties, including the individual county districts as well as the multi-county districts, and the multi-counties have been going down in number with the creation of the Tenth and the Eleventh Judicial Districts in the last few sessions, maybe back to 2009 (Agenda Item VII A-1). At any rate, this next slide here is sort of the official chart for how the Nevada judiciary is made up. You'll see there the appellate courts on the right side and then the trial courts on the left side. I won't belabor that. However, it is worth pointing out here that Nevada has a non-unified judiciary, meaning that there's no central authority and various components of the judicial branch are paid for by the state, the counties and cities, so there is a certain level of autonomy inherent in all the trial courts. The Nevada judicial system obviously is the third branch of government, being separate and coequal with the executive and legislative branches. Overall, the focus of the judicial branch is obviously to resolve legal disputes brought before it in an impartial and timely fashion.

In Nevada, the judicial branch is made up of the appellate courts, the Supreme Court, the Court of Appeals, the trial courts, district, justice and municipal court. There will be a quiz on this part. You'll find the 3 branches in Article 3, Section 1 of the Nevada Constitution, the judiciary is in Article 6, and then in Title 1 of NRS you'll find all the underpinning statutes for the judicial branch. The Supreme Court is the ultimate judicial authority in Nevada. It is the court of last resort here, meaning it has the final say over all matters

regarding Nevada law. The only appealable matters being able to be appealed to the United States Supreme Court are those dealing with United States constitutional rights. The Nevada Supreme Court serves as an error correction court as well, meaning that if there was an error made at the trial court level, the district court level, the Supreme Court's role is to, upon the record, potentially correct that error.

There are seven justices on the Supreme Court and the Supreme Court administers the judicial branch. That specific duty is delegated to it in Article 6, Section 19 of the Nevada Constitution. That indicates the Chief Justice is the head of the judicial branch. One unique aspect about the Nevada Supreme Court is that we switch chief justices every year, which is not sort of the norm across the country, and our Constitution has eligibility in the final two years of a justice's term, and so generally the court has done by gentleman's agreement, for lack of a better term, split that a year and a year for those two eligible justices to be chief justice. So, that is your random Nevada difference fact on that, because we are Nevada and we're different. I couldn't resist that one.

Anyways, the Court of Appeals is the newest member of the judicial family, so to speak, in the State of Nevada. It was authorized by the voters in 2014 and began sitting on the first Monday in January of 2015. It is made up of three judges, and our court is a little unique in its model as it uses a push-down model where all matters, appellate matters, are filed with the Supreme Court Clerk's office and there's a screening process based on rules set in Nevada Rules of Appellate Procedure number 17 that guides where cases go, which cases automatically go to the Supreme Court, death penalty cases for example, and so we have been able to sort of start up the new court with a minimum of additional infrastructure based on using that sort of push-down model. After the appellate courts we have the trial courts, and our district courts are what we call our general jurisdiction courts. They handle all felony and gross misdemeanor criminal matters as well as family, juvenile and civil cases over \$15,000 in value. The appellate authority over the district courts is the Supreme Court in the sense that they're filed with the Clerk's office and then pushed down appropriately.

There are 11 judicial districts in the 17 counties with a total of 82 district judges. Beginning the first Monday in January of 2021, there will be 8 additional district judges added due to the actions that took place in the 2019 Session. We'll be adding six family jurisdiction judges in Clark County, one family jurisdiction judge in Washoe County and one general jurisdiction judge in Elko County. When I referenced the non-unified court earlier, this is where we really see that as far as funding come into play. As all the district court judges are state employees, they are considered state judicial officers paid by the state. We are actually—we being the AOC (Administrative Office of the Courts)—are actually the employer for those judges, but all the rest of the costs of district court are paid by the county, so you can see there that there's a mix of funding.

The next sort of sector of courts we'll talk about are our limited jurisdiction courts, first being justice courts. They handle misdemeanor criminal matters, traffic matters. They do preliminary hearings for felony and gross misdemeanor cases and they also handle civil

matters under \$15,000 as well as small claims. They also handle protection orders and landlord tenant cases, and as far as protection orders, there's sort of some interesting jurisdictional rules around that. If you're looking for a protection order against stalking and harassment or harassment in the workplace or protection of a minor, those can be sought in justice court in all the counties. If you're looking for a domestic violence protection order or one of the new high-risk protection orders created by AB 291, those are sought in the family courts in the Second and Eighth Judicial Districts of Washoe and Clark County or in the justice courts in the other 15 counties. That's just sort of a note on a jurisdictional anomaly, I guess you could call it. There are 42 justice courts with 68 JPs (justices of the peace) and the district court is the appellate authority. One of the biggest changes we've seen recently that took place after the end of the last session is the decision by the Nevada Supreme Court in the *Anderson* case, which requires misdemeanor jury trials for domestic violence cases at the justice and municipal court levels, so that's been a big topic of discussion within the branch as far as getting those limited jurisdiction judges up to speed on conducting a jury trial, collaborating with our district courts to impanel those juries, so that's been one of the bigger changes that we've been working on as a branch as of late.

We also have municipal courts, and these are courts that have jurisdiction within the boundaries of an incorporated city. They are also considered limited jurisdiction courts. There are 17 muni courts with 30 judges, and 9 of those judges do double duty as the JP and the municipal court judge, and that's in Elko County, Mesquite and a few other locations. Municipal courts have very limited civil jurisdiction, and as we'll look at caseloads in a little bit, I believe a total of 1 percent of the overall caseload in municipal courts is civil and that's generally dealing with record sealing and city utility collections and those type of things.

Switching gears to the next item on the agenda there, the impact of 2019 legislation, we saw the biggest impact so far that's been implemented has been at the limited jurisdiction level with the reforms to traffic tickets and collection of traffic fines and fees, etc., that we saw in AB 110, AB 416 and in AB 43,4 and the Legislature expressed, I think, strongly in those bills the preference for not incarcerating people for misdemeanor traffic violations as well as reforming a driver's license suspension, reducing the amount of jail, increasing opportunities for community service, also allowing all misdemeanor fines or fees so the fine and administrative assessments can be converted into community service. Before, there was a lack of clarity in statute whether or not that was appropriate. A lot of courts did, some courts didn't think they could, so that has been clarified as well. But again, this is an area of reform, and I think we've seen it nationally as well as in Nevada reforming traffic tickets. There was initially during last session a bill that would have converted these all to civil matters that ultimately did not move, and then in later conversations with Chairman Yeager he's indicated that so long as these reforms keep moving, we may not see that come back up again, potentially. One of the current issues that the courts are struggling with in this area, and I think these reforms help to bring it to a head, is failure to appear warrants. So, an individual is issued a citation, it has a date for them to appear in court, they don't appear so you issue a failure to appear warrant. But the preference is

not for incarcerating, so how do we enforce those failures to appear without people getting put in jail? That's kind of a topic of discussion and I think potential collaboration between limited jurisdiction courts and the Legislature for the 2021 Session.

As you may be aware, there was a bill passed last session called AB 236 that some people were a little invested in, but not to make light of it as it's a substantive reform bill. However, this obviously is going to make significant changes, and a lot of those at the gross misdemeanor or felony level it does impact in district court. One specifically is the removal of the sentencing recommendation from the presentence investigation report which will necessitate, I think, pursuant to section 12 that the district court judges who have a criminal calendar receive training in sentencing. I saw, I think, Deputy Chief O'Rourke in the back of the room, and I think it's actually on my side to get back to them. However, we're working with Parole and Probation right now to develop that training and hopefully implement it at our district judges conference later in the year.

Again, this bill—I think overall everyone saw that it increased the opportunities for deferment, specialty courts, those kind of things, so I think we'll need to continue focusing on expanding those programs and the availability of those programs, which necessarily brings me to the evil of funding. Again, I think we see major reforms in parole and probation revocation, modified burglary to create the four different categories in this. Just in my experience having worked with the court and the Legislature since 2007, reform of burglary has been a major issue for those last 13 years, and I think this is a substantive reform in that and I think we'll have to see how it sort of plays out with the different categories. Also, this bill has a potential of driving more money crimes, for lack of a better term, down to the limited jurisdiction level being that it increased the felony threshold. I'm not saying that's bad or good, but I think there's a potential for that there. Also, I think everyone's aware it makes numerous reforms to the drug trafficking possession statutes, etc., and I mention just a plug for one of the products of AOC. We have an AB 236 section-by-section explanatory chart available in our legislative review and I'd be happy to share that with this Commission if there's any interest.

Additionally in talking about the impact of 2019 legislation, I kind of picked a few random ones to include in this PowerPoint. AB 439 eliminated the ability to charge a lot of fines and fees to parents of juveniles involved with the juvenile justice system, and I actually was invited by the Legislature to participate in the National Council of State Legislatures fine and fee consortium with a team, and Nevada received praise there from a number of national experts for that reform effort. It was kind of gratifying to know there had been a team that had been looking at that and Nevada had one of the highest abilities to charge those fees, but when surveyed and they looked at the data, we weren't. Our district judges weren't charging those fees despite the fact they have the jurisdiction, so now we've sort of conformed statute with practice. It was nice to be at an event and have Nevada be heralded for taking a reform step.

Again, I mentioned high-risk protections orders in AB 291. That's just an uncharted area as far as this state that we'll see how those play out. We have put together a committee.

We've done some draft forms to try to help out the courts. I think we've had one or two maybe, to the best of my knowledge, requested so far, which sort of lines up with what we saw in Oregon. The first year they made these available in Oregon there were 166 applications in the entire state for the first year, so I think in the states that approved these before us they've not seen a rush to request these orders.

There are a number of changes to the handling of domestic violence cases again last session, including one of your member's bills to extend the temporary order to 45 days from 30 days. I think that was Assemblywoman Krasner's bill, if I remember correctly. So, some changes there in handling that, and I think that coupled with the *Anderson* decision makes domestic violence a hot button issue, for lack of a better term, particularly at the limited jurisdiction level that the courts are focusing on and spent two days at their last conference learning about jury trials.

The guardianship reforms continue. There was another bill passed this session, SB 20, that did that. I thought I'd throw in a little bit of civil here.

Also one issue that we're looking at, I think it continues to be an area of interest, is a DUI (driving under the influence) and the interlock devices and how do we have an interlock for a drug DUI, because that is the way the statute reads, and then looking at marijuana, etc., on the DUI front.

Again, there were changes to landlord/tenants. I think the landlord/tenant matters—I think there was quite a bit of press on that initially when this bill went into effect, SB 151.

The interim study of pretrial release called for in Senate Concurrent Resolution 11 is interesting. As I think most of you may know, the Nevada Supreme Court had put together a Commission to Study Evidence-based Pretrial Release under the chairmanship of Justice Hardesty, and through that Commission a Nevada pretrial risk assessment tool has been developed. There's two variants, and the Supreme Court has ordered that every court in the state begin using that by September 1 of 2021. The AOC has put together training pursuant to that order, so we have that sort of court system reform effort to implement the pretrial risk assessment tool, and then again the study that we're working obviously with that study committee on, so again, I think this is an area that needs attention and is getting attention at this point.

Another bill that was interesting that caused a lot of consternation was civil proceeding regarding animals belonging to persons in jail. It was in Senate Bill 342, and when I say consternation, there was some confusion as to the jurisdiction, but I believe that was all worked out.

SB 480 requires a change in the requirements of what justices of the peace must do when they reach the population threshold to ask for a new JP. They have to have a more extensive consultation with the county commission now before deciding whether or not to invoke that statutory ability to get another JP.

Also, I would be remiss if I didn't give a plug for AB 81, which is the indigent defense bill that created the Department of Indigent Defense Services and the indigent defense services oversight board. The Supreme Court continues to have their Indigent Defense Commission that's been going for about the last 13 years. From the perspective of being staff on the Commission for that time, it was very gratifying to see the Legislature create this independent entity at the state level, and we'll see how that goes moving forward.

Another topic I was asked to touch upon here is criminal caseloads (Agenda Item VII A-1). The red line on the chart—I hope you've got a copy in front of you, and I probably should've used something different instead of colors since we're trying to save ink. However, you can see criminal caseloads are in red on the PowerPoint and they remained relatively flat since 2010. There was a slight uptick but the felony criminal caseloads have been fairly flat as I say. You can see there for the last 3 fiscal years the numbers, and they've been down 500 between 2017 and 2018 and then basically the same, and criminal caseloads account for 13 percent of the caseload at the district court level. That really high line there on the top is the family court caseload. Family actions make up the bulk of those district court caseloads. Justice court caseloads: you will see again that criminal has been fairly flat or declined a little bit since 2010. You can also see that parking and traffic went down and has just started to come back up and sort of level out, and one of the reasons that I think that is of interest to the Supreme Court and the judicial branch is misdemeanor administrative assessments which are charged on those misdemeanor traffic tickets as primary source, because about 80 percent of misdemeanors in the state are traffic misdemeanors, go to fund part of the judicial branch as well as a number of services of the executive branch and local courts, so the decline in traffic tickets there sort of results in a decline in the available revenue at the Supreme Court for certain programs, including judicial education. Municipal court criminal caseloads: again, I think the moral of the story is they are pretty flat. We've seen a recent uptick at the municipal court level in terms of criminal filings, misdemeanor criminal filings obviously, and if you look there, 99 percent of municipal court caseloads are made up between criminal and traffic, so again, minimal civil jurisdiction there.

Sentencing trends: this was one of the more challenging aspects of this presentation for me to think about being that we at the AOC at the supreme court level have what we call our Uniform System of Judicial Records that collects data from the trial courts, but we don't have the information on sentencing trends because sentencing—the only way to really do that is to look at individual cases. There's no sort of overarching sort of aggregate-level data you can pick for sentencing trends to report at our level. One thing though that I think I can say with a fair amount of confidence is specialty court programs. The use of those programs and the popularity of those programs continue to increase. We began serving an additional basically 3,300 clients in Fiscal Year 2019 in those specialty court programs, and again, those programs are therapeutic in nature and they seek to address sort of the root causes of criminality, substance abuse, mental health, dual diagnosis, those type of things and generally incentivize completion of the program through dismissal of the case, reduction, avoidance of prison obviously, those kind of things.



One thing we did see in Fiscal Year 2016 was that was the first year we got general fund support for our specialty court programs in the amount of about \$3 million that the ACAJ, I think, recommended during that interim, and we saw that spike and then it went down again because we kind of got up to capacity as far as program infrastructure with handling new clients. So, we had money for new clients but didn't have the treatment infrastructure or the staffing resources, so we got a little more realistic and have built those resources back up. But again, and I think this is said in every committee/commission dealing with criminal justice or sort of any of these societal ills, there's lack of treatment infrastructure in Nevada on the mental health side, on the substance abuse side, and so we obviously see that in specialty courts and it's limiting our ability to serve clients, particularly in-patient mental health beds in Clark County. That's a giant challenge that they always experience, and so they have a dilemma. Do you keep a person in jail so they don't relapse but you're keeping them in jail unnecessarily waiting for a bed, or do you let them out so the chance of relapse is higher? There's no good answer, but obviously we don't want to keep people in jail just solely so they don't relapse because that's really not appropriate, but at the same time it's a difficult decision that the judges have to make on a case-by-case basis.

The next one is my sort of bold declarative statement that there may be a correlation between the severity of sentencing and the continued increase in our prison population over the last decade, because we saw that criminal filings were pretty much flat over that same time period. So, that may be a correlation, maybe not. I don't have the data to support it, but it's a thought I thought I would include there.

I think the final aspect that I was asked to briefly address in this presentation is budgets and staffing in the judicial branch in the court system. There was a bill last session to give state judicial officers—so district court judges, court of appeals judges and justices of the Supreme Court—a pay raise for the first time since 2009. That was considered but ultimately not adopted during the 2019 Session. Another thing that we've seen and I can speak to from personal experience is the Supreme Court and the AOC, etc., its departments are having a difficult time recruiting and retraining staff, and one of the contributing factors there is the level of pay. We're having a difficult time recruiting attorneys because they can find higher paying work elsewhere. We also are having a bunch of turnover right now within the AOC. Our specialty court position, our court improvement project position, our interpreter coordinator and our auditor position have all turned over in the last couple months, part of that due to the sort of levels of pay offered at the county and city level versus the state level with the counties generally offering a higher level. So, that's one thing we struggle with from the Supreme Court AOC perspective. We were appropriated money in 2017 to conduct a salary study during the interim. That was conducted and a number of positions were found to be pretty low. Our state court administrator, for example, is one of the lower paid state court administrators, at least about 20 percent under what was found to be reasonable in that salary survey. Those were included in the court's budget request but were ultimately not included in the budgets as they were closed. Another thought on budgets and staffing: AB 236 may necessitate a need for additional specialty court funding as we try to expand those

programs as alternatives to incarceration for both services and to build infrastructure at the state and local levels.

Again, I touched on this briefly, but there remains concern regarding the funding of the judicial branch with fees assessed on misdemeanor criminal convictions. During our budget hearing in the 2019 Session, I believe the court raised that issue as continuing to be of concern and that funding is through the administrative assessments (AA) levied in NRS 176.059 and then a couple more statutes there, but those fund programs at the Supreme Court including the court's budget, specialty courts, judicial education, the AOC and also fund partially at the executive branch level the Repository. I'm just going to say "repository" because I cannot remember the actual name of the division anymore. Also, NHP (Nevada Highway Patrol) dispatch, domestic violence programs at the Attorney General's Office, the Prosecutorial Advisory Council, so those AA revenues do fund a number of those services. I just raise that as a concern particularly considering, sort of as we've seen, the national trend on funding for criminal justice activities through user fees, for lack of a better term. I would point to the Fifth Circuit just recently last year made a ruling about the system in New Orleans and how it was funded indicating that the courts funding themselves through levying bail and fines and fees and directly getting that money probably created a little bit of a constitutional problem. But again, we can talk about that offline if you want to look at those cases or any of those national trends.

Again, on budgets and staffing, one thing we see—and I think as we attempt to continue to reform pretrial release and use that assessment tool better and take other steps for eliminating some of those monetary bails—very few justice and municipal courts, and that's primarily who's going to be doing that pretrial release work outside of Washoe and Clark Counties have pretrial release or alternative sentencing departments, so there's somewhat of a gap there in personnel available to do it. In some of those jurisdictions, the sheriff's office is working with the court in doing that assessment. In some, the judge is doing the assessment himself. It just kind of depends, but that's one area that I think as we look at pretrial release and reforming that and improving the way we do it that we may need to look at expanding some of those departments at the local level particularly.

Again, I think this is always a concern, and I think the ACAJ has discussed and looked at this concern in every interim at least that I've been aware of, the need to continue to improve our electronic data systems to communicate criminal justice information. I think we have taken some steps, but I think that again always remains a concern that I think we're looking at as a state. I see a lot of smiles because it does not come as a surprise to anyone that that continues to be an area of concern.

Also, this is my plug for the Department of Sentencing Policy and the Department of Indigent Defense Services. I think as those two new offices get off the ground, the Legislature, this Commission, may really want to consider recommending additional funding, particularly from my perspective to the Office of Indigent Defense Services as they implement standards and the counties need to come up to those level of standards. I think the state may need to chip in to help those counties make sure that we are providing

an adequate constitutional defense. That was a topic of discussion around AB 81 last session. Ultimately no appropriation was included, but that's my plug for that, for the ACAJ to consider encouraging that as a continued reform effort.

That is my attempt at a brief presentation, which maybe wasn't so much, and I'd be happy to answer questions.

**Chair Nguyen:**

Thank you so much for that presentation. I have a couple of questions. Do you have—I'm sure you have it, I don't need it right now—but I think some of the data about the caseloads going up or down? Do you have that by way as a percentage of the population either growing or—does that make sense?

**Mr. McCormick:**

Thank you, Madam Chair. We have obviously those caseloads going up and down. We can pull the census or demographer data, I think, and look at those side by side, so I'll get with my research and stats team and we'll get with you offline if that works.

**Chair Nguyen:**

No, that works perfectly. My other question is definitely an offline conversation, is one of the things that I know has come up multiple times, is having a more integrated criminal justice information sharing system. Have you started the process or do you have what the different courts are using across the state for their information collection and, I guess, sharing?

**Mr. McCormick:**

Thank you, Madam Chair. We have a number of case management system providers in the state, Equivant which provides the systems, Tyler which provides a case management system, Tiburon, but as far as data collection, a lot of that can be transferred electronically through we have what we call MCIJIS (Multi-County Integrated Justice Information System), and I'm not going to remember what the acronym stands for, but it's a data broker that we're able to transfer information between the courts and DPS (Department of Public Safety) and DMV (Department of Motor Vehicles). So, we're getting more able to sort of take that data in whatever form and transfer it between entities, but I think we're still working on disposition transmission and getting that cleaned up as there's a number of those that I think Mindy will probably speak to a little bit later as far as entering that backlog, and I'm meandering now, but again, we are—

**Chair Nguyen:**

That's okay, I'll stop you. I'll follow up with Mindy and we'll talk offline as well. Thank you. Does anyone else have any further questions?

**Senator Keith Pickard (Senatorial District No. 20):**

Thank you, Madam Chair. Mr. McCormick, it is always good to see you. I just have a question. Actually, I think several of us had a question about the population increase and how these correlate, so that's great. I'll be interested to get the answer to that. Also, I'm specifically looking at the district court criminal caseloads in family court, and we see those substantially higher. I'm wondering if you have controlled for cases that are hold-opens, or are these strictly first filings? Are the filings also included post-decree motions that reopened cases that have been statistically closed? How do we unpack this?

**Mr. McCormick:**

Thank you, Senator Pickard. These charts here that I used are just new filings by type. In our annual report, we do have the information as far as cases that are reopened and then additional hearings and all that, so I can get you that information. I just don't know it off the top of my head, but we do publish that in our annual report and the appendix (Agenda Item VII A-2).

**Senator Pickard:**

No, that's fine. Very good. I'll look in the annual report. I just received that. I haven't read it yet, but I'll look there. But I'll follow up with you offline. Thank you.

**Chair Nguyen:**

Any further questions? Thank you for your presentation. We have another question.

**Chuck Callaway (Police Director, Las Vegas Metropolitan Police Department):**

Thank you, Madam Chair. Kind of a segue on some of the questions that have been asked. When we talk about the district court criminal caseloads with population rising but the caseloads staying pretty flat over the last few years, you mentioned stricter penalties might be a factor in prison growth, but are you looking at these cases and tracking the outcomes of them, such as how many are plea-bargained, how many of these cases are repeat offenders who've been in the system before, are they violent crime versus property crime, and what's the ultimate outcome and how that might correlate to what you've mentioned about stricter sentence, because obviously if we have less cases with a higher population and we're seeing more violent cases, then obviously those stricter penalties would be very warranted.

**Mr. McCormick:**

Thank you, Mr. Callaway. We do break those down by crime type, and I have that in our annual report. Again, the potential sentencing versus increased prison was completely my wild conjecture that there may be a correlation there, but we do have the breakdown on case type and dispositions. As far as specific case outcome, we don't have a one-to-one, but we have "X number of cases were filed and this is how they were disposed in terms of jury trial," etc., and if I remember correctly, and I'd have to double check and pull this, but I think about 1.5 percent to 1.8 percent of felony criminal cases in the State of Nevada go to jury trial. That's how they're disposed of. The vast majority of those then would be disposed through plea bargain or some of those other dispositional methods, but that's approximately our trial rate, which is right in line with the trial rate nationally, and state courts have a little bit lower trial rate than the federal court system, which is kind of interesting, but that's again our trial disposition. And again, to make it easy, I will send the annual report as well as the appendix files over to Nick and Kathleen so they can distribute that (Agenda Item VII A-2).

**Chair Nguyen:**

Thank you. Any other further questions up north? Again, thank you for your presentation and I'm sure we will be seeing a lot of you. I guess we're going to move on to item VIII, a presentation by the State Board of Parole Commissioners. I believe that Chair DeRicco is going to be making that presentation, is that correct?

**Christopher DeRicco (Chairman, Board of Parole Commissioners):**

That is correct, Madam Chair. I am the Chairman for the Nevada Board of Parole Commissioners, and I want to thank everyone for the opportunity to present today. This presentation provides general information about both the Parole and Pardons Boards in Nevada, the types of hearings conducted by both boards, caseloads, case processing, impact of 2019 enacted legislation and the staffing and budgeting issues that both the Parole and Pardons Boards face (Agenda Item VIII A-1). I've separated the Parole and Pardons Boards in this presentation instead of combining them together. I felt it would be a little bit easier. One little note I do want to make with regard to this presentation is the Parole Board does not really have anything to do with the Pardons Board other than overseeing the Executive Secretary, so I haven't included in your packet a great deal of information with regard to the Pardons Board itself, but I really have that in there for informational purposes because the Parole Board does not have control or say-so over the Pardons Board itself. With that, I will move on.

So, the Board of Parole Commissioners. As you will see on this slide, it is made up of one Chairman and six Commissioners. We are all appointed by the Governor. We are all appointed to 4-year terms and they have staggered expiration dates. The first four individuals listed work in Carson City while the bottom three individuals listed here all work in Las Vegas, and I just want to point out for the record that Commissioners Baker,

Christiansen and De La Torre are our newest Commissioners and the other Commissioners have over 10 years of experience apiece.

On the next slide, this gives you a visual perspective of kind of how we fit, and you'll see a slide here with the public safety management team. If you look at this chart, you'll see that we're organized under DPS, and off to the side in yellow you'll see two boxes that say administrative support and the Parole Board. What this tells you is that we are an independent body and we are not connected to DPS, per se. We're established under the Governor in terms of who sits on the Board, but because we are a small agency with only 27 employees located at 3 offices throughout the state, we're dependent upon DPS for providing administrative services to us, and I can tell you since I've been the Chairman we have received outstanding service from the Department of Public Safety and it is a pleasure to work with their staff when we need that assistance.

The next slide is an organizational chart of the Parole Board itself. You will see the Chairman oversees the operations of the entire office, however the Chairman does not oversee the Commissioners as we all work for the Governor. Interestingly, there is no deputy administrator or administrative services officer type of position directly underneath the Chairman who manages the day-to-day operations. This is something that might be looked to in the future. I do want to point out off to the side, like I previously mentioned, that you'll see the Parole Board assists the Pardons Board. The Pardons Board staff reviews applications for community cases, and if they meet the criteria the information is forwarded on to the Division of Parole and Probation for investigation. In addition, the Pardons Board's Executive Secretary reviews inmate applications, and if a Pardons Board member sponsors, let's say, an inmate case, that information is provided to the Governor for approval and possible placement on a future agenda.

So what is the Parole Board and what do we do? As previously stated, we're an independent body and we review eligible inmates for possible release into the community prior to the end of a custodial term as mandated by the court. The Parole Board is responsible for making decisions to either grant or deny parole. However, that does not mean that we approve or deny release plans. When we make favorable decisions, that information is passed on to the Division of Parole and Probation and they investigate those release plans and determine whether a certain release plan may or may not be appropriate, or if a subsequent release plan needs to be developed. The Parole Board also orders parolees to be returned to prison through the parole violation hearing process should they violate the terms and conditions of supervision. We can also continue individuals on supervision when the violations may be minor or when alleged violations may not have been substantiated.

So, what is parole? Parole is the conditional release from prison during which an offender continues to serve a sentence in the community. According to statute, the Nevada Legislature declared that parole is not a right. No person has a right to parole and no person should expect to be released on parole. Every person sentenced to prison should expect to serve their entire sentence in prison. However, as we all know, many people

are released under parole supervision. When an offender is sentenced to prison, the initial parole eligibility is based on the minimum sentence as determined by the court. However, the minimum sentence can be reduced by credits in the State of Nevada. This is typically what we refer to as AB 510 credits.

The Parole Board is a part of the judicial system and statutes are what gives us our marching orders and tells us how and what we're supposed to do. The Parole Board offers the system some flexibility. For example, I mentioned previously how the term in there, where we can—it doesn't mean someone's going to be there the full term, and it's kind of for us to figure that out. An example of this might be if someone is sentenced to a term of imprisonment for a term of 2 to 20 years. Doesn't mean they're going to be there 20 years, but they could be at the end of 20 years and then ultimately be released. But rather, what this 2- to 20-year term means and how the Parole Board comes into play is we can consider an inmate for parole if, at their minimum custodial term eligibility and we decide, for example, that maybe 2 years is enough, the Parole Board can grant at any time between that 2- and 20-year term. The Parole Board considers whether or not a particular inmate can be released and safely supervised in the community prior to the expiration of, for example, that 20-year term, among other factors.

I now want to cover the different types of parole hearings that the Parole Board handles. The first are discretionary hearings, and they are exactly that. It's a discretionary hearing held by the Board when an inmate is eligible for parole. The Board will conduct a hearing and determine the appropriateness for release for a particular inmate. Another type of hearing is the mandatory parole hearing, and they are generally held if an inmate was not granted a discretionary hearing. It's the last chance to get out of prison a little early. Mandatory parole consideration occurs when an inmate is nearing the end of their sentence and owes approximately 365 days. Because of the way credits reduce a sentence, an inmate is generally eligible for mandatory parole release about 6 months prior to expiration. Mandatory parole is set by statute and the primary consideration the Board must review when deciding whether or not to grant or deny these cases is whether or not they would be a danger to public safety. Additionally, we have parole violation hearings, and those occur after a parolee has allegedly violated the terms or conditions of their parole. These parolees are then scheduled to appear before the Board to determine an appropriate sanction, punishment, or determine if they should be violated and returned back to an institution. In addition, we could also continue them under supervision.

We also conduct lifetime supervision hearings, and these are for sex offenders who have met the statutory requirements of their underlying sex offense either through parole, probation or expiration of sentence. These offenders have an additional term of supervision of at least 10 to life. The Board by statute is required to set these conditions. However, if someone violates the terms of lifetime supervision, the Board is no longer involved, and that's up to the district court. This is something since I've been with the Board I've always thought is somewhat odd, that we are setting lifetime supervision conditions for individuals, us being the Parole Board, yet if they violate those, they go

back to a district court judge to determine that violation and a new felony. So, just something at least that's always been in the back of my mind that might be something to take a look at.

We also conduct reconsideration hearings, and I'll give you an example of that. That might be when someone who was granted parole but not yet released has been recently found guilty of a major violation of prison rules. It wouldn't look so good if there was a major violation, but that's okay, we're going to go ahead and let you out. So, what we'll do is we'll consider—we'll say, "We want to hear your case again," and many times we will grant depending on what happened, and other times we will no longer grant. We'll rescind that grant order. That covers all five of those hearings.

I want to cover a little bit about our caseload. During Fiscal Year 2019, the Board made 8,331 final decisions ([Agenda Item VIII A-1](#)). By way of comparison, in the prior fiscal year, the Board made 7,853 final decisions. That's an increase of nearly 500 additional decisions that the Board made last fiscal year. These decisions include those discretionary, mandatory and parole violation hearings. Nevada law requires that a majority of the Board vote to create a final action on each case. Since each decision requires at least four votes, these hearings equate to over 33,324 total votes, and on average this amounts to each Commissioner reviewing and considering over 4,100 cases during the last fiscal year. What is not reflected in the caseload numbers above are the hearings conducted which resulted in continuances or no action, lifetime supervision hearings, reviewing and responding to appeal letters, condition modification requests, conferences with victims and other interested persons, and regular Board administrative matters. With those numbers factored in, we held over 9,400 hearings, and by way of reference, the fiscal year prior we were at 8,885.

This next slide shows a chart and it provides a look at the general Parole Board caseload over the past few years as well as the projected caseload. The projections were taken from the Jim F. Austin Institute's winter 2019 forecast. The projected caseload is based strictly on a forecast of final parole actions and does not include hearings that result in continuances, no actions or re-hearings. The actual caseload will likely be about 5 percent higher. When you take a look at this stat and we look at—so from 2019, we are somewhere—if we start up top, we had about 9,500 or so hearings plus no actions, and we're projected to be a little bit higher in 2020 and just down a little bit in 2021. You'll notice that our total hearings are projected to go up over the next two fiscal years. Discretionary hearings are also projected to go up. Mandatory hearings are going to go down, and I'm going to cover a little bit of that coming up later, and our violation hearings, hopefully those will go down as well.

This slide and this table illustrates a comparison of five fiscal years of parole considerations by general offense type. These numbers reflect final discretionary and mandatory parole decisions. It does not include parole violation hearings, continuances or hearings that resulted in no action. You can see in here, and one thing I want to point out, is that for sex offenses in Nevada, they can run a huge gamut. Individuals can be



sentenced from anything from a pandering conviction all the way up to sexual assault. Some sex offenses cover many different areas, including engaging in prostitution all the way to being HIV-positive and involved in a sex offense. There is varying degrees, but by looking at this chart you can see what types of cases are increasing before the Board and which ones are decreasing. So, certainly if we look at the cases, let's just take sex offenders, for instance, those went up approximately—we saw 100 more of those the last fiscal year. We saw 200 more essentially violent offenses, and the drug, property, DUI, those types of offenses, those reduced. We saw less of those, and it just kind of gives you a good understanding of what types of cases we're seeing and how many of them.

The next slide and table illustrate a comparison of five fiscal years again of our hearings. It doesn't take into account again the violation hearings, and a quick look at this chart shows you that sex and violence offenses are granted with less frequency than all other types of offenses. If you go back to Fiscal Year 2017, when you get to the last column there, you see the grant rate for all cases was 56 percent. The last 2 fiscal years have been 63 and 65 percent, and it breaks down the granting of those particular crimes by the percentage. The grant rate over the last 2 years has increased.

So, Parole Board statutory duties. I'm going to cover some of the major statutory duties of the Parole Board, and the first statute is NRS 213.10885. The Parole Board uses a validated risk instrument when considering all prisoners for release on parole. The risk instrument uses a combination of factors that predicts recidivism and was validated by tracking offenders released from prison who returned with a new felony conviction within 3 years. This assessment provides the risk of the person to commit a new felony offense after release from prison but does not consider other risk factors that are important in parole decision making. The assessment is not a valid instrument also for sex offenders, and the Parole Board relies on additional information from the Department of Corrections with regard to sex offenders, and generally they'll provide an additional Static-99 assessment for those sex offenders. The Board has adopted guidelines containing additional factors related to discretionary and mandatory parole, and on or before January 1 of each odd-numbered year the Board is to comprehensively review the standards adopted by the Board. It must include determination of whether the standards are effective in predicting the probability that a convicted person will live and remain at liberty without violating the law if parole is granted, and if a standard is found to be ineffective, the Board should not use that standard in its decisions regarding parole and shall adopt revised standards as soon as practical.

The Parole Board complies and maintains quarterly and annual statistics that include detailed information concerning all decisions regarding parole, and these reports are on the Parole Board's website at [parole.nv.gov](http://parole.nv.gov). We also submit a report each regular session of the Legislature that includes a number and percentage of the Board's decisions that conflicted with the standards and changes in the Board's standards, policies, procedures, programs and forms that have been or will be made as a result of the review. According to statute, the information must include, but is not limited to, the Board's reason for each decision to grant, deny, revoke or continue parole and the number of decisions

made by the Board granting parole, denying parole, revoking parole or continuing parole, and we post these on our website.

The next statute we cover here, this is for considerations for parole. This statute tells us the reasonable probability that a prisoner will live and remain at liberty without violating the laws. We have to consider under the statute, is a release incompatible with the welfare of society, the seriousness of the offense and the history of criminal conduct of the prisoner, the standards adopted and any documents or testimony submitted by the victim? Under NRS 213.120, eligibility is determined by the Nevada Department of Corrections, not the Parole Board. Department of Corrections are the timekeepers for the sentences and they let us know when an individual is eligible to be heard or eligible to be released under parole supervision. NRS 213.1212: if a prisoner is sentenced to serve two or more consecutive sentences that have been aggregated, the prisoner is eligible for parole from all such sentences after serving the minimum aggregate term.

As far as NRS 213.1215, there's a little change as a part of AB 236 here. Right now, mandatory parole may be granted to a prisoner who's been sentenced to a term of 3 years or more and has not been released on parole under a discretionary sentence. As I previously covered, if the Board finds there's reasonable probability that a prisoner will be a danger to public safety, the Board once again does not have to order that mandatory release. The change here, July 1, is because of sections 99 and 97 of AB 236, and those allow that if a prisoner meets all the criteria of mandatory release and there's no victim notification requirements, we can now grant that mandatory release without a hearing, but we can't deny a parole without a hearing. So, we can grant in absentia but we can't deny without giving them a hearing. Another new statute, or a new section for us, is NRS 213.12155. If a prisoner is 65 years of age or older and has served at least a majority of their maximum term and meets all the criteria listed in statute, the Board may grant geriatric parole.

The last statute I want to cover here of the primary ones, NRS 213.1243, commences after any period of probation or any term of imprisonment and any period of release under parole. The Board sets these conditions. This is for the lifetime sex offenders. Once again, we set them and we're generally done with them. We don't see them any longer, again, unless there's an appeal of a certain condition that has been imposed, but after that someone else decides what to do with them.

I am going to skip through the Parole Board regulatory procedures. It was called for in what I was here to present, and I could cover all the NACs (Nevada Administrative Codes) and everything else. They are provided as part of the handout, and I would say if anybody has any additional questions on this section, please reach out to me. I just feel that, to keep it brief, I will do so here at this time.

This next slide is a copy—or you are seeing our validated risk instrument. We've been using this instrument since 2003 and it's been revalidated a number of times. This chart represents the most recent results of our validation study. It represents inmates who were

released in 2013 and returned to prison within a 3-year period for any reason. While the study showed the assessment to be predictive, some modifications were suggested to improve performance. Those changes were programmed at the Department of Corrections and we went live with those changes from this assessment in March of 2019. The changes included—if you look at the employment history category, this was the previous assessment. We changed the employment history to two categories rather than having three. We added a new category relating to the number of prior felony convictions. We expanded the current age category to subtract 2 points for inmates who are 59 years of age or older. We changed the current custody level from three categories to two and changed the disciplinary categories, which it shows on there. There was four different ones and now there is only two categories. As I mentioned, we went live with this revalidated assessment in March of 2019, so theoretically we should have 3 years of data available to us before looking back to see how this new assessment is working for us. With that said, we will likely look to have that done sometime after March of 2022.

This chart shows the frequency of parole being granted based on the guideline recommendation for Fiscal Year 2019. I want to explain this chart a little bit to you. If you see on the left-hand side, it says the guideline recommendation. That is of the tool, of the risk assessment. It may say parole at initial, parole at first or second, consider additional factors or deny parole. Once again, this is the tool itself. Of those, you can see where this tool says they should be paroled at their initial hearing. Ninety percent of those cases are ultimately granted at their initial parole appearance. If you look, the next one says they should look to be paroled at their first or second hearing, then the rate's 72 percent. These are where you consider those gray-area cases. These are the ones in the middle that you really have to look at and review and see what you should do. Our grant rate on those ones for the discretionary hearings is 53 percent, and if the tool says you should probably look at denying the parole, well, only 6 percent of those are being granted. So, most are, but once again, we have to look through and review each case individually to determine what is right, and that same thing—and you'll see those similar type of numbers with regard to the mandatory release. Remember, these are the last chance ones. They usually get released about 6 months prior to their term, and you'll see those numbers as well. The percentages aren't exactly the same but they do mirror each other pretty significantly.

We've talked a little bit about AB 236, and I just want to hit on some of the legislation and what effect it will have on the Parole Board. Section 93.3, the geriatric parole, we're not forecasting that where it's going to have a huge impact on us. There's already some other remedies and other things in place. They're not denied other discretionary hearings as well, so we may not see a whole lot of these. We don't think there's going to be a big impact there. With regard to section 93.7, early discharge, this is determined by the Division, and there's certain criteria that individuals must meet. Right now we're in the final stages of finalizing our regulation on this, and so if an individual meets the new requirements, the Division will let us know that and then the Board will determine whether or not we're going to discharge somebody early from parole. Additionally, sections 97 and 99, I don't see that they're going to have a huge impact on the Parole Board. We already review all of

these files and work them all up as it is, so not a huge impact there. Section 101 authorizes the Parole Board to temporarily revoke parolees for technical violations. This could result in additional revocation hearings for the Board because, under the temporary revocation according to statute for a first violation of technical violations only, which are anything but a new felony, gross, violent, stalking-related offense or absconding, so we're talking just the technical rule violations, we can only temporarily revoke for a term of 30 days, and then for a second such violation hearing if the person got out, came back, had technical violations again, we can only violate for a period of up to 90 days.

One concern in this particular statute itself and probably an oversight, and certainly we know that there's going to be some clean-up and maybe this is something that this Committee might want to look at, but in reading Section 101 and looking at it very closely, it does not take into account technical violations that maybe are considered by sex offenders. For instance, if a sex offender is having contact with a minor somehow, somehow—no law violation, technical violation, mandatory revocation, temporary revocation—if it was the first offense would only be 30 days. So, if someone was being roomed for some reason without a law violation, that's the most that they could go back. After that 30 days they would be released and then back under supervision, and then if this behavior, and this is just an example, continued again, then 90 days would be the maximum for this. It almost seems like we might want to look at it to see if sex offenders might be somewhat of a different beast in this, and to review, to maybe include along the lines of maybe upwards to longer revocation for those types of cases, and I just wanted to bring that up at this time.

The next slide is about our staffing and budgetary issues. I'm just going to touch on these real quickly. The first one, audio visual (AV) technician or IT (information technology) staff. We're a very small board of 27 employees. These cameras and equipment that we have here in this nice building, and we use similar types of equipment. However, we do all of our hearings except the parole violation hearings by way of video. Parole violation hearings are done face to face at either Northern Nevada Correctional Center or High Desert State Prison. We don't have an AV person on staff. We don't have an IT person on staff. We're at the mercy of EITS (Enterprise Information Technology Services) for those services. However, they also do not have an AV person. If our hearings go down—say, if we had hearings in both our northern and southern offices going in both rooms at the same time, that could be upwards of 100 hearings per day that might have to be put off and rescheduled, and it's always a concern of mine is if that happens, we could get to the point where unfortunately we might not be able to hear cases until past their eligibility date, and that's not good. So, an audio visual tech, even a part time, somehow, something, because if we go down, as much as we are reliant upon technology day in, day out to conduct these hearings from each and every institution, this is something that I'm going to push hard for and it's something I think is very well warranted.

We have a position that we believe may be reclassified. I'm not going to go into a lot of detail on this right here today in this forum. I did bring up previously that under the organization of the Parole Board, the Chairman oversees the administrative duties of the

office, but in looking at things and since being Chairman for the past year and a half, it's kind of odd that there is no type of a deputy administrator or administrative services officer that kind of handles those actual day-to-day duties while the Chairman handles other such duties and would oversee that position, so that is something we are going to look at. The last one as far as staffing, and this goes back many years, is that we're staffed in statute for an executive secretary, but that position is being funded as an executive assistant. There were some things that happened, but I'm just going to hit on that for right now.

With regard to pardons, I told you I would break this up a little bit here, and before explaining what a pardon is, I wanted to let you know who makes up the Pardons Board. The Pardons Board is comprised of the Governor, the Attorney General and the Supreme Court Justices (Agenda Item VIII A-1). So really, I know that Justice Hardesty might be able to give a much better presentation on the Pardons Board itself, and I'm going to just hit on some of the highlights because it was asked for in this presentation. A pardon is an unconditional pardon that restores civil rights and the right to bear arms. A conditional pardon may restore one or the other. Any person who has committed a crime under the laws of the State of Nevada may apply to the Pardons Board for consideration to receive a pardon and/or restoration of their civil rights. A pardon does not overturn a judgment of conviction or erase or obliterate the fact that one was once convicted of a crime. It does not relieve a convicted sex offender of the requirement to register nor does the pardon attest to rehabilitation of a person.

There are three types of pardon hearings that are conducted. There's community cases, and the community cases are applications received from a person that's no longer in custody. They are out, they are released, they are out in the community. Inmate cases are applications that are received by inmates. The last are consent agendas, and consent agendas are expedited processes to take action without actually holding a meeting to restore the civil rights in whole or in part. A person would submit an application to the Board to have their civil rights restored, and that can't happen without a meeting if certain conditions are met.

Here is a section that I have included for this Commission today to review with regard to the Pardons Board and statutory duties. Once again, I don't want to step on the toes and speak out of place with regard to the actual Pardons Board and their duties. I have included it in here for informational purposes, and so I am going to skip along to the one last slide of the Pardons Board process to show you stats, because I can show you that. In Fiscal Year 2019, the Pardons Board received 97 applications on the community cases and 1,577 inmate cases. Of those, 25 community cases were placed on agendas and 15 inmates were placed on agendas, and of those it shows how many pardons were granted between both the inmate and the community cases.

One thing I do want to cover is the impact of the 2019—it's not enacted legislation, but I want to cover SJR (Senate Joint Resolution) 1 which could impact the Pardons Board if it passes on the November 2020 ballot. Currently the Pardons Board holds two meetings

a year generally. This is two or more. This particular calendar year, actually, three are going to be held. If SJR 1 passes, the numbers of meetings will increase to at least four per year. We're going at least two. The Pardons Board has pretty much been scheduled for two, however we're to three this year. Now it's going to go to at least four. With that, I want to give a little bit of history on this, because SJR 1 was introduced in 2017 and it will be on the 2020 ballot. It proposed an amendment to the Constitution, and what it covers and how it will affect everyone is it expressly provides for the State Board of Pardons Commissioners, it eliminates the requirement that the Governor vote in the majority for any action, it requires the State Board of Pardons Commissioners to meet at least quarterly and authorizes any member of the State Board of Pardons Commissioners to submit matters for consideration by the Board and provide that a majority of the members of the Board is sufficient to take action. The reason I kind of pull this up is, if we move into staffing issues which—once again, the Parole Board oversees, pays for, takes care of the executive secretary and one additional staff person to provide service to the Pardons Board. If this passes in November of this year, it will increase the meetings for sure, and if the Division of Parole and Probation says, “Hey, we need to hire some more investigators to do that,” and they add more investigators, we're not going to have the staff to keep up with the applications or the investigations that is helping the Pardons Board. I kind of want to let you know—kind of at liberty to see what happens here, but certainly once that goes to the voters we will know more from there.

With that, I have concluded my presentation for today and am available for any questions.

**Chair Nguyen:**

Thank you. I know I have a question there up north from Assemblywoman Krasner, so we'll turn it over to her.

**Assemblywoman Lisa Krasner (Assembly District No. 26):**

Thank you, Chair Nguyen, and thank you Chairman DeRicco for your presentation. I don't know if you can even answer this question, but because you gave us this handout and my question has to do with the handout, I'm going to ask you. I am on page 16 of the handout and this is table 3.2013, “releases static scoring items with return rate” (Agenda Item VIII A-1). My first question is, there's a number of points that are given. Who determines those points? The highest is two, the lowest is zero. Who determines those points? That's my first question, please.

**Mr. DeRicco:**

Ms. Krasner, on the points, which section of that assessment?

**Assemblywoman Krasner:**

Table 3.2013. At the top it says points, and then it will give zero points, one point, two points. The highest is two. Who determines what number of points is given to the offense?

**Mr. DeRicco:**

Thank you for that again. I see that you are looking at our risk assessment, for instance, where it has age at first arrest and going over that information, correct?

**Assemblywoman Krasner:**

Correct.

**Mr. DeRicco:**

First off, this tool is used—it's first scored by a caseworker at the Department of Corrections. That's where it is first scored, and they will go through reviewing the case file of the—for instance, all information contained in a presentence report, any additional information that may be in the file post-conviction report, and gather that information. They put together and score this assessment. Then, when it comes to the Parole Board, we rescore it to make sure that it's accurate and correct. Is that what you're getting at?

**Assemblywoman Krasner:**

No. Who decided that at the age of first arrest, if someone is 19 years or younger, they get two points, which is the same as somebody who's been convicted of property robbery or forgery? Was that the Legislature that decided that should be two points, or why are we giving kids that are minors two points for any arrest? Is that something the Legislature did, or who decided on the number of points? That's my first question, please.

**Mr. DeRicco:**

Thank you again for that. I fully understand. That comes from the validation of the tool, the tool itself, the risk assessment. That assessment is—we've been using this since 2003 and it gets revalidated and changed over and over, so I can tell you on this, when you're taking and reviewing the data and you find that those individuals from the assessment—JFA Associates is the answer to your question. But statistically, in reviewing the data, you see that those individuals 19 and younger are at a higher risk, or in there. It comes from Jim Austin and Associates.

**Assemblywoman Krasner:**

Thank you, and Madam Chair, I have a follow-up question, please.

**Chair Nguyen:**

Go ahead.

**Assemblywoman Krasner:**

Is there any differentiation for the offense that the minor was arrested for? Again, I'm looking over there where at age of first arrest, 19 years or under, so it's a minor. Let's say it's a kid that just got their driver's license, they are 16, they are driving a little too fast, the school police officer pulls them over and decides to arrest them, and so now they have two points on their record just like somebody who has been convicted of any property robbery or forgery. I just don't understand that, and I don't know if you're the person that can explain it to me or that's something we need to address at the Legislature, but is there any differentiation for the offense that the minor was arrested for in getting those two points?

**Mr. DeRicco:**

Thank you, Ms. Krasner. With regard to that, we are not taking into account traffic violations, minor things of that nature, but we are taking a look if a juvenile has a juvenile record and they have been adjudicated as a juvenile for a certain time offense. Yes, that is also self-reported as well from the individuals in going through this assessment. I can provide you the most recent copy of the reassessment and cover some of that information for you, and I can certainly provide that to this Commission as well, but as far as the tool—and I see what you're saying. Would we want to treat somebody who had a driving offense versus someone who committed an armed robbery as a juvenile, treat them the same, correct?

**Assemblywoman Krasner:**

That's exactly correct, because age at first arrest, it merely says arrest, and so we're talking about kids, high school kids, that are arrested, and I know for a fact that we do have school police officers arresting high school kids and it's not for rape or murder or violent offenses, and so now those kids are going to have two points on their record just like somebody who's been convicted of property robbery or forgery, and that's a little disturbing. I'm sure it's not you that made this decision, but it's a little disturbing.

**Mr. DeRicco:**

So, in response, this is used based upon empirical data that is collected that shows individuals age 19 or younger are at a higher risk when you go through this assessment, score them higher. If they're committing offenses at a younger age and they're continuing on, that's the propensity through this assessment showing they are at a higher risk than someone, for instance, that got their first arrest at age 50.



**Assemblywoman Krasner:**

It's merely an arrest though, correct?

**Mr. DeRicco:**

Correct. That is correct.

**Assemblywoman Krasner:**

So it could be—again, it's a minor and they were arrested, and it could've been the school police and it could've been for anything that that school police officer decided to arrest that minor for and they now have two points on their record for life.

**Mr. DeRicco:**

As a part of this assessment they would be scored two points at this point in time. Now, certainly it gets revalidated after we have the 3 years of data, and at that point in time, who knows, it might change to 20-year-old, or 18 or younger, or 14. I don't know, but what the data shows at this point in time and as according to the last validation, that is a higher risk factor than someone that might be arrested for the first time at an older age.

**Assemblywoman Krasner:**

And so there is no differentiation. If the minor, the high school kid, was arrested for speeding and some other kid was arrested for, I don't know, sexual assault, they both get two points, is that right?

**Mr. DeRicco:**

So, in your example, we would likely not see an arrest for speeding in the official documents that we have and we go through. For instance, a presentence report is unlikely to show an arrest for speeding. What it will likely show is an arrest for some type of offense, a more serious offense. It is my understanding that the Division of Parole and Probation is not including, and we're not seeing, information in a presentence report with regard to traffic violations, other than, for instance, a DUI or something of that nature. That information is generally not in there. It's in the official documents that we have.

**Assemblywoman Krasner:**

Okay, I'm just going to leave it at that. I don't want to keep going, but thank you.

**Chair Nguyen:**

I appreciate your question, Assemblywoman Krasner. I think that it is a part of a longer conversation that we'll have about these risk assessments, because I think your point is valid. I know that amongst the different risk assessments, whether it's in determination of parole or in the preparation of these presentence investigation reports or even pretrial release, they use a lot of these matrix things that haven't really been addressed or revisited, so I have put that on my list of potential things that we'll have further discussions about.

Are there any other further questions? I have one here from Senator Scheible.

**Vice Chair Scheible:**

Thank you so much, Director, for being here, and I'm not sure if this is germane to the presentation, but it just occurred to me when you were talking about the pardons and talking about restoration of civil rights that we do talk a lot about the right to vote and the right to bear arms, but what about jury service? Is serving on a jury something that is restored with a pardon, without a pardon, or is that a more complex answer?

**Mr. DeRicco:**

Thank you, Madam Vice Chair. I don't want to say, for instance, 100 percent on that. Once again, we provide those services and house the executive secretary, but I am not on the Pardons Board itself and I don't serve in that capacity, so I would say that might be a question better served for a member of the Pardons Board itself, and so I'll leave it at that.

**Vice Chair Scheible:**

Okay. Could I ask a related question then?

**Chair Nguyen:**

Go ahead.

**Vice Chair Scheible:**

Do you know whether people on parole are able to serve on juries?

**Mr. DeRicco:**

I don't believe at this point in time that they're allowed to serve on juries. That has not come across, but I don't believe right now that they are.

**Vice Chair Scheible:**

Great, thank you.

**Chair Nguyen:**

I think we clarified that if you're still under sentence, and I think the felony actually causes—we haven't ever done any kind of restoration of jury rights for felons. Thank you. Are there any other questions up north or down here? Thank you. I appreciate you giving this presentation. I know you don't have all the answers but I'm sure we'll be revisiting.

**Justice Hardesty:**

Chairwoman Nguyen, I do have a question.

**Chair Nguyen:**

Go ahead, Justice Hardesty.

**Justice Hardesty:**

On slide 12, Mr. DeRicco, this indicates the number of parole hearings by offense type and the percent granted, and I understand you are using the 3-year recidivism rate in calculating recidivism. Are there calculations that have been developed on the recidivism rate for those for whom parole was granted for the years 2015 and 2016?

**Mr. DeRicco:**

Thank you, Justice Hardesty. I closed out of that presentation so I'm trying to get back into that right now for that late question. Do we have the information going back 2 prior years?

**Justice Hardesty:**

Yes.

**Mr. DeRicco:**

We do.

**Justice Hardesty:**

Could you supply that to the Commission, please?

**Mr. DeRicco:**

Absolutely (Agenda Item VIII A-2).

**Justice Hardesty:**

Thank you, and I'm assuming you're calculating that against all of your previous parole grant years.

**Mr. DeRicco:**

That is correct.

**Justice Hardesty:**

Great. So, maybe as far back as 5 or so years would be useful.

**Mr. DeRicco:**

I can supply 5 years prior to what we have on that slide and going back even further, yes.

**Justice Hardesty:**

The reason for that inquiry is that in previous Advisory Commission hearings over past years, the Commission has received testimony as to the importance of the Parole Board in its operating as a significant release valve against prison overcrowding, and I think a significant counterpart to that question is how many of those who've been granted parole have recidivated and been called back into prison either on a parole violation or new crimes.

**Mr. DeRicco:**

And we have that information as well (Agenda Item VIII A-2).

**Justice Hardesty:**

Great, thank you.

**Chair Nguyen:**

And, just to clarify, pursuant to NRS 213.155, 6 years after final discharge from parole you would be eligible to serve on a civil jury but not a criminal jury.

Do we have any other questions? Okay, thank you again for your presentation, and I think we are coming back down here for a presentation by Chief Carpenter from the Division of Parole and Probation.

**Anne Carpenter (Chief, Division of Parole and Probation):**

Good afternoon and thank you for inviting the Division to present at the ACAJ. In the south I have Deputy Chief Sheri Sliva and in the north I have Deputy Chief Stephanie O'Rourke.

The Division has spent the past several months looking inward, reorganizing, restructuring, examining processes and the way we do business. We are rebranding who we are and what we do. Our team created a new vision and mission statement to coincide with our new image. These statements will become effective upon the release of our strategic plan later in 2020. As the slide states, our new vision is "Inspire, Empower, Protect," and our new mission statement is "Safeguarding Nevada, Offering Solutions and Reshaping Lives" (Agenda Item IX). Although you can read the words on the page, I wanted to read them aloud so you can hear the impact that these words make and the passion that the Division has to be better.

Before I discuss the Division's responsibilities, I wanted to distinguish the difference between parole and probation, but since Chairman DeRicco already said what parole is, I'll let you know what probation is. Probation is when a person has been convicted of a gross misdemeanor or felony or who has plead guilty to a gross misdemeanor or felony and receives a suspended prison or jail sentence from a district court judge and is given a chance to prove themselves while under community supervision.

The list of responsibilities outlined in the slide is a visual walkthrough of our Division operations. The first time that the Division touches a person is when they are convicted or found guilty of a gross misdemeanor or felony. Then, a presentence investigation report will be completed. As of June 30, 2020, the Division will no longer be responsible for providing district court judges sentencing recommendations within the presentence investigation reports. Then, once a person is under the supervision of the Division, we monitor and enforce offender compliance and also ensure that this population receives the services and resources that they need. Throughout supervision, and in some cases for many years, the Division collects restitution and disburses the monies to the corresponding victims. As long as the offenders pay, we'll be glad to collect the monies and disburse the monies to the victims. Along the way, if a parolee or probationer has a violation of their parole and probation terms, Parole and Probation reports that behavior to the district court and/or Parole Board. Before an inmate is released from the Nevada Department of Corrections, the Division conducts pre-parole conditional release, or incoming interstate compact investigations. The main goal is to assist parolees and probationers in reentering mainstream society successfully. We also must understand that it may take some of these individuals a few tries to get it right. This population of people usually bring their many challenges with them that need to be addressed, and these are the areas where Parole and Probation and our community partners are able to

assist, and after certain criteria and timeframes are met, convicted felons and some misdemeanants may request a pardon. When the pardon requests are received, the Division investigates and makes recommendations to the Pardons Board.

The state has a contract through the Governor's Finance Office with JFA Institute to provide caseload projections. The slide outlines both legislatively approved caseloads for sworn and some nonsworn positions. In the 2017 Legislative Session, the Division's sworn and presentence investigation caseload ratios were changed to provide relief to the officers and presentence investigation writers with their ever-growing caseloads. In addition, the Legislature granted the Division funding for several new programs such as EPICS (Effective Practices in Community Supervision), NRAS (Nevada Risk Assessment System), indigent funding, the Day Reporting Center, our embedded specialist and funding for a new building space. However, what was not anticipated by the Division was the impact on the time spent developing, implementing and managing the new various programs that the Legislature approved. Although these programs were desperately needed, they caused unintended consequences. With the implementation of these new programs, oftentimes staff had to take on additional duties, such as being a project manager, which took time away from their existing duties. Officers now spend copious amounts of times, more than anticipated, on administrative functions rather than fieldwork. The Division is exploring caseload ratio options, looking for efficiencies and reevaluating current internal processes. Instead of giving you a snapshot in time of what supervision caseloads are, we thought it would be better if we showed what the supervision population has been over time. The graph outlines statewide trends for the Division's supervision population. This trend indicates population growth at an approximate annual rate of 4.5 percent. From January 27 through September of 2019, the Division's supervision population has risen approximately 10 percent. Similarly, presentence investigation requests or referrals are also increasing at a rate which is exceeding the state population growth.

The following laws enacted during the 2019 Legislature and the passage of Question 1 impacted the Division operations because the Division adopted a new scoring tool, which is NRAS, and is in the validation process for this tool. Assembly Bill 8 was needed to revise and update the statutory language in order for the Division to be in compliance with best practices. Senate Bill 8 added several conditions to lifetime sex offenders. However, it is important to note that the Division has limited authority. Parole and Probation can only enforce conditions outlined in NRS 213.1243. For example, Parole and Probation has no authority to search their homes. Lifetime sex offenders do not have to report to the Division and they can travel without permission from the Division. Senate Joint Resolution 1 will be voted on by our voters and, if passed, will double the annual pardons hearings which will impact the Division's workload and staffing needs in this area. Marsy's Law has been extremely impactful on Division operations due to an increased workload because we do not have an updated records management system in place. The fiscal team hired temporary employees to assist with the Marsy's Law implementation. For those individuals under supervision, all monies paid must first be paid towards any restitution debt before any payment to supervision fees and/or any court fines are paid.

So, AB 236. Well, it's made sweeping changes to our criminal justice system statewide and there have been major impacts to the Division. For the past 7 months, Division staff has been working and meeting with personnel from the Crime and Justice Institute, with the Nevada Department of Corrections, the Parole Board and district court judges to ensure a somewhat smooth transition in July of 2020. Subsection 6 regarding the collection of metrics: Parole and Probation has met with the Sentencing Commission's new Executive Director, Victoria Gonzalez, on what the Division currently collects, what we are able to collect and what we hope to be able to collect once our new records management system is in place. Subsection 13: the presentence investigation report is being overhauled. As of July 1, 2020, the Division will no longer be required to submit a recommendation to district court judges. Staff have been working on a consistent statewide format and they will provide training to the district court judges on April 30 at their judges conference. Subsection 18 and 33: the Division is also reworking our current graduated sanction matrix. Subsection 19, 22 and 23 pertain to diversion courts and how courts are required to seal records when the defendant has fulfilled the terms and conditions imposed by the court and the Division. The court shall order the records sealed without a hearing unless the Division or prosecutor petitions the court not to seal the records. Subsection 24 expanded the authority of the court to grant mandatory probation to Category E felonies. Because of these changes, Parole and Probation has been examining old processes, scrutinizing the way we have done business for years and creating creative solutions where possible. This new legislation has challenged us to be more effective with the resources we have. However, time spent in these areas have had a major impact on our employees' time. We've had to redirect some of their efforts from their current jobs or roles to assisting with planning and future implementation of this legislation. Subsection 34: probation terms have been shortened, which is a major departure from past practices. The Division is waiting to see how shorter probation term lengths impact revocations, discharges and how good-time credits impact the overall probation term lengths. Subsection 35 and 101: Division staff are working with the Parole Board and district court judges regarding this new section which defines absconding and technical violations. This section also provides guidance on how to address these violations. Subsection 93.7: basically, if a parolee has served at least 12 calendar months in the community, is projected to have not more than 12 months left on their parole term and is compliant with all conditions and fees, the Division shall recommend an early discharge from parole. Subsection 95 requires the Division to develop individualized case plans pursuant to the risk and needs assessment. Subsection 105: the Division's training team has been working with the Department's training division, which includes the Nevada Highway Patrol, Nevada Division of Investigation, Capitol Police and Fire Marshal to ensure that all of the Department's peace officers are trained in those high-liability areas as in AB 286 requirements, such as the behavioral health training. It should be also noted that the Division has teams of employees working on revising policy and procedures in all of these areas.

Because the Division uses JFA for staffing projections, the Division's staffing can change every 2 years. All positions that have caseloads which include sworn positions, presentencing investigation writers and a few other categories utilize JFA projections. The

Division has some staffing challenges as well. The vacancy rates shown here are only a snapshot in time, and in some instances do not portray a true representation of the Division's vacancies. For example, with sworn positions, the moment a cadet receives a conditional job offer the position reflects that it is filled. However, cadets are in the academy and field training for approximately 10 months, therefore these officers will not be fully responsible for supervising a caseload until at least 10 months after they are hired. An example to demonstrate the impact of this issue: while the cadets are in the academy and in training, these caseloads must be absorbed by current staff which ultimately increases their overall numbers. The Division received positions in the last legislative session, however the process to receive new positions is very lengthy. Although the approval process is almost completed as of this presentation, the Division still doesn't officially have these positions, which is impactful. The Division has not been able to recruit or hire, which is almost 8 months after the session has ended. Although Parole and Probation continues to experience a significant attrition rate due to retirements and other job opportunities, the Division is working diligently to fill all vacancies and maximize the number of cadets in the academies each year.

Budgetary and staffing challenges: JFA staffing projections do not take into account FMLA (Family and Medical Leave Act) or military leave, training, annual leave and sick leave in the vacancies, and the Division must work within JFA constraints. An example is military leave. Completing a quick search of timesheet codes, the Division had 19 officers who actively serve some type of military duty. At a minimum, that reflected 570 days approximately per year that these officers are away from their duties.

The state budgeting process: as we are aware, the state's budgeting process is every 2 years, which can be difficult for agency planning. We are now in the beginning stages of building a budget 2 to 3 years into the future, and even if technology doesn't change, the needs of the Division may alter as we have seen with our indigent funding and Day Reporting Center programs.

Building space versus mobility: because we have grown so much in the past legislative sessions, the Division is running out of space to house our new employees around the state. However, a solution could be to better utilize technology, to have sworn employees completing more fieldwork in the field which lessens their footprint or need for office space.

The expectation of today's officer: I know when I started this career almost 25 years ago the Division was different. Media scrutiny was different, technology was different—or let's face it, it was nonexistent—and our community's needs were different. Today's officer is expected to be able to navigate all of these changes and challenges, to understand technology, to be a law enforcement officer, to be a counselor, to have emotional intelligence. These expectations are high, which leads me into recruitment and retention. Recruitment and retention has remained a challenge. The Department of Public Safety recruits Department-wide, which is great, however the challenge is the ability to find qualified individuals that have the ability to balance social work functions and law



enforcement functions. The expectation of a Parole and Probation officer is unique and requires individuals to wear many hats.

The Division has three major command areas: Headquarters, which is located in Carson City, Northern Command, which covers the Reno area as well as Carson, Elko, Ely, Fallon and Winnemucca, and Southern Command, which is our largest operational command with two offices in Las Vegas and an office in Pahrump. Fun fact: with the additional staff the Legislature granted us in 2019, the Division of Parole and Probation became the largest agency within the Department of Public Safety. Due to the fact that the Division touches so many aspects of the criminal justice system, when the Division is not staffed appropriately or does not have needed resources, it impacts the success of the population we supervise as well as the Division's success. The Division would be more successful in assisting this population if appropriate resources were appropriated.

Geography: the State of Nevada has approximately 39,433 roadway miles, which can be impactful to the Division staff. Regarding our rural areas, mainly Fallon, Winnemucca, Ely and Elko, caseloads are spread across many miles. Therefore, many hours are spent driving to courts, offenders' homes, collateral contacts, which could be employment or counseling. We call this windshield time, and for our presentence investigation writers, they too travel hours to interview subjects and attend court. An officer may have to drive hours to see just one of their offenders, and he or she may not even be home. In addition, the urban areas have traffic issues and gridlock that impacts their fieldwork effectiveness as well. Anyone who lives in an urban area knows that one accident can cause utter chaos and drive time. Consequently, it is difficult to account for this time when budgeting staffing through JFA, and in the past the Division has never calculated this or taken windshield time into account. However, we are exploring ways to tackle this issue internally and in the future, which leads me to the topic of vehicles. Currently the Division is budgeted for most sworn officers to have a vehicle assigned to them, and yes, with vacancies it would seem like there were more vehicles available. However, the Division faces some challenges in this area. The presentence investigation writers and administrative staff in the rural areas do not have vehicles assigned and therefore have to borrow a vehicle from an officer. The good news is that our rural offices are fully staffed. The bad news is that since there are no vacancies, there are no spare vehicles for administrative staff to use. Sharing vehicles occurs, however this has an impact on the officer's field duties. If a vehicle breaks down, especially in the rural areas, there is usually not another vehicle to replace it. If a vehicle is in an accident where major damage occurs or if a vehicle is no longer usable or redlined, there is no current mechanism in place to replace that vehicle. Sergeants are expected to work swing shifts, respond to high-profile events and traffic accidents. However, sergeants do not have vehicles assigned to them. In instances when a high-profile event occurs, they have a difficult time responding which leads to internal and external technological challenges.

Within the Division, we are awaiting our new records management system. Mobility is difficult. Although the Division just received laptop computers instead of desktops, the Division still needs funding for other resources such as air cards and VPNs (virtual private

networks) for connectivity to occur in the field. With better resources, sworn officers can complete fieldwork more efficiently and could spend less time in the office. Also, external technological issues can also be a challenge. Many counties have their own technological challenges with supporting the fast-paced tech advances that the urban areas have.

That is the end of our presentation. Thank you for your time. If you have any questions, we are here to answer them.

**Chair Nguyen:**

I have one question. In these rural areas, do you have, or are there any existing, or have you ever utilized MOUs (memorandum of understanding) with local law enforcement to, I don't know, do some of the jobs that your officers would do?

**Ms. Carpenter:**

I don't think we have MOUs for that purpose, per se. However, we are looking at exploring options of partnering with Highway Patrol because they're already on the roadways and partnering with allied agencies to try to figure out better ways to do business.

**Chair Nguyen:**

Wonderful. Any other questions up north or down south? No. Thank you so much for your presentation. I think we're moving on to our last presentation here. I think Mindy McKay is doing this last presentation, is that correct? That is the presentation by the Records, Communications and Compliance Division of the Department of Public Safety.

**Mindy McKay (Division Administrator, Records, Communications and Compliance Division):**

That's correct.

**Chair Nguyen:**

I'll let you begin when you're ready.

**Ms. McKay:**

Good afternoon, Chairwoman, members of the Commission. Thank you for having me today, and I have with me Sue Hunt. She is my Division's Chief Financial Officer, and I also have with me at the table up in Carson Erica Souza Llamas, and she is the Records Bureau Chief. I have staff in the audience in both locations to help with any questions that I cannot answer.

You should have in front of you today the slide presentation (Agenda Item X A-1) along with a handout or two (Agenda Item X A-2). I'm going to start with the slide presentation. I am here today to provide an overview of the Records, Communications and Compliance Division concerning the statutory duties and regulatory procedures of the Division, the impact of legislation enacted by the 2019 Legislature on the Division, standards, policies and procedures for integrated criminal justice information sharing, and staffing and budgetary issues similar to what everyone else has presented today. Because this is an extremely brief overview and my Division does a lot, I encourage you to schedule a meeting with us for a more comprehensive overview. We're happy to meet with you at any time.

We have three budget accounts, but really these two are what we're going to touch on today. We have Budget Account 4709. Within that budget account, we have 137 FTE (full-time equivalent) and 110 of those are filled. In 4702, we have 63 FTE with 51 of those filled at this time. Total, we have about 200 FTE, full-time equivalent positions. We also have 23 contracted staff with some more contracted staff being brought on. We have 6 locations throughout the state, 3 budget accounts, as I mentioned, with 20 different programs. We are funded with general fund, cost allocation, court assessments, fees and federal grant funding.

Budgetary issues include historical consistent shortfall in court assessments. You've heard that today, specifically as Mr. McCormick pointed out, unfunded mandates, lack of a technology-specific budget. Therefore, it's supported by fee-funded reserves which is depleted by inadequate court assessments and expensive unfunded initiatives such as our system modernization and legislation. We have cost-allocated budgets which limits funding availability for unforeseen costs that arise in the interim such as equipment failures, increased costs and services, or other budget shortfalls, and additionally, we have EITS' cost model which makes it difficult to budget for. Staffing issues, similar to what you've already heard today from the other presenters, include pay parity causing difficulty in attracting and retaining skilled applicants, proper budget to support additional position requests. The state hiring process is complex and lengthy for both state and contracted positions.

Some of the positive items, because I didn't want to be all negative today, some of the positive items are that we have been blessed with being awarded multiple federal grants over the years that have helped tremendously, and we will continue to seek grants. For example, grants helped with the elimination—elimination—of our disposition backfill effort to the tune of 1.2 million records being updated, resulting in our record completion rate going from 26 percent to now we are at just over 60 percent, which is the national average. Also, I want to give kudos to my staff, who are extremely dedicated and work very hard despite the many challenges. Without them and the support of my administration, services would greatly suffer. Another exciting accomplishment is the forward movement of our NCJIS (Nevada Criminal Justice Information System) Modernization Program. This presentation will focus on more detailed information regarding the Records Bureau, the Communications Bureau, and the NCJIS Modernization Program.

I will summarize very quickly the other disparate services. We have our Fiscal Unit which manages our accounts payable, accounts receivable, budget, contracts, building tasks and they staff the reception desk. We also have our Information Security Unit which ensures our Department is in compliance with state and federal security policies and laws through training, audit and site security checks, among other tasks. For reference, you'll see on the slide that there is a hyperlink or an address to our website that contains a list of acronyms, because we tend to swim in those. There will not be a test on that, but I wanted to provide that to you because we have a lot. I'm trying not to use any today. I'll try to spell everything out for you.

We have a Communications Bureau that falls under budget account 4702. Nevada Department of Public Safety's dispatchers are the unsung professionals of the emergency first response team. These professionals who gather essential information from callers and dispatch the appropriate first responders to the scene are able to take command and control of situations that are chaotic, heart wrenching, stressful, confusing and frenzied. They receive and respond to calls for service. They have an in-depth knowledge of the geography of Nevada to include jurisdictional boundaries, highways, landmarks and public buildings within the entire state. They interpret, analyze and anticipate circumstances in multiple ongoing incidents to seek to resolve problems, provide information, dispatch emergency services or refer callers to the appropriate resource. They coordinate with local public safety agencies on critical incidents. Public safety dispatchers have expert-level knowledge of rules, regulations and procedures, including tactical procedures to include procedures related to emergency communications, disaster and special response plans. As Nevada DPS is the state's CJIS, which is the Criminal Justice Information Services (CJIS) Systems Agency (CSA. It's an acronym for you. Public safety dispatchers have an expert-level knowledge of telecommunications to include the transmission, broadcasting and switching of systems and computerized databases, teletype operations and procedures, also to include entering and modifying information in local, state and national computer databases. They act as the designee for the CJIS Systems Officer, which is me for the State of Nevada, to monitor, determine and disseminate telecommunications information that comes in and out of Nevada. Public safety dispatchers are organized, adept at multitasking, levelheaded and trustworthy. Their work within emergency response services often places them in the middle of life or death situations, so requirements and training for these positions are often stringent, rigorous and unwavering. If at any time you'd like to do a sit-along with our dispatch, they'd be happy to have you, and we have them in two locations, one in Carson and one in Las Vegas.

Now we're going to go to the Records Bureau that is under budget account 4709. We have 14 programs within that Bureau. It is important to note that while some programs are fee-based, others have come to us as unfunded requirements and are maintained by the utilization of our reserves. We also utilize reserves to cover any funding shortfalls with dwindling court assessments, which have historically been inadequate. The Division receives general fund for our Sexual Assault Forensic Evidence Kit Tracking and Reporting Program, which is new to us. There is a pamphlet that you all should've

received as part of the materials today (Agenda Item X A-2). I did hand that out during last legislative session to all of the legislators in an attempt to try to give a very brief overview of all of the programs under the umbrella of my Division to include the statutes that govern those programs so that you all understood that when those statutes are opened during session that we will be impacted by that.

If you would like statistics, I have a whole sheet of statistics for you. You'll see on the slide that I've listed the programs within the Records Bureau. We have the Nevada Criminal History Records Program. We have examiners who identify people via their fingerprints and we also have another unit who maintains those records. We have criminal history record seals. We have fingerprint-based background checks for employment, volunteers, licensing, CCW (carry concealed weapons) permits, adoptions, record seals, etc. That is a fee-based program. It's our civil applicant program. We have our civil training and audit for agencies who receive those fingerprint responses pursuant to statute and federal regulations. We have our State Sex Offender Registry who register, tier and manage the community notification website for all sex offenders in Nevada. We have our Brady Point of Contact Firearms Program for firearms transfers. That is fee-based. We collect a fee for most of that. We have a name-based background checks program for employment purposes and for volunteers. That again is fee-based. It's Nevada-only information. We have a criminal training and audit program to make sure that if an agency is going to have access to our criminal justice information systems that they are authorized to have access. We vet them, and if they are authorized then we train them on how to use the system, and then every 3 years we audit them to make sure that they are utilizing the systems and the information that they obtain through those systems in accordance with federal and state laws. We also have our Uniform Crime Reporting Program. We collect crime statistics from all of the law enforcement agencies throughout the state. We compile an annual report and that is placed by July 1 on our public website. We have our Nevada Offense Code Program. So, all of the statutes that create crimes and all the penalties in the different levels, whether it is going to be misdemeanor, gross misdemeanor, felony and the different levels of felony, we create all of the offense codes for those so that when law enforcement is in contact with someone violating those laws, they can properly book them on the proper charge. We also do that for the locals for their ordinances and codes. We have our Protection Order Repository that has recently expanded during last session in 2019. AB 19 and AB 291 has expanded our protection order—the Repository used to only hold domestic violence, now it's going to hold a whole lot more. We're very excited about that, but we're working towards making our system able to collect and report those new protection order types. Again, we have our Sexual Assault Forensic Evidence Kit Tracking and Reporting Program. That is the general fund program. Currently, that is still within the Office of the Attorney General. We work very closely with them because eventually we will take that over. We also have our carry concealed weapons recognition program. Every year we are, pursuant to statute, required to post on our public website which other states we recognize their CCW permits.

We were asked about the 2019 legislative impact. Every legislative session we start out tracking approximately 400-plus bills and we end up with approximately 100 bills, give or

take a few, that are passed that impact the Records, Communications and Compliance Division on topics provided on the slide (Agenda Item X A-1). Being able to work with the sponsors, LCB Legal and impacted entities is helpful for many reasons, so I greatly appreciate the partnerships. If we can better understand the purpose of the legislation from the sponsor's point of view then we can better advise on the best way to ensure it's implementable from our standpoint. The 2019 Session specifically produced 2 bills that were the biggest, and I had just pointed out those bills as AB 19 and AB 291, both related to protection orders, and they both add protection orders to our Repository which requires us to modify our current system, which costs money and takes time. The Office of the Attorney General was able to provide settlement money to support AB 19. However, AB 291 was an unfunded mandate so we are actively figuring out how to best fund that so we can move forward. Regarding the budget side of session, we were really successful with our budget request, so I'm grateful for that. Specifically, I want to point out our authorization and appropriation for our system modernization. I want to take this opportunity to remind everyone that we will require additional general funds for the next two biennia to continue the modernization effort that is critical to officer and public safety. Please reference the pamphlets provided for the programs and the respective statutes that impact us (Agenda Item X A-2). If those statutes are opened during session, we do have a whole host of statutes that I am compiling a big old list, so if you're interested in having that list, I'm happy to provide it once it's completed. Again, I didn't list all of the bills because we have about 100 from the 2019 Session that impacted us, but if you're interested in knowing what those bills are, I'm happy to provide that to you as well.

On the next slide, standards, policies and procedures for integrated criminal justice information sharing. Pursuant to multiple statutes, we collect and disseminate criminal justice information for access and reporting. Nevada information includes criminal history records, warrants, CCW permits, protection orders, crime statistics, parole and probation information, etc. The national information to the FBI (Federal Bureau of Investigation) system includes missing, unidentified, stolen property, warrants, sex offenders, gangs and gang members, etc. We collect this information both manually and electronically. One of the biggest hurdles is the lack of technology due to multiple disparate systems that don't interface with ours for many reasons, such as funding and the systems being antiquated. We are hoping that our system modernization will set the table for future improvement in electronic criminal justice information sharing. Specific to state statutes, even though there's a mandate for the criminal justice agencies to submit data, there are no consequences for failure to comply, and a lot of the information is not subject to training and audit, for example, criminal history record information submissions and protection order submissions. I was working with Senator Gansert last session to enact the ability for my Division to monitor the agencies on these types of submissions. The bill's passage was unsuccessful, but I'm hoping to make another attempt at it in the 2021 Session, and I greatly appreciate Senator Gansert for this opportunity. The federal and state regulations, policies and procedures governing some of our criminal justice information sharing is solid and helpful. There is more work that can be done, however, such as the bill draft request that we shared with the ACAJ's Subcommittee on Criminal Justice Information Sharing. That was prior to the 2019 Legislative Session. That would mandate

additional information sharing. It is still a draft, but we're happy to submit it again and consider requesting it during the 2021 Legislative Session.

I do well with visuals, so I wanted to share a visual with you if you hadn't seen it yet with regard to our system modernization. This hodge-podge, eye-crossing graph is our current criminal justice information system (Agenda Item X A-1). With our modernization—so this is what happened. This picture is what happens when we are forced to home grow a system one fix at a time due to limitations on budget. The next slide, however, is what we're hoping to get to with our system modernization. As you can see, it's much more simplified, it's more easily maintained and enhanced with the proper funding and a proper long-term plan. With that visual in mind for the next few slides, I wanted to devote a few slides to the NCJIS Modernization Program as it is a major budget initiative of the Governor and certainly a critical enhancement for the Records, Communications and Compliance Division. As not to take up too much more time though, I'm providing some of these slides with historical information for your reading pleasure at a later date. I will just briefly state that this effort began in 2012 and went a different direction than originally planned. To get the train back on its track, we conducted a refresh study to provide us with a roadmap on how to modernize our systems. I'm going to skip a few slides and I'm going to go to slide 12. The plan now: currently, the request for proposal is in process. That has been on the street, it has been responded to and we are now at the tail end of making a vendor selection. We've hired all of the NCJIS program management office permanent staff. We have some permanent staff in the program management office. I think we have about eight FTE for that, but we also have some contracted staff in there so now we're working on filling some of the contracted staff positions. We are also required to provide a letter of intent to the IFC (Interim Finance Committee) every quarter. Our next letter should be on the April IFC agenda. The information in that letter is basically what I just stated, because we haven't really gotten very far yet. We are going to have a lot more to talk about once we select a vendor, enter into a contract and start the work of the modernization program.

We appreciate any support you are willing and able to provide with this important and not only statewide but nationwide impactful modernization program. We also appreciate the cooperation of the affected agencies, because failure to act—if we don't do this, the technology is evolving faster than our systems. The backlog of changes will continue to increase. The systems will become unsupported, and some are already. Long-term costs will continue to increase, and we saw that with this refresh plan. It's about \$59 million, whereas had we gone with the original plan back in 2012, that was estimated at about \$18 million. The capabilities will continue to diminish. We don't have a lot of really good functionality, as you've heard, for example, with Parole and Probation with their current system. They have a hard time reporting data. You all want data. You want us to give you reports. It's hard to do that with antiquated systems. Public and officer safety ultimately will suffer and that is not okay.

Again, I would like to encourage you to meet with me and my staff to get a more detailed overview of our many, many programs. I would like to say that there was made mention

of a subcommittee to this Commission, a Subcommittee on Criminal Justice Information Sharing. I'm really looking forward, Chairwoman, to the members of that Subcommittee being appointed so we can start the important work that we have to do. I know that I specifically, my Division, has some really good agenda items waiting for that Subcommittee to meet, so I'm looking forward to that, and I just greatly appreciate your time today and I'm happy to answer any questions you may have.

**Chair Nguyen:**

Thank you. Do we have questions? No. Thank you again so much for your presentation. I'm sure we will have lots of follow-up in the future. I know that this is a huge topic that has a lot of impact when we make some certain legislative changes, obviously.

I guess that brings us to the discussion of potential topics, dates and locations for future meetings, and my intention is to have staff send out some polling information about potential dates, I'm thinking probably in the next 60 days, for our next meeting. In that interim time, I'm also looking at establishing the appropriate subcommittees. If you have topics, I know that a lot of people have already reached out to me about potential topics and I have a bunch of ideas in mind here too. I think communication via email would also be appropriate. If you have anything that you'd like to say right now because you have it in your head, feel free to go ahead and do that as well. I see Attorney General Ford has something.

**Aaron Ford (Attorney General):**

Thank you so much, Madam Chair, and I just want to say out loud because I might forget and not email the right person or whatever the case is. Just last night, I had a fantastic gathering with members, other fellow members, of the American Law Institute, ALI. The lawyers on the Committee will recognize them as law school scholars in the restatement of laws of torts and of contracts and whatnot, and meeting with them yesterday just reminded me that it might be a good idea for us to be able to hear from them for maybe 15, 20 minutes or so, so that you can know who the members are. We have some very esteemed, present company excluded, members of the local ALI, including Judge Boulware, Justice Pickering, Judge Gonzalez and several others, and I think it would be important for this Committee to know who they are so that if we're ever entertaining something that the ALI may have an interest in, we know who the face of ALI is in our local jurisdictions, and so I can get you contact information for someone to reach you. It would either be Justice Pickering or Judge Boulware, a federal district court judge here in town. Thank you.

**Chair Nguyen:**

Thank you. I will definitely keep that in mind. I know that there has been some interest in some other presentations, potentially, so I will put that on there. Any other comments?



**Mr. Callaway:**

Thanks, Madam Chair. I guess I'll just real quickly make my typical Advisory Commission comment that I've made sitting on this Commission for the past, I don't know, since 2010 or 2011. I'm really happy that we have a Sentencing Commission now that came out of this body and that that Sentencing Commission is going to look at sentencing and corrections issues, which I think took up a lot of time of this Commission, and since the Sentencing Commission is there and it's taking on that role and taking on studying data related to AB 236, it is my hope that this Commission moving forward would consider quality versus quantity, and when we get those lists of potential topics to discuss, pick one or two of those topics and really hone down and make substantive movement on those topics versus having what we've seen in the past where we have 30 different presentations that we just scratch the surface on and we don't seem to make a lot of progress. So, just my two cents. Moving forward, maybe when we get a list of topics, we could as a body vote on one or two of them that we really think are important that we could hone down on and work hard on during the interim.

**Chair Nguyen:**

No, I appreciate that. I think what I had said before stands true. I know that this Commission had spent a lot of time on just overwhelming number of topics included in the omnibus criminal justice reinvestment bill, AB 236, and so I think that puts us in a unique situation where we can really do quality over quantity this time around. Is there anyone up north that has any questions or concerns or topics they would like to address?

**Justice Hardesty:**

Yes, Madam Chair. I just wanted to alert the Commission to the fact that the next Sentencing Commission meeting will be held next Wednesday on February 19. You're welcome to observe that. I think it's on the webcast, is that right, Victoria? Maybe. We hope. Because the Sentencing Commission is now in the executive branch, we are meeting in the Assembly Chambers in Carson City and in the Grant Sawyer Building in Las Vegas. We're trying to get that webcast. We hope we can. The agenda and the materials are listed. It is a pretty lengthy, substantive agenda and begins an important conversation on a number of topics, including data inventory that was raised today in this Commission.

There's one other piece of information for the benefit of this Commission. The Crime and Justice Institute and the Bureau of Justice Assistance made available to the State of Nevada \$350,000 in unencumbered money that will be available to various state agencies for awards to assist them in the acclimation and the implementation of AB 236. The Sentencing Commission has been delegated by the Governor to assess those awards, prioritize those and determine how they'll be distributed. We are expected to expend at least \$150,000 by September 1, and part of the Sentencing Commission agenda will focus on the process by which agencies who are in need of these funds will be able to

access them through the Sentencing Commission. So, just a heads-up if people are interested in the work and the activities of the Sentencing Commission who would like to follow it. It will be through those agendas and those meetings.

**Chair Nguyen:**

Thank you. I know that there's a lot of crossover membership between the Sentencing Commission and the ACAJ here, so I think that will only help us in focusing our efforts and attentions on quality versus quantity and making sure that we get some substantial and effective legislation that comes out of these commissions and committees.

Any other comments or questions up north? I'll close that agenda item and open up the floor for public comment again. It's late in the afternoon so I will ask people to limit their public comment to 2 minutes, knowing that you can submit any additional documentation if you haven't done so for the Committee members to review if you need more time than that.

**Trey Delap (National Alliance for Mental Illness, Southern Nevada):**

Thank you and good afternoon, Madam Chair and members of the Commission. I'm the Director of Group Six Partners and today I am here on behalf of the National Alliance for Mental Illness, NAMI, Southern Nevada. NAMI has a number of positions that they want to support regarding what they consider therapeutic justice (Agenda Item XII A). NAMI endorses the principle of therapeutic justice which emphasizes that the law should be used whenever possible to promote the mental and physical wellbeing of the people it affects. For example, in a system we characterized by therapeutic justice, people with serious mental illness charged with nonviolent crimes are diverted into programs designed to address their treatment and service needs rather than incarcerated. Individuals with serious mental illness convicted of serious crimes are provided with humane and appropriate treatment while incarcerated and these individuals are provided with appropriate linkages to needed services and supports upon discharge to enable them to successfully reenter their communities. NAMI as a grassroots organization wants to support those good endeavors, and there are good things happening in Nevada that just need some support and that's why we're here. To accomplish this, collaboration is essential. There's a recommendation that 25 percent of law enforcement first responders are crisis intervention trained, which is what Metro does. There's been some success with LEAD (Law Enforcement Assisted Diversion) diversion programs, also another good thing. Metro, Mr. Callaway, you're doing such a great job over there. We also want to support the 56 drug and mental health courts in Nevada. The judiciary reported 1,200 graduates of programs and also said that 60 percent of graduates of drug and mental health courts do not recidivate and maintain their recovery. So, supporting those programs is for the public good, of course, and we also know the public supports this.

There was some public data done in 2018 that showed a strong support for people increasing access to recovery, and 83 percent of respondents said that recovery is an

objective of people with serious mental illness and/or addiction and 72 percent believed recovery was of value and stigma was a serious barrier. The curious question that came up in this polling sample was, "Do you think that the courts should have more authority in addressing issues dealing with mental health and addiction?" The results basically said the public does not know anything about any of these specialty courts because 52 percent supported more authority but the rest of it was split in a perfect bell curve. That's another part that NAMI can bring to the table as far as generating awareness and support for the public programs, including justice diversion and things of that nature. So with that, I'll submit, and thank you very much.

**Chair Nguyen:**

Thank you so much for that information, and I encourage your organization also to look at what Justice Hardesty had said about some of the implementation funds that are going to become available.

**Ms. Brown:**

Tonja Brown, advocates for the inmates and for the innocent. I want to briefly finish up. In Ms. Noble's letter and Mr. Gibbs' letter, they refer to 2009 and 2011. What they don't mention in those orders is that there were motions that were filed and the orders that were issued where the petitioner failed to provide any controlling legal authority which provides this court to grant the subject petition, and then the Supreme Court, it was appealed to that. It says, "Contrary to the appellant's suggestion that this Court is only the body in the State of Nevada that can set the course for petitions for exoneration after death, it is the Legislature to create a cause of action or remedy to provide for an appeal." The court lacked jurisdiction, suggests Legislature create a new cause of action. Now, some of you don't know me and some of you do, and I have provided you all an eight-page letter (Agenda Item III B), and this is the kind of form that I put together and this is exactly what I do on social media. I will say something and then I provide evidence to back up what I say. It's there. Mr. Gibbs came in and what he said was really horrible, makes me look horrible, but do you find anything in here that is horrible, because it's exactly what I do on social media and Facebook. Now, I have something I'm going to read. It says, "In my previous comments submitted, I spoke of harassment Ms. Brown has faced in her efforts to exonerate her brother. Mr. Klein's letter to this Commission speaks volumes. This former law enforcement officer made personal attacks against Ms. Brown for merely using her freedom of speech to bring the truth out about an innocent man. Mr. Gibbs only assumes that he knows the facts of the case when he doesn't. He neglects to post the evidence that Ms. Brown has posted that contradicts the facts of the case and I believe this is a target to harass Tonja Brown. I have personally listened to a message from the victim's family that was left on Ms. Brown's answering machine which her children, grandchildren and Facebook messages from them as well as her friends." That came about for something that I had posted dealing with—do you remember where you were on May 9, 1988? It was an event. Nostradamus predicted that on May 10, California would

fall into the ocean. People commented. Shortly thereafter, I got a message left by the victim's sister, a horrible message, and it continued—

**Chair Nguyen:**

Ms. Brown, can I go ahead and have you wrap up? I appreciate your time and your story, and I know that you've submitted that.

**Ms. Brown:**

Right, but it doesn't explain that. He refers to the posting of the victim. Well, after I posted that picture, all harassment by the family and their friends stopped. I don't want any more phone calls left for my children to hear. Okay, so Mr. Gibbs' posting sums up as to who really Mr. Gibbs is—

**Chair Nguyen:**

Ms. Brown, I'm going to have to ask you to wrap up.

**Ms. Brown:**

I am, I've got like one more paragraph. "Mr. Gibbs failed to mention that it is he who actually created a fake Facebook page under the name of Frank Castle. He used this site specifically to target and harass Ms. Brown. I have included some of the posts he made about Ms. Brown. Reno Cop Watch shared a post from Reno police history on August 23, 2009, shortly after Mr. Castle was created on August 25. I've spoken to the admin with Reno Cop Watch and they've provided me the private messages from Jim Gibbs and the post was shared. I have also attached Jim Gibbs"—these are screenshots. There is one that's in here—

**Chair Nguyen:**

Ms. Brown, I know that they're included in the exhibits that all the members have received, so I will encourage all the members to make sure that they take a look at that. They've heard obviously what you've said and what Mr. Gibbs has said, and so they can review that information as well.

**Ms. Brown:**

I'd appreciate that, because here's where I state—or I don't state, they state—see, I had filed a police report on July 19 and that's actually in here—

**Chair Nguyen:**

I understand, Ms. Brown. I'm going to conclude this right now, but thank you so much for your testimony.

**Ms. Brown:**

But I do believe that his actions—this is kind of what the families such as myself and those who are innocent go through, and I think actually he demonstrated perfectly why we need a factual innocence posthumously. Thank you.

**Chair Nguyen:**

Okay, thank you. Is there any other comment down in Carson City? It doesn't look like there is. Thank you so much. At this time, thank you everyone for your time and your patience and your attention to the presentations, and like I said, I will have staff reach out to poll members if there are topics or there are subjects or there is information that you think you'd like to learn more about. Please feel free to include that in your responses as well, and I will adjourn the meeting at this time, 4:07 p.m. Thank you.

RESPECTFULLY SUBMITTED:

\_\_\_\_\_  
Jordan Haas, Secretary

APPROVED BY:

\_\_\_\_\_  
Assemblywoman Rochelle Nguyen, Chair

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

<b>Agenda Item</b>	<b>Witness/Agency</b>	<b>Description</b>
A		Agenda
B		Attendance Roster
Agenda Item III A	Tonja Brown	Public Comment
Agenda Item III B	Paul Corrado	Public Comment
Agenda Item III C	Jim Gibbs	Public Comment
Agenda Item III D	Annemarie Grant	Public Comment
Agenda Item III E	Sara Bartel	Public Comment
Agenda Item VI A-1	Nicolas Anthony, Commission Counsel, LCB	Statutes Relating to the ACAJ
Agenda Item VI A-2		Assembly Bill 112, 2019
Agenda Item VI A-3		Final Report from the 2019 ACAJ
Agenda Item VI A-4		Assembly Bill 107, 2019
Agenda Item VI A-5		Assembly Bill 236, 2019
Agenda Item VII A-1	John McCormick, Administrative Office of the Courts	Overview of Nevada's Judiciary
Agenda Item VII A-2	John McCormick, Administrative Office of the Courts	2019 Annual Report of the Nevada Judiciary with Appendix Tables
Agenda Item VII A-3	John McCormick, Administrative Office of the Courts	Nevada Population Data from 2010 to 2018
Agenda Item VII A-4	John McCormick, Administrative Office of the Courts	Nevada Population Data from 2000 to 2018
Agenda Item VIII A-1	Christopher DeRicco, Board of Parole Commissioners	Presentation on the Board of Parole Commissioners

Agenda Item VIII A-2	Christopher DeRicco, Board of Parole Commissioners	Comparison of Parole Hearings by Offense Type
Agenda Item IX	Anne Carpenter, Division of Parole and Probation	Presentation on the Division of Parole and Probation
Agenda Item X A-1	Mindy McKay, Records, Communications and Compliance Division	Presentation on the Records, Communications and Compliance Division
Agenda Item X A-2	Mindy McKay, Records, Communications and Compliance Division	Legislative Information Pamphlet
Agenda Item XII A	Trey Delap	Public Comment
Agenda Item XII B	Annemarie Grant	Public Comment