MINUTES OF THE 2015-2016 INTERIM ADVISORY COMMISSION ON THE ADMINISTRATION OF JUSTICE

MARCH 23, 2016

The meeting of the Advisory Commission on the Administration of Justice was called to order by Chair Hardesty at 9:30 a.m. at the Legislative Building, Room 3137, 401 South Carson Street, Carson City, Nevada, and via videoconference at the Grant Sawyer Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda and Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT (CARSON CITY):

Justice James W. Hardesty, Nevada Supreme Court, Chair
Mark Jackson, Douglas County District Attorney, Vice Chair
Connie Bisbee, Chairman, State Board of Parole Commissioners, Department of Public Safety
Judge Richard Glasson, Justice of the Peace, Tahoe Justice Court
Adam Laxalt, Attorney General, Office of the Attorney General
E.K. McDaniel, Interim Director, Nevada Department of Corrections
Jorge Pierrott, Lieutenant, Division of Parole and Probation, Department of Public Safety
Judge Lidia S. Stiglich, Second Judicial District Court, Washoe County
Holly Welborn, Policy Director, ACLU of Nevada, Inmate Advocate

COMMITTEE MEMBERS PRESENT (LAS VEGAS):

Senator Mark A. Lipparelli, Senatorial District No. 6
Assemblyman Elliot T. Anderson, Assembly District No. 15
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Phil Kohn, Clark County Public Defender
Lisa Morris Hibbler, Victim's Rights Advocate

COMMITTEE MEMBERS ABSENT:

Senator Aaron D. Ford, Senatorial District No. 11
Assemblyman John Hambrick, Assembly District No. 2
Paola Armeni, Representative, State Bar of Nevada
Eric Spratley, Lieutenant, Washoe County Sheriff's Office

STAFF MEMBERS PRESENT (CARSON CITY):

Nicolas C. Anthony, Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau
Angela Hartzler, Secretary, Legal Division, Legislative Counsel Bureau
Linda Hiller, Interim Secretary, Legal Division, Legislative Counsel Bureau

OTHERS PRESENT:

Mona Lisa Samuelson
Clyde Means
Kristina Wildeveld
Cindy Brown
Vicki Higgins
Tonja Brown, Advocate for the Inmates, Advocate for the Innocent
Wes Goetz
Joe Pollock, Deputy Administrator, Regulatory and Planning Services, Division of Public and Behavioral Health, Department of Health and Human Services
Chad Westom, Chief, Bureau of Preparedness, Assurance, Inspections and Statistics, Division of Public and Behavioral Health, Department of Health and Human Services
Steve Gilbert, Program Manager, Medical Marijuana Program, Division of Public and Behavioral Health, Department of Health and Human Services
Edwin A. Keller, Jr.
Robert P. Spretnak
Scott K. Sisco, Deputy Director, Support Services, Nevada Department of Corrections
Dwayne Deal, Administrator, Offender Management Division, Nevada Department of Corrections
Brian Connett, Acting Deputy Director, Programs Division, Nevada Department of Corrections
John Collins, Statewide Reentry Administrator, Nevada Department of Corrections
Garrit Pruyt, Deputy District Attorney, Office of the Carson City District Attorney
Kimberly Murga, Director of Laboratory Services, Las Vegas Metropolitan Police Department
Stephen Gresko, Senior Criminalist, Nevada State CODIS Administrator, Washoe County Sheriff's Office
Tracy Birch, Executive Director, Criminalistics Bureau, Las Vegas Metropolitan Police Department
Vicky Maltman
Dee Williams

Chair Hardesty:
I will open the meeting of the Advisory Commission on the Administration of Justice at 9:30 a.m. with Item III, public comment.

Mona Lisa Samuelson:
I am a 25-year resident of Nevada and I come to these meetings to be a voice for the medical marijuana patients of the State. I am here to ask to be on the Subcommittee on Medical Use of Marijuana that you are contemplating under Item XII of today's agenda. What we are finding with the issues of marijuana and the Legislation is that we have not regulated it as a whole plant medicine which is how it is used medicinally. Until we have that figured out, you are putting a lot of people in detriment with the laws coming in on how to handle growing marijuana as well as personal grows and how patients cook their medicine. I try to give a patient's voice and would very much like to be on that Subcommittee to represent them for Nevada.

Clyde Means:
I am here about the need to abolish the State Board of Parole Commissioners. It is obsolete. I know there is an agenda to change the system and I hope that happens. Statistics show that sex offenders are discriminated against. They have a lower percentage of being granted parole. There is a tool on the parole denial: the parole risk assessment and guideline. From 2004 to 2009, statistics were compiled on people who committed new sex offenses. Nine-tenths of one percent committed new offenses.

We need to get with the 21st Century. Do you want to know why the system is broken and why jails are overcrowded and the prisons are, too? It is because the prisons are not paroling sex offenders. They are paroling low offenders like the drug dealers. How many of them sold to women who were pregnant? They do not look at that. We need to reassess the whole system. There was an article in the Las Vegas Review-Journal reporting that they finally are utilizing Casa Grande. There are 100 beds for parolees who could not get out because they had no family support. Instead of $55 per day for a person sitting in prison that was granted parole, it is $12 at Casa Grande. I hope you will push the Legislators to take a new look at how the system works.

Kristina Wildeveld:
I am here regarding Item IX, Assembly Bill (A.B.) 267.

ASSEMBLY BILL 267: Revises provisions concerning the sentencing and parole of persons convicted as an adult for a crime committed when the person was less than 18 years of age. (BDR 14-641)

I represented John Hopkins, an inmate facing a sentence of life without the possibility of parole before A.B. 267 was passed. He has been granted parole and is the first inmate serving time under juvenile life without the possibility of parole that has been granted parole. He anticipates serving the rest of his parole in Illinois should his release plan be granted. Many of my colleagues are also representing these "juvenile life without-ers," but my client has been the only one granted parole. There are others awaiting hearings. I spoke with Connie Bisbee, the Chairman of the Board of Parole Commissioners who indicated she anticipates these persons could get hearings in April and May.

In February I sent a letter to Andrea Barraclough of the Office of the Attorney General and others, including 70 names of juveniles that I know of with extended sentences or de facto life without the possibility of parole sentences that are now eligible for parole hearings. There are still four individuals in the system serving life without the possibility of parole, all of whom are not getting released pursuant to A.B. 267 because they were convicted of multiple homicides. We do not know how they are going to get before the courts to determine whether they need a resentencing hearing or go before a parole board, but since life without the possibility of parole no longer exists, they need an avenue to get their cases resolved.

I met with people from Pennsylvania who said there are 500 juveniles in their system still facing life without the possibility of parole. We think we have our hands full in Nevada with around 100 inmates convicted as children, but it is much worse there.

Cindy Brown:
I am a medical marijuana patient and advocate. We thank you for forming the Subcommittee on the Medical Use of Marijuana. We kindly request a Legislative Special Session to address all the medical marijuana issues. This industry will be a multibillion dollar industry and there are still problems that need fixing. During the regular legislative Session, we had cancelled hearings and committees rushing to get things completed. This led to numerous oversights. One example is inconsistent advertising abilities throughout the State. The fees to cross city lines are unnecessary and cause undue hardship on medical marijuana establishments (MME) in those jurisdictions. This has led to more cost for the patients.

Another issue needing attention is patient issues and rights. When patients ask for dispensaries to be put into place, we did not anticipate that owners would want to remove our rights to grow. The numbers they used to do all the production projections for profits for these dispensaries were based on Colorado numbers of over 100,000 patients in their patient base. At the time, Nevada had a mere 6,000 patients in our database. We are trying to get more patients for the dispensaries to become profitable but that takes time. In the meantime, we do not want our rights to grow removed.

We would also request that the law be divided into two sections—one that clearly states the laws applying to the patients and the other that clearly applies only to the businesses. There has been a lot of confusion. There have been two lawsuits against the State by patients. We feel strongly that a Special Session is the best way to address all the issues. There are pending lawsuits against a few of the dispensaries by GW Pharmaceuticals. The Legislation last Session was supposed to solve that problem, but it did not. We also have the 2015 Nevada Assembly Initiative Petition 1 to address and we should have Legislation in place to address immediate sales once it passes.

Once again, we humbly request a Special Session to fix the medical marijuana program completely and finally. I have submitted my written testimony (Exhibit C).

Vicki Higgins:
I am a medical cannabis advocate. Many of us have been working as a team to establish rights for medical marijuana patients. These establishments were created for patients. I agree that a Special Session would be relevant to distinguish patient rights from the MME rights. As a disclaimer, I do hold ownership in a cultivation and production business in North Las Vegas and work with cultivation production in Clark County. I would like to offer my services to assist with the Subcommittee.

I am not well versed on the parole options you are discussing today. I do know we have many first offenders and low level crime offenders sitting in prison awaiting parole. With recreational marijuana coming in, the rules will change. The nanograms in our system is way overrated. Intoxication should be dealt with before we proceed into bloodwork. Behavior is what we need to base this on. We appreciate you taking time to help our patients. Their human rights are being threatened. The Legislation did a lot for the establishments, but unfortunately the patients got kind of shoved aside. We would like to see that separated in a Special Session.

Chair Hardesty:
I have a request of those who made a public presentation with their concerns about the deficiencies in the medical marijuana laws and patient rights. For those who offered comments, I would ask they submit to this Commission a specific list of the problem areas that exist within the statutes and how they feel those matters should be addressed. General comment is helpful, but to evaluate the subject matter as the statute charges us to do, specifics are warranted. I invite them to submit that material to the Legislative Counsel Bureau staff in at least one week.

Tonja Brown (Advocate for the Inmates, Advocate for the Innocent):
Regarding today's agenda Items XVIII and IX, I have submitted a presentation from the Nevada Department of Public Safety: *Truthfulness and the Brady Decision* (Exhibit D). When a person is wrongfully convicted of a crime, the real perpetrator is still out there committing crimes. That makes this a public safety issue and I ask that this issue be placed on an agenda for an upcoming meeting.

I also ask that the Advisory Commission consider hearing the issues I submitted at the last meeting, including the implementation of a Public Integrity Conflict Unit, a petition for exoneration, a DNA bill allowing inmates to have their DNA tested when the court denies the petitioner be tested, and the recommendation that an arresting law enforcement agency turn over all the evidence simultaneously to the prosecution and the defense. This will prevent prosecutors from withholding evidence and would result a fair trial.

If we got rid of the Board of Parole Commissioners (Parole Board), the State would save approximately $40 million per year in denials to the next consecutive sentence. If you maintain innocence to the Parole Board, you are denied parole. If you maintain your

innocence and yet you admit guilt to the Parole Board to obtain parole and then you are denied. If your case gets overturned, they can use that guilty admittance against you. It was a false confession, but only because the inmate only wanted to get parole. This is why we need to look at wrongful convictions. There have been times when false information about an inmate gets put into their file, so instead of being listed as a low risk to reoffend, now this false information changes their status to high risk to reoffend.

Chair Hardesty:
On the subject of Brady discovery, the Nevada Supreme Court currently has a commission in place working with practitioners and judges around the State to draft a set of rules of criminal procedure. Vice Chair Jackson is on that commission. They have made progress and one of the subjects those rules are contemplating is the issue of discovery between the State and the defense. I am hoping Justice Douglas or Justice Cherry or both can make a presentation to this Commission sometime this summer. The reports I receive from them is that the contributions from lawyers and the subcommittees have been very productive. Phil Kohn chairs the discovery subcommittee. That is a matter we as an Advisory Commission will be following up on when we hear about the progress of the committee in recommending rules of criminal procedure to the Nevada Supreme Court.

With respect to Ms. Brown's other comment about the Parole Board rolling over consecutive sentences, the Legislature in 2013 enacted a statute that requires trial judges, when sentencing a defendant to consecutive sentences, to identify the collective minimum and the collective maximum so that those sentences are then aggregated and a defendant does not go before the Parole Board until they have satisfied all the minimums on the consecutive sentences. This way, there are not repeat appearances before the Parole Board.

Wes Goetz:
I was in your prison system from 1999 to 2009 and am now on lifetime supervision. In *Nevada Revised Statutes* NRS 213.1075 it says, "Except as otherwise provided by specific statute, all information obtained in the discharge of official duty by an employee of the Division or the Board is privileged and may not be disclosed directly or indirectly to anyone other than the Board, the judge, district attorney or others entitled to receive such information, unless otherwise ordered by the Board or judge or necessary to perform the duties of the Division." I am trying to get my records from the parole department on the access of the computer because every month I see my parole officer and he adds stuff to the computer. I am not allowed to see this.

I have filed three complaints (Exhibit E) with the Office of Professional Responsibility against some of my parole officers dating back to when I first got out of prison in 2009. I keep asking to see my records, but they say I need permission from a judge, district attorney or the Parole Board. Ever since I got out of prison and into parole, it feels like psychological torture. It is not physical torture, but they confuse you, punish you,

intimidate you and discriminate against you. I have to go see my own psychologist every time I see my parole officer.

In 2010, I decided to come to the Legislature and talk to Legislators. I asked them why I cannot have my own business. Senator Segerblom called the Chief of the Division of Parole and Probation to ask why I could not have my own business. After that call, for 3 years I was allowed to have my own business being a labor worker. I had my own business called All Around Tahoe, taking pictures and selling calendars, renting paddleboards, kayaks and mountain bikes, etc.

Then as I come back here to the Legislature to tell about what happened to me with prison and parole, I feel like I get retaliated against. Recently, I had a business moving J-1 individuals which are people with a visa from other countries who come to America to work at a casino or ski resort.

Chair Hardesty:
What specifically do you want to have this Advisory Commission to consider?

Mr. Goetz:
I would like to be able to see my own records of what is on the computer so I can see what has been done to me in the last 7 years since I have been out of prison and when I was on probation. I feel they illegally put me in prison for 10 years because when you look at the facts and records, I never should have gone to prison. With the Adam Walsh Act just now coming out, it is more psychological torture because now I have to report four times a year with fingerprints and photographs. Governor Sandoval appointed a new Nevada Department of Corrections director who may try to get treatment to sex offenders and rehabilitate them. But if they get out on parole, they have to fight against parole officers and have psychological torture on the outside. I feel we need to retrain our parole officers who work with sex offenders to have psychology applied to that treatment.

Chair Hardesty:
So you are seeking from this Commission an evaluation of the statute and your access to computer entries during your lifetime supervision.

Mr. Goetz:
Yes.

Chair Hardesty:
Thank you. I will now open Item IV, the approval of minutes from the Feb. 4 meeting of this Advisory Commission.

VICE CHAIR MARK JACKSON MOVED TO APPROVE THE MINUTES FROM FEBRUARY 4, 2016.

CONNIE BISBEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY

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Chair Hardesty:
We will pass on Item XVI today because it was requested by Senator Ford and he is absent today so we will move that to April 19. I will open Item XII, presentations on medical marijuana and possible subcommittee appointments.

Joe Pollock (Deputy Administrator, Regulatory and Planning Services, Division of Public and Behavioral Health, Department of Health and Human Services):
We want to give an overview of the current status of the medical marijuana program in Nevada (Exhibit F).

Chad Westom (Chief, Bureau of Preparedness, Assurance, Inspections and Statistics, Division of Public and Behavioral Health, Department of Health and Human Services):
There are two parts to the medical marijuana program—the patient cardholder program which has existed for many years, starting with patients growing their own medical marijuana and their caregivers who assist them. In recent years, we started the medical marijuana establishment program where the team at the Division of Public and Behavioral Health certifies the medical marijuana establishments (MME), doing inspections, audits and providing guidance to maintain compliance with the law and regulations.

There are currently more than 15,000 patients on the medical marijuana program with more than 1,000 caregivers (page 3, Exhibit F). The demographics of patients range from less than 1 percent under age 18 up to 19 percent of patients with cards aged 65 and older, representing the largest percentage (page 4, Exhibit F). The number of patients with medical marijuana cards grows daily. Starting in January 2014, there were 4981 patients; since then there has been a steady rise to 15, 238 patients today (page 5, Exhibit F). This significantly exceeded the number of patients we expected.

Judge Richard Glasson (Justice of the Peace, Tahoe Justice Court):
Are these 15,000 patients actively being prescribed medical marijuana or is it cumulative with people who may have moved on to another state or passed away?

Mr. Westom:
These are patients currently in Nevada with medical marijuana cards to either grow their own product or purchase from open and certified dispensaries. They have to renew each year so maybe some patients choose not to renew or they move to another state. The patients get recommendations from their physicians which are sent in. It is not a prescription.

Mr. Jackson:
I am concerned about the abuse of prescription drugs in the U.S. We are the worst abusers of prescription drugs in the world. For example, 80 percent of all the opioids manufactured in the world are consumed in the U.S. and 99 percent of all the hydrocodone manufactured in the world is consumed in the U.S. It is not that we have more illnesses; there is abuse going on.

Based on your chart showing the rise in medical marijuana cards from 2014 to current, (page 5, Exhibit F), is this an alarming number to you? Do you think it indicates abuse of the medical marijuana program in the State?

Mr. Westom:
I hope I understand your question. This data is only about medical marijuana cards recommended by a physician.

Mr. Jackson:
Is this number of more than 15,000 cards by 2016 what you expected as the Chief of this bureau?

Mr. Westom:
We did expect 15,000 patients after looking at previous reports. It is very difficult to project in this industry with other states because there is not enough data in the U.S. to make reliable projections. We thought we would reach the 15,000 mark at the end of 2016, though, not at the beginning.

Mr. Jackson:
Based on the information you have on page 4 (Exhibit F) regarding the majority of the medical marijuana patients older than 35 or 45 years of age, is this consistent with other places in the U.S.

Mr. Westom:
We do not have that data, but we can get back to you.

Mr. Laxalt:
Is the increase in numbers purely doctor-driven or does your program advertise? Is there a spike related to doctors prescribing more and people being more aware that medical marijuana is available? To what do you attribute the rise in numbers?

Mr. Westom:
We do not advertise or encourage anything on our web site. There is a process the patients have to go through. They contact their physicians and get an application from our office. The physician then makes a recommendation and the paperwork is completed and the application gets turned in. The industry encourages patients to get cards if they do not have them. There are private sector organizations and consultants that provide assistance in that process, but that does not come from the Division.

Chair Hardesty:
Is there anything in statute or in the regulations you have adopted which place requirements or limits on a physician's ability to grant a medical marijuana card?

Regarding the unanticipated early increase in cards issued since 2014, I see a billboard on Interstate 15 in Las Vegas with a toll free number advertising medical marijuana cards to be issued by a "Dr. Reefer." This raises the question about what regulation there is for getting a medical marijuana card.

Mr. Pollock:
To answer the question on the early increase in patients with cards, if you look at the chart (page 5, Exhibit F), the first certificates for establishments were issued in November 2014. Prior to that, you can see it was pretty static. Prior to that, the only way to get medical marijuana was to grow it and most of public does not want to grow it. Most would rather buy their medications at a drug store. So we had a little increase after November 2014 and once the dispensaries opened the middle of 2015, the demand increased dramatically. Looking at data from other states, we think we will top out at about 2 percent of the population with medical marijuana cards, just like it has in Colorado. That would put our total number of cards issued at ultimately around 40,000 patients.

Steve Gilbert (Program Manager, Medical Marijuana Program, Division of Public and Behavioral Health, Department of Health and Human Services):
There are nine conditions for which a physician will recommend a medical marijuana card—cancer, glaucoma, HIV/AIDS, seizures, muscle spasms, post-traumatic stress disorder and more. Currently, the most recommended condition for medical marijuana is severe pain. We have 13,183 recommendations for that condition.

Chuck Callaway (Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):
If I injured my back, I would have to go to my doctor who would probably send me to a specialist who would then determine whether I needed physical therapy, surgery, or to be put on pain medication. At some point, I would have to revisit the doctor to check my status and there would be a determination about whether I still needed the pain medication. Out of these 15,000 patients, how many get their medical marijuana card renewed and how many get some relief from their injury or chronic pain and then go off

the medication? Is there a system in place where doctors reevaluate these patients? If we are going to treat this like medicine and make it legitimate, we need follow up mechanisms in place to make sure the drug is still needed.

Mr. Gilbert:
Medical marijuana patients need to go back to their primary care physicians on an annual basis as part of the renewal process we require. We do not have statistics on how many patients renew annually but we will try to get those numbers for you.

Chair Hardesty:
Are there regulations or specifics in statute that define severe pain? Are there definitions that establish the quantity of medical marijuana prescribed for a specific condition?

Mr. Gilbert:
The statutes and regulations just specify the nine conditions that qualify to recommend medical marijuana as a treatment. The range of severe pain is up to the physician. We look at the physician's recommendation when it comes in through the application. We verify that the physician is registered with the state boards, either the Nevada State Board of Osteopathic Medicine or the Board of Medical Examiners. If that condition is listed on the recommendation, then that is qualified as a complete application.

Chair Hardesty:
So the determination of the definition of severe pain is made by the physician and not defined by statute or regulation?

Mr. Gilbert:
Yes, that is my understanding.

Chair Hardesty:
Are you familiar with that Dr. Reefer billboard? Does the Division verify that prescribing physicians are licensed in Nevada?

Mr. Gilbert:
There are quite a few consultants in the State. I cannot speak to Dr. Reefer's status as a physician per se, but I can say there are consultants who assist patients through the application process. As far as physicians they are recommending, we just look to see which physician is used for the recommendation.

Chair Hardesty:
Are you saying you all are not familiar with a physician named Dr. Reefer and whether he or she is licensed to practice medicine in the State?

Mr. Pollock:
The name Dr. Reefer is not a real physician; it is an advertising name. It is a business niche this doctor has latched on to. We do not have any control over that. If we get a recommendation from a legitimate doctor, the application is processed accordingly, but we cannot restrict advertising. We would not allow the term "reefer" in any advertising done for a medical marijuana establishment (MME). We only allow a medical approach to those facilities—no cartoon characters or derogatory terms—but we cannot restrict the advertising from doctors. That is why you see those billboards.

Chair Hardesty:
You can restrict the advertising content of dispensaries and licensed facilities?

Mr. Pollock:
Yes, we review all advertising for dispensaries and quite commonly we have turned down advertising that either plays to children or is just not appropriate for medical advertising.

Chair Hardesty:
Your Division cannot regulate advertising by physicians, but can the Board of Medical Examiners do so?

Mr. Pollock:
I am not sure but we will get that information for you.

Judge Lidia S. Stiglich, (Second Judicial District Court, Washoe County):
Beyond the recommendations for use from the physician, is duration, dosage and intensity is all left to the patient?

Mr. Westom:
The dose is between the physician and the patient and the patients need to renew once a year through a physician. The maximum dose of medical marijuana a patient can purchase within 2 weeks is 2.5 ounces. The other details are between the physician and the patient. We have no role in that.

Ms. Stiglich:
Beyond the physician's recommendation, do patients have a requirement to work with the physician after acquiring their medical marijuana before they have to renew a year later?

Mr. Westom:
No.

Mr. Laxalt:
You said 13,000 of the 15,000 medical marijuana patients are being treated for severe pain. Do you track what percentage of cards are coming from a subset of doctors or any specific doctors? Is there any analysis of this to see if there are certain individuals prescribing too much medical marijuana like in a doctor mill?

Mr. Gilbert:
We do track recommending physicians and forward that information annually to the respective boards, but we do not report publically or make reports on those physicians.

I want to clarify that of the 13,183 patients prescribed medical marijuana cards for severe pain, it is not out of the 15,000 registered card holders but rather the total recommendations collected by the program for severe pain over the years.

Chair Hardesty:
Do you have a breakdown of the 15,000 medical marijuana cardholders by category?

Mr. Gilbert:
Currently, no, but we could get that for you.

Chair Hardesty:
Would it be fair to say a substantial portion of the total would be for severe pain?

Mr. Gilbert:
Yes it would.

Chair Hardesty:
Could you get the specific percentage?

Mr. Gilbert:
Yes we could.

Chair Hardesty:
Do you have data on the number of physicians prescribing medical marijuana cards?

Mr. Gilbert:
Yes, it is on our web site. There are 461 licensed physicians who have signed applications or recommendations for patients in Nevada.

Mr. Pollock:
Many docs are uncomfortable recommending medical marijuana, so a patient might go to their primary care physician and end up having to go to another doctor who specializes in medical marijuana.

Mr. Westom:
We have a timeline graph showing the application processing within the statutory mandate of 30 days (page 6. Exhibit F). As the MMEs opened up and the patients increased, we did have a few periods where we could not process all the cards as quickly, but we are now anticipating the needs and volumes of applications, adding temporary staff to streamline the process. Since last fall, we are below the 30-day mandate for both first time and renewal patient applications.

Jorge Pierrott (Lieutenant, Division of Parole and Probation, Department of Public Safety):
One thing the Division of Parole and Probation (P&P) is concerned with is individuals applying for cards without notifying the P&P, the judge or the Parole Board. Also, we have received medical marijuana cards issued through a chiropractor. Is there a category of what medical doctors can issue the medical marijuana cards? Is there a process in the application stating applicants that are on parole or probation need to notify P&P?

Mr. Gilbert:
There is no requirement in NRS 453A or Nevada Administrative Code (NAC) 453A for an applicant to tell us if they are on probation or parole. We do run their background check and if they have any disqualifying convictions which would not allow them to be on the program, they are denied.

Mr. Pierrott:
Are there different categories for doctors? Can chiropractors prescribe medical marijuana cards?

Mr. Gilbert:
The physicians need to be registered with the Board of Medical Examiners or the Nevada State Board of Osteopathic Medicine, so they have to be a Medical Doctor (MD) or a Doctor of Osteopathic Medicine (DO).

Chair Hardesty:
From your perspective, would there need to be a statutory change or could you handle by regulation the obligation to notify P&P of an application for a card?

Mr. Westom:
Those notifications and processes we go through are sensitive and the confidentiality for the majority of the program is provided by NRS 453A.700. If we were asked to process something like that to provide those notifications that it would be done through a statutory change. We would appreciate that authority.

Chair Hardesty:
Does P&P give you a list of their probationers or parolees under supervision?

Mr. Westom:
No, but we follow NRS 453A, looking for disqualifying convictions in an applicant's background. Being on parole or probation alone is not one of the disqualifiers.

Chair Hardesty:
Mr. Pierrott, are there limitations in your ability to supply a list of all those on parole and probation to the Medical Marijuana Program?

Mr. Pierrott:
Hopefully, we can work with that Program in the future to determine who is applying for medical marijuana cards. We normally get notice from offenders as they come in to report. They often do not tell the judge about their medical marijuana card until they show up at the P&P. We have limitations on what type of drugs and substances they can have in their system so it becomes very difficult to supervise an individual using medical marijuana because we do not know if there is abuse going on or not.

In some instances, the judge will state that the offender cannot use medical marijuana for the conditions it was prescribed for. For example, insomnia or lack of appetite have nothing to do with an individual being in pain or needing the substance to survive.

Chair Hardesty:
So that information is not currently being exchanged?

Mr. Pierrott:
That is correct.

Mr. Westom:
The statute, NRS 453A authorizes us to work with law enforcement and share information so we would welcome that partnership. We have a mechanism where we can share with law enforcement. This is designed specifically for Nevada Highway Patrol officers making a stop of a patient on the road. Their dispatchers can access a protected web site to verify if the patient is a current cardholder.

Chair Hardesty:
Could you possibly have that information by the May 6, 2016 meeting after consulting with Mr. Pierrott and Ms. Natalie Wood, the Chief of P&P on the subject of communication issues? There seems to be some uncertainty about what the law permits.

Mr. Westom:
Yes, we could see if there are P&P officers who are already accessing our information on patients. We can expand that if necessary.

On page 7 (Exhibit E), the $113.25 fee to obtain a medical marijuana card is broken down and you can see what a Nevada Medical Marijuana Patient card looks like, which is very much like a Nevada driver's license.

Chair Hardesty:
Do physicians charge to provide recommendations? Are any of their charges covered by health insurance?

Mr. Westom:
We do not track the fees charged by physicians. I do not know the definitive answer on insurance coverage, either, but patients tell us they are usually not covered.

Chair Hardesty:
Could we inquire of the Division of Insurance if there are any policies that provide coverage to patients who legitimately need medical marijuana?

Mr. Westom:
Yes, we will inquire.
We have updated our technology to allow patients to register online and create their profile there (pages 8 and 9, Exhibit F). All the necessary forms are available here and it saves time. It was a paper process before. The web site has been beta tested and all reports say it works well. We are working on facilitating online payments in the future.

Chair Hardesty:
Is there any process in the statute to waive fees based on the indigent status of a patient?

Mr. Westom:
I am not aware of anything in statute.

The Medical Marijuana Establishments (MME) vary in number and location (pages 11 and 12, Exhibit F). There are three dispensaries in northern Nevada; all in Washoe County, and 19 in southern Nevada; most in Clark County with a few in Nye County. There are nine cultivators or growers in the north and 29 in the south. There are seven production facilities in the north and 10 in the south. These facilities produce the edible marijuana and infused products. There are two laboratories in the north and five in the south.

Comparing those MMEs to the number of provisional certificates issued is illustrated on page 13 (Exhibit F). Thirty-three percent of the dispensaries are open, 20 percent of the cultivation or growing facilities are open as are 14 percent of production facilities and 41 percent of laboratories. Overall, 22 percent of all potential facilities are open. We remain available to process, inspect, review and certify all establishments in coordination with local governments.

The fees that MMEs pay the Division of Public and Behavioral Health through the Medical Marijuana Program to get up and operating are on pages 14 and 15 (Exhibit E). These fees are established by NRS 453A.

As the MMEs began opening in June 2015, we started to get complaints of noncompliance. This is typical of any new regulatory program. Those complaints came from patients, citizens and MMEs that heard concerns about other MMEs. The chart on page 16 (Exhibit F) shows the steady increase in complaint data. We also witnessed a workload we did not fully anticipate—MMEs that had their product tested by a laboratory and their product failed. When that happens, we investigate the reports from the lab and work with the MME to change their processing procedures to make the product safe for consumption by, for example, killing off microbial growth, which is one of the main causes for a lab test failure. When there is a failed lab test, the MME can choose to destroy the product, but we have to keep tabs of where all the medical marijuana is and where it goes so we have to witness the destruction of that product.

In the chart you can see that in January 2016, there was a spike in failed lab tests. The reason for that was because several cultivators opened in the fall of 2015 and by the time they grew their crops, the conditions were not ideal. As a result, coupled with conditions that were not properly clean and hygienic, there were a number of microbial failures. We dispatched staff to the facilities and corrections were made. Since then, the lab test failures have dropped off even though we are growing as an industry.

Chair Hardesty:
There are 38 cultivators licensed in the State as of March, and in January you show 49 complaints. Did that impact all 38 cultivators?

Mr. Westom:
The chart indicates 17 complaints in January. That is the blue bar (page 16 Exhibit F). The red bar indicates the 49 failed lab tests where product had to be quarantined and then reprocessed or destroyed.

Chair Hardesty:
Are you saying the failed lab tests were applicable to all cultivators, not just a few?

Mr. Westom:
There were a number of large area cultivators with failures. It was a small group, not all cultivators in the State.

Mr. Gilbert:
Mr. Westom is correct. For every harvest there is a batch created from the cultivator. From that batch, the product is broken into 5-pound lots, one of which needs to be laboratory tested. One cultivator could have had multiple tests from the same batch in January, so one cultivator could account for more than one failure per month.

Chair Hardesty:
Do you know how many cultivators generated those 49 lab failures?

Mr. Gilbert:
We do, but under NRS 453.700 we are limited on what information we can produce on a report. We do track that information, though.

Mr. Westom:
We see a wide variety of complaints. Some are easy to investigate but some require multiple staff and weeks of investigation with witnesses and businesses. For example, every MME requires all employees to have an agent card, so we have to follow up when businesses are alleged to be operating without every employee having an agent card on their person. There are other reasons for complaints on page 17 (Exhibit F), one of which is unique to this industry because medical marijuana laboratories are required to be independent of each other. We have had to investigate complaints if someone is alleged to have a financial interest with another establishment.

Mr. Callaway:
Some of these reasons for complaints are obviously criminal in nature. Have any resulted in businesses losing their licenses?

Mr. Westom:
Those things are currently being looked into. This industry is new. To date, there has not been an enforcement action like a suspension or revocation on a MME.

Chair Hardesty:
On that category of patient reactions to products (page 17, Exhibit F), how many of those complaints have you received? What are some common adverse reactions?

Mr. Gilbert:
We have had very few of those. One complaint was that the patient's tongue swelled up, or that moldy medicine was purchased. As we investigated those, both were unsubstantiated.

Chair Hardesty:
Have there been complaints of hallucinations from edibles?

Mr. Gilbert:
No.

Mr. Westom:
The forms of medicinal cannabis—pills, smoke-able cannabis, baked goods and skin cream are shown on page 18 (Exhibit F). There are also oils and other products being created.

Chair Hardesty:
I am sure this has been challenging experience for the State and for you as regulators. We thank you for your hard work. Continuing with Item XII on today's agenda, we have a presentation on Medical Marijuana in the Workplace. I saw a presentation to the State Bar of Nevada by these two lawyers and was impressed with the knowledge and information they imparted.

Edwin A. Keller, Jr.:
We are representing the State Bar of Nevada section on labor and employment law. We will focus on the particular section of Nevada's medical marijuana statutes requiring workplace combinations for individuals using medical marijuana to have a registry card. We have submitted some reference materials (Exhibit G-1, Exhibit G-2, Exhibit G-3, Exhibit G-4, Exhibit G-5) and a presentation (Exhibit H).

We are focused on NRS 453A.800 today. Since April 1, 2014, that statute requires employers to attempt to accommodate the medical needs of employees using medical marijuana (page 2, Exhibit H). One thing that both defense and plaintiff attorneys seem to agree on is that this statute is extremely vague and unclear in relating to an employer's obligations and an employee's rights. It has been described as "word soup."

This accommodation provision does not stem from the medical marijuana constitutional amendment. Article 4, Section 38 of the Nevada Constitution (Tab 3, Exhibit G-1, Exhibit G-2, Exhibit G-3, Exhibit G-4, Exhibit G-5) expressly indicates that it does not require the accommodation of medical use of marijuana in a place of employment. In terms of NRS 453A.800 as it existed before the 2013 Nevada Legislature (Tab 4, Exhibit G-1, Exhibit G-2, Exhibit G-3, Exhibit G-4, Exhibit G-5), it mirrored the language in the Nevada Constitution. As part of a bill passed in the 2013 Session of the Nevada Legislature, we have this accommodation requirement (page 3, Exhibit H). It strikes the word "accommodate" and inserts the word "allow" and goes on to say the provisions of the chapter do not "require an employer to modify the job or working conditions of a person who engages in the medical use of marijuana that are based on the reasonable business purposes of the employer." It does require the employer to attempt to make a reasonable accommodation for the medical needs of an employee who legitimately uses medical marijuana.

We have included an article from Nevada Lawyer Online that was also mailed to every Legislator from the 2015 Session of the Legislature, hoping to spur interest in these issues (Tab 10, Exhibit F). Unfortunately, while there were changes made in other areas related to medical marijuana, this provision was not addressed. This workplace accommodation provision was not part of Senate Bill (S.B.) 374, which is the original 2013 bill (Tab 6, Exhibit G-1, Exhibit G-2, Exhibit G-3, Exhibit G-4, Exhibit G-5).

SENATE BILL 374: Provides for the registration of medical marijuana establishments authorized to cultivate or dispense marijuana or manufacture edible marijuana products or marijuana-infused products for sale to persons authorized to engage in the medical use of marijuana. (BDR 15-89)

It was added as an amendment by the Senate Committee on Judiciary. The first time we see the discussion of this amendment is from a proposed conceptual amendment prepared by Senator Tick Segerblom and Senator Mark Hutchison in April, 2013 (Tab 5). There is an indication they wanted an amendment to provide that employers would not be liable under the Americans with Disabilities Act (ADA) and consumer laws for modifying job and work conditions "based upon the reasonable business purposes," but did want to require employers to attempt to provide employees with a medical marijuana card with reasonable accommodations.

One of the first issues to try and figure out what is the accommodation standard. There appears to be a lack of consistency in the language. The first part of subsection 3 of NRS 453A.800 is the Senate amendment indicating that employers do not have to provide or modify job working conditions if they are based on the reasonable business purposes of the employer. What that is, is not defined. Arguably, if you do not have to modify job or work conditions based on a reasonable business purpose, you would if there was an unreasonable business purpose which is not defined, or at least something that is not connected or cannot be justified by reasonable business purpose. That sets forth some limitations on the accommodation obligation but if you look at subsection 3(b), added by the Assembly, it says a reasonable accommodation cannot prohibit an employee "from fulfilling any and all of his or her job responsibilities." It appears to be inconsistent whichever way you read it. It seems that the accommodation obligation is fairly narrow.

Robert P. Spretnak:
I represent employees in my practice and Mr. Keller's firm represents employers. We may have a divergence of opinion at times, but one thing we agree on is that there is a lack of guidance due to the ambiguities in the statute. All three branches of government—the legislative branch, the executive branch and the judiciary—need to work together to provide some guidance to both employers and employees as to what the effect of this new medical marijuana regime is going to be. Litigating a case after someone has been fired is not the ideal way to solve the problem.

As we look at NRS 453A.800 to get some guidance, every word is supposed to have meaning. In NRS 453A.800, subsection 3, both Mr. Keller and I can come up with different interpretations of qualifying clauses as we represent our opposing clients. We need guidance from all three branches of government to get some meaning. As I closely examine the statute for clear meaning, it all boils down, to me, is that it looks like this statute is an enforcement of an existing statute, NRS 613.333, Nevada's lawful use statute, (Tab 13, Exhibit G-1, Exhibit G-2, Exhibit G-3, Exhibit G-4, Exhibit G-5). If I were

advocating on behalf of an employee who I am arguing should be able to keep the job notwithstanding the fact that they have a certain number of nanograms of cannabis in their system, I would argue that NRS 453A.800 is nothing more than declaring that medical marijuana through a physician is a lawful use.

Chair Hardesty:
Are there similar ambiguities in unemployment compensation law where an employer has a policy that allows for drug testing and/or termination for negative drug tests, then the employee then seeks unemployment compensation but is denied or granted compensation depending on how the referee handles the case?

Mr. Spretnak:
Most certainly it will carry over and possibly into worker's compensation law if there is an after-the-accident drug test. Drug testing for marijuana cannot accurately pick up intoxication levels like it can with other substances like alcohol. I would look to NRS 613.330, which is our primary antidiscrimination statute where we have the terms among the protected classes that you cannot use as a basis of making decisions in employment. One of the terms is disability, but not all the conditions that allow someone to get a medical marijuana card qualify as a disability as ordinarily defined. We heard today that the most common condition for a medical marijuana prescription is chronic pain which is not currently defined as a disability. Cancer, glaucoma and fibromyalgia and other conditions like that may be defined a disabilities, but this ambiguous chronic pain is not a disability, so someone whose doctor has filled out papers sufficiently enough to get a medical marijuana card may not be filling out the papers sufficiently to provide protections to the employee under current employment law. Chronic pain is a perfectly good explanation to get the card, but it is not enough to say whether there is disability rights protection.

Mr. Jackson:
I respect that you both represent opposing sides and may have different viewpoints on this issue. Speaking on the confusion created by this accommodation, what about other professions like law enforcement, prison guards, taxi and bus drivers, school teachers, landscapers and fast food workers? Which of those would not need accommodations by employers because of what is says in NRS 453A.800, subsection 3, paragraphs (a) and (b)—"Pose a threat of harm or danger to persons or property or impose an undue hardship on the employer; and/or Prohibit the employee from fulfilling any and all of his or her job responsibilities."?

Mr. Keller:
The statute, NRS 453A.800, subsection 3, paragraph (a) references not posing a threat of harm or danger to persons or property or imposing an undue hardship on the employer. Those terms are not defined. If someone is driving a vehicle or working in a dangerous job environment, you would argue that this part of the statute would entitle employers to preclude offering an accommodation that would pose a danger. Your

question also raises the interplay with certain federal laws. Drivers of vehicles over a certain weight are covered by the Department of Transportation which has strict drug policies that would essentially require zero tolerance with respect to things like medical marijuana, which is still deemed to be an illegal substance at a federal level. There is also the Federal Drug-Free Workplace Act of 1988 which applies to certain contractors and agencies that receive federal funds and would include law enforcement. That also requires a zero tolerance. In the 2015 Session of the Nevada Legislature, there were bills passed including S.B. 447, which exempts certain government employers, primarily law enforcement agencies and S.B. 62, which gave the State Personnel Commission the ability to prescribe regulations defining when discipline can be issued to certain State employees even though they have medical marijuana registry cards.

SENATE BILL 447: Makes various changes relating to marijuana. (BDR 15-85)

SENATE BILL 62: Revises provisions governing the employment, promotion, dismissal, demotion and suspension of state employees. (BDR 23-285)

There are federal interplay which will prohibit this from being exercised in certain situations and you do have a very vague definition within the statute that allows an employer to argue that they cannot accommodate because there is a threat of harm or danger to person or property.

Mr. Spretnak:
If we are going to do disability analysis, one of the problems with that is that an employer does not have to provide a reasonable accommodation if that accommodation is an "undue hardship." Requirements of the Federal Drug-Free Workplace Act of 1988 are clearly an undue hardship to demand as an accommodation that the law be ignored. That is the easiest one to set aside. Regarding a safety issue, there is nothing in this law that protects an employee who is intoxicated. The problem is, tests for marijuana detect amounts in the body, but not the level of impairment or intoxication as precisely as alcohol testing. It is not at that level of sophistication. If this was an oral argument before the Nevada Supreme Court and Justice Hardesty was coming after me, I would have to concede that the undue hardship language is where the protection comes for the employers.

Mr. Keller:
What is also lacking in this statute is an indication of when an employer can show there is impairment. Other states, like Arizona, have amended their model drug testing policy to build in some of that guidance for employers. We have not done that in Nevada.

The next concern we share with this statute is who will enforce it and define these terms? When S.B. 374 first came out, my law firm wrote a letter to the Division of Public and Behavioral Health since the way we read the bill, the Division would be the entity authorized to issue the regulations necessary to carry out NRS 453A.800. We asked

what they planned to do about the workplace accommodation provision. We received a response from the Office of the Attorney General (Tab 9, Exhibit G-1, Exhibit G-2, Exhibit G-3, Exhibit G-4, Exhibit G-5) stating that the Division recognized it had the authority to issue regulations but the Legislature had not given them authority to enforce NRS 453A.800, subsection 3. So they would not be adopting regulations and were not taking a position on enforcement mechanisms. I do not know if that is still the position of the Division, but that is what we were told in October, 2014.

We next reached out to the Nevada Equal Rights Commission and spoke to the Administrator, Kara Jenkins. She indicated they did not have authority to enforce NRS 453A.800 but they would under their authority to investigate disabilities if the condition did equate to a disability or if the employer was attempting to make accommodations and realized it was a gray area. What happens when the focus of the disability comes down to letting the person use medical marijuana outside of the workplace and then coming to work? There is Ninth Circuit case authority under the Americans with Disabilities Act (ADA) that indicates because marijuana is an illegal substance under federal law, it is not a reasonable accommodation to let someone use marijuana as an accommodation under the ADA. So the Nevada Equal Rights Commission is not able to step in.

During our October, 2015 presentation to the State Bar, the director of the Department of Employment, Training and Rehabilitation asked us about NRS 607.160, the catchall provision for the Nevada Labor Commissioner. That statute enables the Labor Commissioner to enforce all State labor laws, the enforcement of which is not specifically or exclusively vested in any other officer, board or commission (page 7 Exhibit H).

When you look at the definition of Nevada labor laws, NRS 607.110 says the Labor Commissioner shall be informed of all labor laws in the State, “for the protection of life and limb in any of the industries of the State, all laws regulating the hours of labor, the employment of minors, the payment of wages and all other laws enacted for the protection and benefit of employees.” The last part of that sentence—“laws enacted for the protection and benefit of employees”—is the most important. To date, the Labor Commissioner has not come forth to address that issue. Without an administrative mechanism in place to promulgate regulations and flesh out these vague terms, we are left to litigating these issues in the court which raises a whole other host of issues.

Mr. Spretnak:
Litigating after someone is fired is not the ideal. By the time it winds its way through the courts, the firing was probably several years in the past. What is the enforcement mechanism for NRS 453A.800? Can you sue directly in the courts? Looking to the Nevada Supreme Court decision *Baldonado v. Wynn Las Vegas, LLC*, 124 Nev. 951, 194 P.3d 96 (2008), you have a pretty strong argument that there is no private right of action to proceed under NRS 453A.800 because there is no express providing for the

private right of action. Are there other keys that will get you inside the court? Yes, there are multiple keys. The primary key is NRS 613.330, subsection 1, which is the main antidiscrimination law in Nevada. You would have the reasonable accommodation requirement under that. That needs to be provided if there is no undue hardship on the employer. The problem with relying on that is that the conditions for entitling someone to a medical marijuana card does not precisely overlap the conditions that qualify as a disability under the ADA or NRS 613.330.

Chair Hardesty:
Do you feel Nevada's jurisprudence is sufficiently developed to define undue hardship?

Mr. Spretnak:
I believe it is because of the 1980 decision, *Apeceche v. White Pine County*, 96 Nev. 723, 615 P.2d 975 (1980), which anytime those of us who are practitioners plead a federal anti-discrimination law claim and a State anti-discrimination claim, we always drop the footnote referring to that case. It adopted the McDonnell Douglas burden shifting analysis for litigating employment discrimination cases directly from the federal laws. It has always been interpreted under Apeceche that we defer to the federal approach. The ADA spends multiple sections defining disability while NRS 613.330 just has that one lone word. Absent any other direction that it is to be interpreted differently—given the deference under Apeceche to the federal system for adjudicating—just like we have adopted the federal burden shifting that the plaintiff, the employee, must first set a prima facie case that they were in the protected class and suffered an adverse job action, then the burden shifts to the employer to provide a legitimate nondiscriminatory reason for the action. Then the employee must prove pretext.

The ADA requirement of the interactive process based on what the physician is recommending, in this case medical marijuana, must come through a physician. The employee through the physician then requests a reasonable accommodation and the employer is under no obligation to say yes to that accommodation, but they have to have a legitimate, medically-based reason for turning it down unless they can prove undue hardship.

Chair Hardesty:
Is the holding in Apeceche and its deference to federal law called into question when dealing with a state accommodation on medical marijuana prohibited by federal statute?

Mr. Spretnak:
Then you are ultimately getting to the issue of preemption and that is an extremely complicated question.

Mr. Keller:
White Pine County, which stands for the proposition that you give deference to federal disability law when you are interpreting state disability laws, does not extend to undue hardship under Nevada's medical marijuana laws. The court has not had a chance to consider that issue and there is no indication it would extend it or that the way the term is used in the medical marijuana statute that it was meant to equate to state disability laws. Remember the legislative history from Senator Segerblom's indication was that they wanted to provide for an accommodation obligation but not tie it to liability under the ADA or similar laws. There is at least an indication in the legislative history that the two are not supposed to be viewed as linked together.

Mr. Spretnak:
I would also take that in a different direction, which is to focus on the disability that is the underlying medical condition that is the basis of getting the card. I am not focusing on the marijuana side of it. There is a legitimate medical condition that is the basis for getting the card so the employer has to deal with that employee's legitimate medical condition. The use of medical marijuana is the accommodation that the physician recommends. The employer better have a very good reason for overriding that. The Drug-Free Workplace Act supports this. The circle has never been completely closed, but there is enough out there to make that the logical conclusion. That is part of the reason we are making this presentation today. We are trying to make logical conclusions from the bits and pieces, but there is no decisive word out there yet.

Chair Hardesty:
Can you cover preemption and any other highlights you want to bring to our attention?

Mr. Spretnak:
The other way to get into the court is public policy torts. Conservatives hate the expansion of public policy torts, but NRS 453A.800 represents a statement of Nevada public policy. You do not run into the issue with *Sands Regent v. Valgardson*, 105 Nev. 436, 440, 777 P.2d 898, 900 (1989) where there is a comprehensive legislative remedy provided already because we are talking about no enforcement mechanism for NRS 453A.800. So I think you have a legitimate argument of trying to expand public policy toward exception to employment at will to include the use of medical marijuana. That also takes it outside of pure disability definition for things like chronic pain.

Regarding preemption, it is sort of a fiction. Looking at an Oregon decision, *Emerald Steel Fabricators, Inc. v. Bureau of Labor and Industries,* 348 Ore. 159, 230 P.3d 518 (2010), they basically said no employer accommodation to medical marijuana was required because it is illegal under federal law. Therefore, Oregon's lawful use statutes, similar to NRS 613.333, did not apply. The first 15 pages of that decision is not just an argument for saying the employer has no accommodation; it reads like an argument to strike down Oregon's medical marijuana law because it is in conflict with federal law. At the very end, they stop short of doing it. Why? I do not know, but they set

up 15 pages of argument to throw out the whole statute and they just limit it to this single issue of the fact that marijuana is illegal under federal law, so it is not a lawful use. I do not think that is intellectually honest.

Once we say we have medical marijuana in Nevada notwithstanding the federal law saying there is no legitimate medical use for it, then why draw the line at this no accommodation issue? If you are in for a penny, you are in for a pound. This is not an issue of field preemption, because the federal law has not wholly occupied the field. Nevada has the Uniform Controlled Substances Act, NRS 453, where if there were federal field preemption (page 14, Exhibit H), that would not be allowed because the only law you would need is the federal law.

The Employee Retirement Income Security Act of 1974 (ERISA) is a perfect definition of a field preemption. You cannot have state regulation of employee benefit plan because the Federal government has preempted that field. The issue here is the conflict preemption. The Oregon court approved the distinction of not going all the way to recognize it. The preemption is a very difficult issue because you could make the argument that this is wholly in conflict with federal law. I remember seeing some presidential candidate debates in the fall where one of the candidates was talking about how if he was elected president he would shut down state medical marijuana experiments. The others on the debate stage did not second that remark and that candidate is no longer in the race. We do not know, though; it could all be taken away by the next U.S. president or attorney general. It is a curious place to draw the line, but Oregon is already said that is where they draw the line.

Mr. Keller:
From a defense perspective, we see serious issues in the terms of federal preemption under the theory of convert preemption. Field preemption is not going to be applicable. The federal Controlled Substances Act (CSA) states in section 903 that it is not designed to trump other state laws as long as the two are able to stand consistently together (page 15, Exhibit H). I think that what the Oregon court was saying was that it is one thing for the state to say in its medical marijuana laws that we will provide you some protection from the enforcement of state laws so it will not be a violation of state law to use medical marijuana. That part of state's medical marijuana acts is fine in terms of preemption, but where you cross the line is when you are prescribing how cards are issued. When you are mandating that employers help foster conduct that is still illegal under federal law, making employers complicit in an illegal practice under federal law, that is when you walk into conflict preemption because what is happening is, the state law creates an obstacle to the CSA. This issue is yet to be decided in federal courts. One way to avoid this altogether would be to amend the CSA to allow for states to experiment with the Class 1 drug, marijuana. That would erase the conflict preemption.

Mr. Spretnak:
Ultimately, maybe this is the U.S. Congress' job to clarify—while we make our best guess as to what we think Congress would do—if they would declare whether or not the states are free to be laboratories of experiment on medical marijuana. There seems to be some suffering of this at the federal level which would lead me to say that drawing the line at the employer's accommodation requirement is not the appropriate place to draw the line of where we are going to recognize federal preemption. But that is the argument that won the day in Oregon.

Chair Hardesty:
We are going to be forming a subcommittee on medical marijuana to this Commission. Do you have anything to add to your presentation?

Mr. Keller:
Yes, covering more vague areas in the statute that need clarifying, the questions include how is this going to be enforced? Will there be an entity prescribing regulations? What is the scope of the accommodation requirement? Who is a covered employer? We keep analogizing to the State disability laws, NRS 613.330 which states that a covered employer is "any person who has more than 15 employees," 20 or more workweeks in a year (page 8, Exhibit H). Similar federal statutes also have a threshold of 15 or more employees, but there is no such indication in the medical marijuana statute that imposes the accommodation obligation so arguably this is an employer of one who would have the obligation. There is also no indication of the full scope of who is protected. The statute only speaks to accommodations owed to employees and does not address applicants for employment or prospective employees. Looking at NRS 613.330, Title VII of the Civil Rights Act of 1964 and the ADA, there is all express language that says it is current employees as well as perspective employees and applicants. That language is missing here.

Mr. Spretnak:
That is also in the lawful use statute protecting prospective employees. So it is only NRS 453A.800 that leaves potential employees unprotected.

Mr. Keller:
There is another statute out there that comes into play. Colorado had to deal with this issue last year. Nevada has a lawful use statute, NRS 613.333. Whether that is going to provide some protection in addition to NRS 453A.800 remains to be seen. The Colorado case, Coats v. Dish Network, LLC, 350 P.3d 849 (Colo. 2015) included the argument that absent what the Colorado medical marijuana statutes were, there was this lawful use statute, so the plaintiffs sued under that theory (Tab 15, Exhibit G-1, Exhibit G-2, Exhibit G-3, Exhibit G-4, Exhibit G-5). The court said no. It talks about lawful products and even though medical marijuana is lawful under Colorado law, it is still not under federal law. They concluded that lawful means lawful, both state and federal. We have yet to decide that issue.

Chair Hardesty:
Thank you both for your insight into some issues generated by NRS 453A.800 and related statutes. One of my takeaways is that this entire accommodation statute does not derive from the Nevada Constitutional amendment permitting medical marijuana, so the ambiguity generated by this issue are statutory not constitutional.

Mr. Spretnak:
That is true and thus much more easily resolved.

Chair Hardesty:
Potentially. I have learned as a judge that can be an aspirational goal only. I will now open discussion on Item VI.

E.K. McDaniel (Interim Director, Nevada Department of Corrections):
I have asked Scott Sisco to walk us through this presentation. We also have other Nevada Department of Corrections (NDOC) people here to answer questions.

Scott K. Sisco (Deputy Director, Support Services, Nevada Department of Corrections):
We were asked to go over these 10 items for today's presentation (page 2, Exhibit I). The first category, the number of inmates by category of offense, is shown on page 3 (Exhibit I). The total inmate count is 13,692, which is about 390 inmates over our projections and what our budgets were built on for this year. We broke down the offenses to the type of crimes committed—drug, DUI, other, property, sex, and violence (page 4, Exhibit I).

Mr. Jackson:
I always feel like we should drill down into these numbers. One of our public comment contributors, Vicki Higgins, said our prison has many first offenders and low level crime offenders in prison. A lot of people look at the category of drugs on your list—there are 1,851 drug offenders—which is a significant number, that would fall into that low level crime area. What I would like this Advisory Commission to hear, either from Dr. James Austin of the JFA Institute or someone else on behalf of him, is current and prior offense histories and institutional records of inmates in the system. This data could be as recorded by your automated records system or part of their files or jackets, carefully screening for history of violence, indicators of repetitive criminal behavior and other factors that might be related to their imprisonment or the prospects for a successful reentry into the community.

We need to look at violent offenders, repeat offenders, violent and repeat offenders, nonviolent first offenders, etc. Of the nonviolent first offenders, are they on Immigration and Customs Enforcement (ICE) detainers, which are most likely undocumented aliens? Does it include some that carry a mandatory prison sentence? What percentage of those are technical probation violators? For us to really get a look at the 13,692 people

in Nevada prisons now, which of those are truly deserving of being in prison and should be separated from society?

In that drug category on your chart (page 4, Exhibit I), that may be a primary offense but the person may be in prison on additional offenses. Additionally, as part of a plea negotiation, the person might have been arrested on a Level III trafficking charge of having in possession or moving in excess of 28 grams of a Schedule I controlled substance. But that may have been pled down to a Level I trafficking charge or even a sales charge, which is something we see frequently in the State. These are broad categories, but would NDOC have the ability to drill down and provide this data?

Mr. Sisco:
Out of all the State agencies, NDOC probably has one of the most antiquated computer systems. Almost everything we do in regard to pulling data out of it requires a programmer to program from scratch. We could certainly take a look at it. If we can do it we certainly have no problem getting that information to you. We are in a multi-biennium process of trying to come up with a new system that will be more flexible. Even with these types of requests, we end up taking a lot of programmer's time to extract data.

Mr. Jackson:
If you could let us know what it would take to bring your system up to date, it would be appreciated. At the previous interim, we received information from neighboring states about looking at data. This is very data-driven. If we are going to be making important decisions and recommendations to the Legislature and they are going to possibly be enacting laws to look at re-categorization of certain category B felonies because they carry the highest number of incarcerated individuals, then we want to make sure those decisions are data-driven and not based on anecdotal information. Could we get a number of how much it would cost to update your system?

Mr. Sisco:
We were forced to change our system because the company that provides our system now is basically given us notice that they will no longer be supported as of 2020. We are about 18 months into a 5-year process of replacing our current system. I do have some information on our budget in our upcoming presentation.

Chair Hardesty:
On the surface, on page 3 (Exhibit I), there are 269 people incarcerated under category E, but as we know, the statutes presumptively provide that those offenses are probationary. There is something else going on that would put category E felons in prison. This goes to your question, Mr. Jackson. What was the "something else" that caused these offenders to be in prison? Could you get that information?

Mr. Sisco:
We could do it one inmate at a time.

Mr. McDaniel:
Because of that category and the low numbers, there are 269 different reasons.

Chair Hardesty:
Right, but the overarching point is that whatever initiatives Nevada wants to undertake to either revise its sentencing statutes or reform the criminal justice system, without specific data, it is all guesswork. The Legislature needs to provide NDOC with the tools that will enable the decision makers to make accurate decisions. That is a starting point as a recommendation. I have presented this issue in the context of the Division of Parole and Probation having adequate numbers of officers. I now see that problem exists with NDOC where apparently the Board of State Prison Commissioners has declared a critical labor shortage issue for at least Ely State Prison.

Mr. Sisco:
All the rural areas.

Chair Hardesty:
Yes, all the rural areas.

Mr. McDaniel:
All rural facilities. Lovelock, rural camps, etc.

Chair Hardesty:
So that underscores my point that not only are we understaffing key agencies in the criminal justice system, we do not have the technical or computer capacity to make good business decisions about reforms that might be appropriate. One area we received in the past was a breakdown in the category B area, since it is the largest of crime types within that category. There was a time where NDOC provided a breakdown of what was then about 5,000 category B offenders by their crimes. Could you do that now?

Mr. Sisco:
We would just need some time to do that, but we could. Most likely, it is going to be a developer's time to access that information. We are short of people and technology. Our system keeps track of inmates and where they are, but beyond that it is a struggle.

Chair Hardesty:
This also impacts the judicial system. Something we raised maybe four interims ago, was a study of the persons in prison and who their sentencing judge was. We made an assessment of how disparate it appeared that judges were in approaching sentencing on discretionary crime types. There were some judges who had an incarceration rate of 65 percent and others with a rate of 33 percent on the same crime and potentially the same type of defendant. All those issues contribute toward prison overcrowding and clearly affect the ability to assess improvements in this area.

Phil Kohn (Clark County Public Defender):
I have had this discussion with NDOC when we were trying to figure out which juveniles were sentenced to life without parole as long ago as the early 1980s. We realized that their computer system was lacking. In terms of how someone got to state prison, especially the 269 offenders in category E because more likely than not they are probation violators, would the Department of Parole and Probation be the best source to get this information? They should have information as to not only what crimes and what history put these people in prison but also they should know what department and from which jurisdiction they were sentenced. If there is a disparity with certain judges sentencing more strictly than others, I would think P&P would have that information more than anyone else.

Mr. Pierrott:
I could look into that.

Chair Hardesty:
Maybe just on a test basis, and since this is a smaller sample size, you could look at the 269 category E inmates.

Mr. Pierrott:
We often have individuals who go to prison for several cases and some of them are consecutive sentences. Does your system separate the individuals based on the person and are these numbers of offenders? Or, are you tracking an individual who goes in for a category A felony but has a consecutive sentence or a second case they violated their conditions for which may have been a category D or E felony?

Mr. Sisco:
This report for today's meeting is based on the offender's primary category. We do keep track of all the sentences, but for this report you are not seeing them in multiple spots.

Chair Hardesty:
For example, in category E, the primary offense those individuals are in prison for is a category E felony.

Mr. Sisco:
That is correct.

Mr. Jackson:
On the top of page 3 (Exhibit I) it says parenthetically that these numbers represent institutional and non-institutional individuals. Does that tell if we have 269 category E felons who are currently institutionalized, sitting in one of our prisons in the State?

Dwayne Deal (Administrator, Offender Management Division, Nevada Department of Corrections):
The total population is explained in the parenthesis where it says: "Institutional, Escapees, Residential Confinement and Out-of-State Custody." We do not have it broken down to where those individuals are in those subcategories, but we could probably provide that.

Chair Hardesty:
Does this include people who are in alternative housing and camps?

Mr. Deal:
Yes.

Chair Hardesty:
Is it conceivable that some, if not all, of the 269 category E felons are in alternative housing?

Mr. Deal:
It is possible, but not likely. There is a lot of other criteria that is looked at for different custody placements. We put them into the lowest custody level they are eligible for.

Mr. Sisco:
We do have a breakdown of the custody distribution for males versus females and what percentage of the population they represent (page 5, Exhibit I). The total number of inmates listed there, 13,413, are the ones who are specifically in our institutions.

We broke down the inmates by length of stay as you requested (page 6, Exhibit I), as of December 31, 2015.

At the last meeting of this Advisory Commission, you asked about the inmate medical issues relating to the aging inmate population and we have it broken down in the next 10 pages. Page 7 (Exhibit I) shows the inmate population percentage broken down from Fiscal Year (FY) 2007 to FY2011 in green so we could compare it with the last available report from the Pew Research Center which said the national average inmate population of 55 and older for that time period was 7.1 percent. At that time, NDOC had 8.5 percent. We are now up to 12.4 percent for FY16.

Utilization of outside medical services by inmates 55 and older for FY15 to FY16 is on page 8 (Exhibit I). The category of outpatient hospital use for FY15 shows that it represents 16.2 percent of NDOC's outside medical expense and that it is utilized by 39.3 percent of our 55 and older inmates. This is big and gets to the heart of the question of whether aging inmates cost more medically.

With the implementation of the Affordable Care Act, we started losing track of the money we were actually spending because the inmates who left the institution for more than 24 hours were covered by Medicaid so we did not see their bills. Instead, we are keeping track of admissions and lengths of stay in hospitals (page 9, Exhibit I). We saw around a third of these hospital visits from inmates 55 and older even though they only represent 12.4 percent of our total inmate population. It means they are using these services more than the rest of the inmate population.

When you see reports in the news about inmates dying in prison, remember that we are the 17th largest population in the State, so like any population, we have deaths. The chart on page 10 (Exhibit I) shows inmate causes of death. The highest percentage of death is from cancer, then heart causes followed by liver causes. Of all the inmate deaths, the largest percentage is in the 55 and older group (page 11, Exhibit I). If you exclude suicides and homicides, that older group still represents the largest percentage of deaths (page 12, Exhibit I). Focusing on only suicides and homicides, the average age of death is much lower, generally from the late 30s to around age 45 (page 13, Exhibit I).

Because cancer is one of the most frequent illnesses we deal with, especially in the aging population, we broke it down to type and numbers (page 14, Exhibit I). Lung cancer is the most common cause of cancer death, followed by liver and many other categories. Last year we had two young men under 30 enter our system in southern Nevada with cancer. Both died within a short time after being incarcerated.

Chair Hardesty:
Are all the deaths that occur within the prison autopsied? I do not mean those that occur in a hospital or some other outside setting.

Mr. Sisco:
Yes.

Mr. McDaniel:
There is an exception. The law says if the family of the inmate objects to the autopsy, they can notify the NDOC Director in writing within 72 hours of the death and we can comply in some cases.

Chair Hardesty:
Is the Director's response discretionary or must you abide by that request?
Mr. McDaniel:
The way I interpret the law is that it is discretionary. It requires that the Director consult with the medical director of NDOC and our health department representative. If it involves a crime, we would automatically do the autopsy. I can only think of two times we have been asked not to do an autopsy and we complied.

Mr. Sisco:
The average age of death from cancer is from 54.9 years of age in FY13 to 63 years in FY12 (page 15, Exhibit I). The lung-related deaths have declined since we took cigarettes out of the prison commissary in 2010 and stopped allowing smoking on prison property.

Mr. Callaway:
Before we get off the topic of aging inmates, when we consider the costs of keeping them incarcerated and some of the logistical issues with housing, even though we can look at alternatives case by case, we need to examine why some of these aging inmates are in prison. Remember names like Ted Kaczynski, the "Unabomber." He is 73 years old and still in prison; Charles Manson, 81, is still in prison. Gary Ridgway, the Green River Killer is 67 years old and still in prison. Then list can go on and on and obviously these are not people in Nevada prisons, but some of these older guys are still a threat to society.

Assemblyman Elliot T. Anderson (Assembly District No. 15):
Do you know what most of those older inmates are in for?

Mr. Sisco:
Again, I would have to see what our system could do. To clarify, this presentation is not advocating one way or another. The question was what is the impact on NDOC of the older inmates. This is the reality; our inmate population is aging and as a result we are seeing more costs.

Page 17 (Exhibit I) illustrates our staffing and budgetary resources. You may have seen this at the last meeting of this Advisory Commission. Our budgets are about $300 million per year. We have about 2,807 full time equivalent (FTE) employees this year and we are projecting 2,862 next year if the Interim Finance Committee releases the other 55 FTEs that came from our shift relief factor update.

Chair Hardesty:
Are those authorized FTEs that are not all filled?

Mr. Sisco:
Yes, those are authorized. We went before the State Board of Examiners and took a critical need designation. We had been struggling with filling positions in some of the rural areas. The critical labor shortage designation allowed us to rehire some Public Employees' Retirement System of Nevada (PERS) retirees, both correctional officers and any public retiree who could be trained to be a correctional officer. We are mandating forced overtime to meet our staffing needs and we lose employees because after a while with those schedules, they burn out and quit. We have started the process on rehiring retirees which it officially begins April 1.

Chair Hardesty:
I remember presentations made to this Commission in the past by former NDOC Director Howard Skolnik where he said the overtime budget would have compensated for the filled positions if filled at regular time.

Mr. Sisco:
We do not have an overtime budget. Ultimately, the money comes from vacancy savings. We met with the State budget director, advocating for an overtime budget or at least looking at some way to better manage that. There is no question that when you are working those levels of overtime, paying time-and-a-half plus the associated costs that go with that, you are paying more than you would with a full staff in some cases.

Page 18 (Exhibit I) is from the State's priorities and performance-based budgeting. It shows the functional areas of the NDOC that we are funded for. If you add all the essential functions of operating a prison, excluding the administrative function, we spend almost 97 percent of our budget on the core functions. There is very little money spent on administration or programming. That is one thing we report to the Legislature every year.

You had asked for information on inmates under supervision outside of prison facilities. We have data on page 19 (Exhibit I) showing where many of those 279 individuals are housed while we have 13,413 inmates in our in-house facilities. Some of the 279 not held in-house are on parole, some are out of state, some are in drug court, etc.

Chair Hardesty:
Can you calculate the number of inmates with Immigration and Customs Enforcement (ICE) holds? We had a presentation in the past from Mr. Skolnik that said roughly 20 percent had ICE holds.

Mr. Sisco:
We pulled that number prior to the last Legislative Session because I was testifying on our budget. Those with ICE holds costs us about $20 million per year. The federal government provides a grant for this, but it just dropped to $1.3 million per year.

Chair Hardesty:
That would make you short by about $18.7 million.

Mr. Sisco:
Yes.

Chair Hardesty:
Based on that number, it sounds like 20 percent is a close estimation?

Mr. Sisco:
Yes. We could get you the exact number though. The good thing with our antiquated computer system is that once a programmer goes in and develops the script to pull information out, we can do that again.

You asked us to provide information on inmate programming and the number of inmates participating (pages 20-24 Exhibit I). We have 552 inmates participating in our anger management program and we have three Commitment-to-Change programs with up to 759 inmates, which is good participation. We also have programs on relationship skills, seeking safety, the STOP sex offender program and the True Grit program for elderly inmates. We have some impressive numbers for the money we are actually provided for programming areas. We have educational classes that include getting a high school equivalent (HSE), earning an Associate of Arts degree or a college certificate (page 23, Exhibit I). We also have substance abuse treatment programs, Braille classes, job readiness classes with 506 participants and other classes for career and technical education, food handling and financial literacy (page 24, Exhibit I).

Brian Connett (Acting Deputy Director, Programs Division, Nevada Department of Corrections):
Some of the programs offered like Braille and the ServSafe food handling program are taught through either a grant or through a school district

Mr. Sisco:
Eight Nevada school districts administer and operate adult high school programs at 16 of the 18 NDOC facilities in Nevada (pages 25-26, Exhibit I). We accidentally left out High Desert State Prison under Clark County School District on that list.

Chair Hardesty:
How many young people below the age of 18 are in the segregated area in Lovelock Correctional Center?

Mr. McDaniel:
I think it is 8 or 9 today. We had three inmates who are aging out in the month of March. I just got notice that we well be receiving one from Washoe County. I can get you the exact number.

Mr. Sisco:
The status report on our reentry programs and qualifications requirements is on pages 27 through 33 (Exhibit I). The reentry program provides assistance with obtaining documents and referrals necessary to successfully reenter society after incarceration (page 27, Exhibit I).

Mr. Pierrott:
I work with a house arrest unit in Reno and one of the things we started noticing was that there was not a program in place which would notify inmates when they became eligible to participate in reentry programs. The result of this is that it has decreased the number of inmates in the community who will qualify. In Carson City, we have two people in this program where in the past we had more. In Reno, the number has also decreased. Has something been done to try to rectify this situation? Is it just a budget issue?

Mr. Sisco:
The Governor included two additional reentry staff positions in our current biennium. They were phased in but both were not approved for hiring until January. Secondly, we lost some coordination with P&P because of some traditional housing funds. That made is harder for inmates to pay deposits and get started out on the street. We lost about $128,000 through reduction in the budget crisis and have not been able to recapture that yet.

Mr. Pierrott:
Some of these inmates are category D and category E cases, which are nonviolent individuals or those we would most likely supervise in the community but we cannot do that because of these restraints.

Mr. Sisco:
We did get those two reentry people, but I would imagine we are still struggling getting them hired, trained and up to speed. Hopefully, we will start seeing some of that.

Chair Hardesty:
To participate in the reentry program, the qualification list on page 28 (Exhibit I) includes having only 6-18 months remaining prior to parole or expiration, being at a Level 1 status and being write-up free for at least 6 months. As we know, the vast majority of the inmates in the Nevada State prisons are going to expire their terms. What of an individual with a violent crime with a sentence that will expire? That individual is not eligible for this program.

John Collins (Statewide Reentry Administrator, Nevada Department of Corrections):
When they talk about qualifications for the reentry program, there are two separate programs. One program has individual units in those specific prisons—Southern Desert Correctional Center, Casa Grande Transitional Housing Facility, Florence McClure Women's Correctional Center and Warm Springs Correctional Center. In those facilities there are approximately 120 beds we use for total reentry programming from assessment through actually getting them in programs and graduating them out. In the reentry program, we still help each one by helping with details like getting their birth certificates, social security cards, parole plans, community referrals and providing them

with information at release which will help them get to community services and help them with jobs. The qualifications and requirements are specific to those reentry units.

Chair Hardesty:
But is an individual convicted of a violent offense who is expiring their term with two write-ups within 6 months eligible for your reentry programs? I recognize they will get the assistance of an ID card or maybe a list of places to go to for community services, but it does not sound like they will get any meaningful transitional information like the person who otherwise meets these requirements.

Mr. McDaniel:
Our reentry resources are limited, with the small number of facilities we have and the number of staff we have been able to acquire through the Legislature to start these programs. One of the big problems with the reentry program itself is that we do not have violent offenders or repeat offenders enrolled in that program for several reasons. One is that those people cannot sit in a room with 10 other inmates without attacking someone or creating a problem. So for the safety of the other inmates and our staff, we have to isolate those people. We do have our staff work one-on-one with those individuals who will be released soon. The caseworkers identify those inmates and work with them to get all the paperwork and details needed to be released. We are not expanded enough in this agency to have a program able to identify violent offenders.

Chair Hardesty:
I recall from past presentations to this Advisory Commission that when the prison population was about 11,000, I recall a statistic that about 5,000 inmates were released a year. Do you know how many inmates you are releasing each year, either to parole or because of the expiration of their term?

Mr. McDaniel:
Yes we can; we do that daily.

Chair Hardesty:
Is that percentage, which is roughly 45 percent, about right?

Mr. McDaniel:
The percentage of people leaving because they expired their sentence?

Chair Hardesty:
Yes. In relationship to the total population.
Mr. Collins:
We are seeing about 5,460 inmates leaving per year. It is pretty consistent, which is right at 45 percent.

Chair Hardesty:
Here is my concern. More than 45 percent of the population is being released back into our communities and a very small percentage of that group are able to take advantage of some significant preparation before release. Is that a fair assumption?

Mr. McDaniel:
I would not say it is a small percentage. I would say the larger percentage are participating in this program; at least half or maybe a little more than half. The smaller percentages are inmates that are violent or in a position where they cannot go to the program.

Chair Hardesty:
The point is, as many as 2,500 are being released into the community without reentry preparation. If you are talking about more than 5,000 inmates being released per year, 50 percent of that is 2,500 individuals going back into the community without any reentry program.

Mr. McDaniel:
We would have to really look at our numbers to accurately see how many are going through the program. The big difference is that they are all getting some type of preparation to varying levels. If they are enrolled in this organized prerelease program, we can do the programs and the staffing with them, but a large group are not going through it.

Chair Hardesty:
I had the privilege of attending the National Corrections Association meeting a couple of times. Are there national best practices advocated to address these reentry issues?

Mr. McDaniel:
Yes. I went to Washington, D.C. 2 weeks ago where we applied for a recidivism reentry grant from the U.S. Department of Justice (DOJ). It is a two–phase process. We got the federal grant to develop a plan for NDOC to be able to say exactly what we think needs to be done and what we want to do regarding reentry, including some of the things you are talking about. As a part of that grant, the Governor appointed a reentry task force to work with us on this recidivism grant to develop a plan. If the plan is approved, there is grant money available for phase 2 of the program which is the implementation. There is about $3 million available for that part. It is based on national standards. Several states that have received the grant and are into the implementation phase. There have been some good things done with different contracts and private providers. At one of the meetings I attended, the DOJ personnel were asking that we call these reentry individuals “returned citizens” instead of ex-offenders. There is grant money the State will have available to us once we develop this plan. Part of that is in relation to the Pew Research Center study that is ongoing. It is data-driven whether a program is worth spending money on it.

Chair Hardesty:
What is the timetable for the task force and the Commission's recommendations on the recidivism and reentry proposal?

Mr. McDaniel:
We just started the planning part of the grant.

Mr. Collins:
The first deliverables went out last Friday as far as the grant goes. There will be a request for a proposal that will be out in May, a month earlier than we anticipated. We still have two more deliverables we need to get out, and those will be out by the end of April. As far as the task force, there probably will be a meeting within the next month.

Mr. McDaniel:
I am a co-chair of that task force along with Director Jim Wright of the Department of Public Safety. It will include people all across the board. Within this year, we should have a plan completed. Our plan is to try to have the task force be able to have enough information to make a recommendation to the Legislature at the upcoming 2017 Session for any additional grants or matching funding.

Mr. Collins:
The implementation time of Second Chance Act Comprehensive Statewide Adult Recidivism Reduction (SRR) Program grant, if we were to receive it, would be October 1, 2016.

Lisa Morris Hibbler (Victim's Rights Advocate):
Many years ago, you had a lot of that already in place. Through the different leadership administrations, some of those programs went away. Hopefully you can resurrect some of that information so you are not starting from scratch. Between 2002 and 2008, we all, were doing reentry in the jails and in the prisons. We had joint task forces. Right around 2010, as the recession was hitting, a lot of us got out of that city and out of that business, but we were preparing people to come back and we had one of the best reentry programs in the U.S. at that time. The DOJ was coming and asking us how we were doing it. Hopefully, you do not have to go too far to resurrect those programs. We were getting ex-offenders reintegrated back into the community, giving them jobs and they were some of the best trained individuals. Employers were coming back again and again to hire those individuals because they knew how much training we had put into them and that they were good workers. I want to make sure we pat ourselves on the back when we do things right. I know things change, but we were doing it right then.

Mr. Collins:
We do have a planning committee that is actually working on the beginning part of this grant. Assemblyman Tyrone Thompson did attend this and brought some of the old information you referenced so we are not repeating or trying to reinvent a wheel. We are

building on the great things you guys did with the EVOLVE program to assist ex-offenders in Las Vegas.

Mr. Sisco:
As Acting Director McDaniel said, inmates who are not in the group setting will still be assisted with obtaining items such as birth certificates and social security cards (page 29, Exhibit I). They will just be working more in a one-on-one setting.

There are many reentry programs that provide employment readiness assistance for inmates leaving prison (pages 30-32, Exhibit I). We do have challenges in our reentry program, listed on page 33 (Exhibit I). Most of the 5,460 prisoners released every year claim Nevada as their home and return to Las Vegas upon release.

We do have a relationship with the Nevada Department of Motor Vehicles (DMV) in providing offender identification cards. The flowchart showing how a NDOC photo identification card is converted to a Nevada driver's license or identification card when an inmate reenters public life after incarceration is on page 34 (Exhibit I).

Chair Hardesty:
Did the DMV articulate a budget consequence for you?

Mr. Sisco:
They did not. My understanding is that the DMV had a grant to start this program and even pay some of the fees for inmates with expired licenses. My understanding is that those grant funds ran out. We did not have a conversation about the fiscal impact.

Ms. Hibbler:
About 15 years ago, we spoke with NDOC and local jails about retaining the ID an offender came in with. Is that still in place? At the time, it was mentioned that the IDs would expire while the person was in prison, so the ID was discarded. But even an expired ID is better than nothing.

Mr. McDaniel:
It is my understanding that we do not keep those. If they were with their personal property and they came from a jail, we allow them to send or mail home that personal property. When we release them from prison, we do not give that back to them because we do not maintain it for them. We give them an ID card from NDOC that can be used toward their DMV ID card.

Ms. Hibbler:
I will just note that this is a shift from what was happening before.

Assemblyman Anderson:
This is a little off the presentation, but last Session, we considered a bill from NDOC which asked the Legislature to get rid of the requirement to go through the regulatory process for issues related to the offender store gift account. It came out that this was not being done. In 2010 we passed a measure allowing the NDOC to use the offender store gift account for the maintenance of the store as long as it was reviewed through the regulatory process. What is the current status on compliance?

Mr. Sisco:
To clarify, the bill the NDOC presented was one to correct language in the statute that says if we had an energy surcharge for appliances sold in the store, if we passed any regulations, those regulations would have to go through the NRS 233B process. What we realized was that because of that, there were no regulations at all being passed. Ultimately, as we looked at the situation, we realized we do not use any regulations for setting prices in stores, so there is no need for any regulations. It would have been nice to have cleaned it up. Unfortunately, there was a big misunderstanding about what we were trying to do and the legislation did not pass. It was very specific to a very single item on those energy surcharges and since we do not set prices in regulations, we have taken no action on that issue.

Assemblyman Anderson:
Could you get back to me offline on that? I am sorry to bring this up but I wanted to check on it while we had the Director of NDOC here. In 2010, the Legislature passed that authority to use that store gift account because of the budget shortfall. I would appreciate some clarity on that since we were not able to get clarity on it last Session.

Mr. Sisco:
The overview of the offender management system and time credits is covered on pages 35-43 (**Exhibit I**).

Chair Hardesty:
On page 37 regarding transportation of inmates, in the past, some sheriffs of county jails have expressed concern about delays in getting defendants transported to the NDOC. Is that still an issue?

Mr. McDaniel:
I am not aware of any issues regarding delays. We do a weekly bus run for our rural counties and 5 days a week we pick inmates up in Clark County and transport them. In Washoe County, we do it a couple times a week. Some of the rural counties choose to bring the inmates to us, but if we can schedule it with them, we do a weekly bus run through basically every county jail. One week we go from northern Nevada to southern Nevada and the next week we go the opposite direction.

Mr. Deal:
Our central transportation lieutenant works closely with the sheriff's departments in rural counties and if they need to deliver an inmate, that is fine, but we prefer to schedule and deliver them ourselves so we can plan our reception and intake process. When they get the judgement conviction, they notify us and we pick them up as soon as possible.

Mr. Sisco:
Page 39 (Exhibit I) explains the release on parole or discharge procedures.

Pages 40-42 (Exhibit I) covers time credits. We are somewhat unique in the fact that when an inmate comes in and his or her sentence is calculated, it is calculated on the best possible outcome. Things are then taken away if the inmate does not perform. That is one issue that our automation system struggles with because if you determine the best available base and then start taking away multiple times, it is difficult to keep track of their performance, especially as inmates move around. We sometimes question if we should keep this model because if the difficulty documenting the progress of the inmate.

Pages 43-46 (Exhibit I) explain how sentence serving dates are calculated. On page 44 (Exhibit I), the inmate owes 365 days in his or her sentence. In January, the inmate earns 31 flat days since there are that many days in the month; 20 days of stat credit and if the inmate works 10 days, then 61 days are subtracted from the 365-day sentence, leaving the number of days owed in February at 304 and so forth to the best case where he or she is released on July 2.

The next calendar chart (page 44, Exhibit I) at the bottom of the page shows what happens if the inmate does not work in March, making their release date 10 days later, on July 7 instead of July 2 if he or she had worked.

Chair Hardesty:
So in any event, someone with a 12-month minimum sentence who met all the credits would be eligible to go to parole in 7 months?

Mr. Deal:
That is correct. Keep in mind, this is just an example. Typically, when inmates come in they are in an intake process for up to 3 weeks so most of the time, they cannot get a job right away. Usually, inmates will miss the first month or two before they can work. Theoretically, they could meet that timeframe, but usually it is a little further out.

Chair Hardesty:
In the first example, even if they do not work the first 2 months, they are still getting out by the end of July.

Mr. Deal:
That is correct.

Connie Bisbee (Chairman, State Board of Parole Commissioners):
What is interesting about that and because of 510 credits and a category E felony with credits off the front and the back, we have had them be on Parole Board agendas and expire their case prior to being parole-eligible. They get through their intake process real quick, then get sent out to camp because they are appropriate for camp, so literally, they have expired before they have met their parole-eligibility minimum date.

Chair Hardesty:
Which raises another reason I want to inquire further about the 269 category E inmates in the prisons. Just from stat credits, they should have been in front of or leaving your Parole Board about the …

Ms. Bisbee:
They go pretty darn quick. In fact, we have caseworkers writing Parole Board reports out of intake.

Chair Hardesty:
The point of that is that we are consuming a lot of time and energy with respect to this where someone might be in prison actually a matter of days.

Ms. Bisbee:
Very few months.

Mr. McDaniel:
And depending on how long they stay in the jail, and then you apply those jail time credits, some of them could actually leave before we even get them. That happens quite often at our intake centers.

Chair Hardesty:
The point is, then, that the counties are bearing the costs of incarcerating those people because their cases are pending and inmates are accumulating credits while they are incarcerated.

Mr. McDaniel:
Yes; pre-trial.

Mr. Sisco:
One of the things our computer system struggles with now is how to deal with inmates eligible for parole the first day they hit our institution. It also causes problems for the State Board of Parole Commissioners (Parole Board).

The third example of how dates are calculated, this time using meritorious credits, is on page 45 (Exhibit I). The NDOC Director can award these for things like fighting a fire,

etc. This inmate in our example earned 45 days of meritorious credits, so his or her release would move back from July 2 to June 10.

The NDOC notifies the Parole Board when inmates are eligible for parole consideration, typically about 3 months before their minimum eligibility date (page 46, Exhibit I).

Under Agenda Item VII, you have five items from the State Board of Parole Commissioners and the NDOC. This next presentation (Exhibit J) will address some of those issues. Someone asked earlier about where the mandates come from for NDOC to follow. The answer is that it is from the highest level—the Constitution of the State of Nevada; Section 21 of Article 5, the Executive Department (page 3, Exhibit J).

The NDOC does administrative regulations, starting with the Constitution and following with the State Board of Parole Commissioners. Our administrative regulations are ultimately reviewed and approved by the State Board of Prison Commissioners. These regulations determine how we operate. Administrative Regulations (ARs) are developed by the Executive AR Policy Panel at the direction of the Director of NDOC (pages 4-7, Exhibit J).

If approved by the State Board of Prison Commissioners, an AR can be effective on the date of approval. There was some confusion about what we were trying to do with the regulation Assemblyman Anderson referenced earlier. Within our regulations and statutes, it tells us we will go to the State Board of Prison Commissioners and have these regulations done. Lo and behold, this one requirement stating that if we were going to create regulations for this one area was thrown into this NRS 233 process, which NDOC has never done. What we were trying to do was clean it up and put it back in there so the State Board of Prison Commissioners—which is mandated by the Nevada Constitution to oversee and make decisions on these things—could actually do that. Unfortunately there was a lot of miscommunication and it died, as some bills do.

In some cases, the State Board of Prison Commissioners reviews an AR and sets it in place. But if there are security issues in play, institutions will then create an operational procedure and in some cases, that become confidential because it references the layout of an institution or how we will react to an incident.

Current budgetary issues of the NDOC (page 8, Exhibit J) include a mandated 5 percent budgetary cut in our 2018/2019 submittal which comes to $27.4 million to cut, even though the slide shows $26,527,630. Last time we went through this, we had Nevada State Prison to close. This time around, we have less than 100 available beds to fill. We will wait for the new Director to get here and figure out what we are going to do.

Chair Hardesty:
You are declaring a critical labor shortage with your existing staff and you are incurring overtime than is more costly than regular time. This makes no sense to me.

Mr. Sisco:
Having attended the State budget seminar, I understand that what the Executive Branch would like to do is ensure there are decision units from all State agencies in hand so that if the commerce tax repeal or other things occur, they are prepared and not having to give us overnight notices to come up with solutions to more cuts. We are all waiting for our chance to meet with the Governor's Office to figure out what we are going to do.

The flat budget rule is in use again. This is where we take the odd-numbered year, multiply it by two and that gives us the maximum amount of money we will have for the biennium. I have always said, if it looks like a duck and quacks like a duck, it is a cut. We have contractual requirements and merit salary increases for employees, so ultimately, in addition to that $27.4 million cut, we will have to figure out how to bring in our budget under the flat budget rule.

Our main issues will pertain to our equipment. More importantly, our deferred maintenance was funded in 2016, not 2017, so there are no dollars in 2017 to multiply times two. We will be going into this next biennium with very little maintenance money. I know this is in preparation for the possibility of changing the revenue adjustment that had to be done. We will be meeting with the Governor's Office to plead our case.

We had a staffing level study done by the American Society of Correctional Administrators (ASCA) a few years ago. That study recommended we first improve our shift relief factor, which had not been updated since 1999 when the State only had 9 holidays instead of 11 which we have now. That resulted in the recommendation of 100 new correctional officers which the State Board of Prison Commissioners supported and the Governor put into his budget. We were given 45 correctional officers immediately and the other 55 we have to go back to the Interim Finance Committee (IFC) to show we filled those positions. That was one reason we pursued the critical labor shortage designation because we do not want our inability to fill those positions in some areas of the State to affect our ability to get these positions for other areas of the State.

The ASCA study also recommended adding 399 full-time equivalent (FTE) employees, but the Department did not agree with all the recommendations. We would like to be able to replace correctional officers with property officers. That would help us fill some of the FTE positions. For a property officer, we could hire a State classification level called "inventory control officer," instead of using a correctional officer. We are using correctional officers for mailroom clerks but if we could use a mail room clerk like other State agencies do, we could help our labor shortage issue and save money. We plan to go through all the suggestions and see what will save us money or improve the Department. We have staffing recruitment issues in our rural areas and staffing retention issues all over the State. Our turnover is astronomical in all areas; averaging more than 18 percent Statewide and 30 percent in some areas.

Our inmate population is currently over the JFA Institute projections by more than 390 inmates. We will be asking IFC for more money to support these additional inmates. We are also looking at opening an additional housing unit at Florence McClure Women's Correctional Center. We are struggling with the women's population needing to be at that level of an institution. We also recently realized we will need to look at Southern Nevada Correctional Center for more space or consider building additional housing somewhere.

Chair Hardesty:
To accommodate how many people?

Mr. Sisco:
Approximately 360.

Chair Hardesty:
What would that cost?

Mr. Sisco:
We were told it would be around $25 million, but at least $10 million to get in the door for a 550-person institution. The manpower to run an institution like that is three times as much as it would be for one housing unit at Warm Springs Correctional Center, for example.

Chair Hardesty:
So the housing unit is about $25 million?

Mr. Sisco:
Yes.

Mr. Pierrott:
Is the Northern Nevada Restitution Center in Reno one of the projected places you intend to open up for parolees? I know that was not your original plan there, but if you are trying to get rid of your inmates, is that one of the places you are looking at?

Mr. McDaniel:
We have no plans to do that, but the possibility exists. Parole &Probation is looking for day reporting centers and we have offered that possibility to do that at our transitional housing units but we do not have any firm plans to increase the numbers or beds. The Reno facility is not big enough to have additional amounts of beds like Casa Grande Transitional Housing Facility in Las Vegas.

Mr. Pierrott:
Where are the transitional living places you are looking identifying?

Mr. McDaniel:
We only have two—Casa Grande and Northern Nevada Transitional Housing. Currently, we are doing it at Casa Grande.

Mr. Sisco:
The housing unit we are talking about is inside an institution.

On our Budgetary Issue page (page 8, Exhibit J), the use-of-force study helps us evaluate encounters where force has been used. We felt there might have been some mistakes made in the last major shooting incident, so our intent was to look at several years of force data and make recommendations. Some of the recommendations have price tags on them, including increasing our training facilities and training requirements. Earning an American Correctional Association (ACA) accreditation is a goal because having this has historically helped us in litigation as it shows we met the standards to earn the ACA accreditation.

Mr. McDaniel:
The national standard on how to run a correctional facility is set forth by the ACA. They have been the U.S. standard bearer for around 200 years. It is important for Nevada to become accredited and run our facilities based on their standards. A lot of the states in the U.S. are accredited and have been since the 1960s and 1970s. We operate our facilities and write our policies based on the ACA standards. It costs a little money, but I think it is something we desperately need to do.

Chair Hardesty:
What is the projected date the Department will need that men's housing unit?

Mr. Sisco:
We are not sure. With this 390 inmate overage the JFA projected, we are not sure it might be some other medium term fix in the middle of the next biennium. In a best case scenario, if this issue got put at the top of the list, it would take about 2 years to even get close to it.

Chair Hardesty:
Because the population is higher than the JFA projections, you need housing now for this additional group of people?

Mr. Sisco:
Right now we are still okay. We have emergency plans to use dayrooms and other areas of the institutions. But we are closer than we have been in a long time.

Chair Hardesty:
It was not too long ago, in 2009 or 2010, that we did a walkthroughs in several of your institutions and you had people in hallways and closets. How close are you to that now?

Mr. McDaniel:
It fluctuates. Last week, we had 100 empty beds in our system. We can manage it now by moving people around and by getting eligible people paroled out. We are within a couple of years of definitely needing at least a new housing unit.

Chair Hardesty:
Even before that time, though, you are at risk of having to put inmates in closets and hallways.

Mr. McDaniel:
I do not think we will have to use closets, but we do have emergency housing locations that we have identified—gymnasiums, program areas, dayroom areas, etc. They all meet the standards and have adequate space and facilities, but it does make it tighter to run a facility.

Chair Hardesty:
Does it increase the risk of security for both officers and inmates?

Mr. McDaniel:
Yes.

Chair Hardesty:
I suspect that while this Advisory Commission is still meeting, this may come about because you will rise above that number of vacancies. As you approach that, please apprise us about it.

Mr. McDaniel:
I will make sure that is done.

Ms. Hibbler:
Not long ago, we were talking about the Justice Reinvestment Initiative and had flown in people to give presentations on how we could reduce our spending, have more alternatives to incarceration, reduce inmate populations, have evidence-based inmate training and reentry programs and also use data to improve policy and implementation. I do not know if we have shifted from that focus, but when we are looking at the budget and having more inmates than expected, coupled with the fact that 30 percent of inmates, which represents around 4,092 individuals, are serving 5 years or less, maybe that 30 percent would be best served by other means than incarceration. I am asking the NDOC and this Commission as a whole if this is something we want to revisit.

Also, regarding the IDs with the DMV, are you in discussion about the Real ID Act which will come into effect Oct. 1, 2020? At that point, there will not be any other ID but the Real ID.

Chair Hardesty:
Before we address that, I wanted to advise the Commission that the PEW Research Center and the Justice Reinvestment Initiative (JRI) people recently reached out to me. Veteran Commission members may recall that the State executive branch, legislative branch and judicial branch submitted a request to JRI to include Nevada as part of their programming. At that time, they had selected three states, so they declined our request, but they indicated they would provide some initial assessments. Last Thursday, they contacted me and said they would like to take Nevada on. Should I pursue that? It is all free grant money but they are willing come use all the same resources they applied to the states of Washington, Oregon and other states where they have implemented all the various JRI programs. I do not know if this fully answers Commissioner Hibbler's question but it connects to what your question is.

Mr. McDaniel:
I do not know how the Real ID Act will factor in. We have no information about it. We do not see it as a NDOC issue; it might be the justice system's issue. We provide everything we can now to the DMV so they can provide IDs. That will be up to law and to the DMV as to what they want to pay for it. We do not have funding to provide any additional information.

Chair Hardesty:
We need to reach out to DMV for a presentation to follow up on these questions.

Mr. Connett:
It was never intended for the ID the inmate received from DMV to comply with the Real ID ACT. It was to be a Nevada ID, which would never allow them to be able to obtain approval for travel on the airways, for example, on public transportation outside of Nevada.

Ms. Hibbler:
The only reason I bring it up is that without identification, reentry is virtually impossible. We have talked about the 70 percent of released inmates coming back into southern Nevada, and those individuals need an ID for reentry. The Real ID Act deadline is only 4 years from now and then, from my understanding, there will not be any other type of ID but the Real ID. Whether you get a driver's license or a Real ID, you will still have to have that extra documentation which will impede reentry efforts if it is not addressed. I agree we should have DMV come and answer some of our questions. I just wanted to put this issue on the record as something NDOC should be looking at.

Mr. Collins:
As long as we are providing the inmates with proper documentation—their social security card and birth certificates—as they leave the facility, they would have that opportunity to get a Real ID. I have not discussed this with DMV, but those are the documents they would need for a Real ID. It does need to be discussed, though.

Chair Hardesty:
I will open Agenda Item VII, a presentation of the system for allowing credits.

Garrit Pruyt (Deputy District Attorney, Office of the Carson City District Attorney):
The NDOC did an excellent job explaining how they calculate credits. Anyone can look at a person's sentence and have a good idea of how long that person will spend incarcerated. Or, if you want to know the given time an inmate will spend incarcerated, I would call the NDOC Offender Management Division and ask.

Sometimes I think the public has the idea that there is a card to get out of jail free. Especially a victim or family sitting in court hearing a sentence pronounced that says the person will serve 12 to 48 months and then they see the offender out 6 months later. The lack of understanding about sentencing is largely due to the dramatic changes in sentencing laws in the last 10 to 15 years. We have gone from truth in sentencing that says exactly what the sentence is going to be to today's system where there are all sorts of credits. Even though the sentence is not exactly what it sounds like, technically, that sentence is being fulfilled. For example, if someone receives a sentence of 12 months, which is 365 days, he or she will serve that sentence, but whether it is served through credits and incarcerated time is how things are determined.

The Offender Management Division (OMD) of NDOC is the glue that holds everything together, ensuring that facilities have everything necessary to operate and to manage the inmates. Two important dates to understand how sentences are served are the Parole Eligibility Date (PED), which is when the inmate is eligible to meet with the Board of Parole Commissioners; and the Projected Expiration Date (PEXD), when the sentence expires—this is the front end and the back end of a sentence (page 4, Exhibit K).

The application of truth in sentencing laws can be illustrated by examples that include flat credit and statutory time. Inmates are provided with this information as soon as they get in and the computer makes the calculations so they have this information in front of them. They get it at their classification hearing so there are no surprises. When Mr. Deal spoke of inmates getting a date and then things change because they did not work enough, etc., they can sometimes be under the impression that their sentence is lengthening even though they did nothing wrong while incarcerated. A lot of that comes because of the way they are informed of the credits.

The controlling document is the Certified Judgement of Conviction (page 6, Exhibit K), which is the sentence the NDOC carries out because they are bound by that judgement. This can create all sorts of difficulties for NDOC if they do not follow the normal template. The system they use is difficult and often unwieldy, so if a Judgement of Conviction comes in with a special sentence, all of a sudden it is like a new program has to be written just so take care of one judgement.

There are four types of sentence credits—stat time, flat time, work time and merit (page 7, Exhibit K). Stat time credits are determined based on the amount of time a person has been incarcerated. Inmates cannot earn good time credits unless they have served the time, according to statute, NRS 209.4465, which states that, "for the period the offender is actually incarcerated pursuant to his or her sentence" the offender will receive a 20-day reduction for each month served (page 8, Exhibit K).

Page 9 (Exhibit K) shows how just good time credits can affect an inmate's sentence, what I call "flat plus stat." For a 12-month sentence, the offender would serve 221 days instead of 365 and for a 5-year sentence, he or she would serve roughly 3 years. This is just for good time, or merit credits, where an inmate has not elected to work, program or do anything else, or perhaps that person just got released from jail after doing 221 days. That is what it would take to serve that sentence with just the statutory times. For every year served, just adding in good time credits, an inmate will earn a minimum of 605 days toward his or her sentence. There are some statutory blocks that do not let an inmate only serve a few months and create credits that somehow get rid of their sentence completely.

Work credits are largely dependent on the classification of the inmate, which also determines what kind of work is available to an inmate (page 10, Exhibit K). I did find that work is available, which is important. I came across an inmate with a job in a maximum custody situation at Ely State Prison. The higher in custody you get, the fewer jobs there are, but this person had a job as a porter and could earn work credits. In the minimum custody camps, the opportunities to work increase as does the credit. Certain jobs have more credits.

Merit credits can be earned for education, which has a big role statutorily for NDOC (page 11, Exhibit K). The goal is to get people to obtain education. A warden once told me that to qualify for certain jobs, inmates had to earn their GEDs before they could move up the ladder. The NDOC has pushed for education so released offenders can have basics for reentry. There are large grants of credits given for earning certain diplomas or degrees while incarcerated as well as for the time spent studying. The statutory system can look difficult, but NDOC has made it work in such a way that if inmates want credit, even for a course not offered by the Department, if they send a letter to their caseworker, they can request approval for credit up front.

What is important for this Advisory Commission is the effect of a conviction on the sentence (page 12, Exhibit K). Credits can apply to the front or the back of any given sentence. Credit always apples to the back of a sentence, but when we talk about the credits on the front, it is about the parole eligibility date. Credits only apply for certain offenses; there are exceptions. They do not apply to category A or category B felonies, offenses with certain uses of force or violence, or sexual offenses. In NRS 209.4465 it states that for those crimes, credits will not apply to the front, so that offender will have to serve the minimum term before being seen by the Parole Board the first time. The

other exception is a violation of NRS 484C; driving under the influence of alcohol or a prohibited substance; the DUI statute.

There are also ways to lose credits by committing offenses in custody (page 13, Exhibit K). This works much like the offenses that can be committed on the outside. Just like different categories of felonies, there are different offenses in custody which have proportionate losses of time. Any loss of good time is approved by the Director or designee of the NDOC. It is not treated lightly because it can affect the amount of time a person is incarcerated. Credits can also be lost as part of parole revocation.

Aggregation affects credits, an issue that several judges have said need to be properly inputted and calculated. The law states that after July 1, 2014, the sentencing judge must aggregate the sentence. Inmates sentenced before that date who wish aggregation on their sentences may request it, except for those who have already seen the Parole Board. If they have been up for parole on a given sentence, then that particular sentence is not eligible to be aggregated. Within the case, if the offender has five consecutive sentences and has only been up on one, the other four sentences can be aggregated by request.

This is where the math gets interesting. We know credits do not apply to the front end of a category B felony. For example, if a person is sentenced to two 24-month to 60-month sentences, both to run consecutively, you would end up with a 48-month to 120-month sentence. If you were to take the good time credits off the back of the sentence, you would end up with roughly a 48-month to 72-month sentence. The front end did not change much. The same applies to two category D felonies. If they were to run consecutively, the credits would come off both the front and the back.

What is more complicated is if you have a category D felony running consecutive to a category B felony. If the category D felony was for 12-months to 48-months, running consecutive to a 24-month to 60-month category B felony, looking at the back end of both sentences, credit will come off both. Since 108 months is the back end of those combined sentences, it would probably reduce to around 65 months. On the front end, the credit will come off the category D felony only. When that person goes to the Parole Board, they will not get the credit off the front end of the category B felony, so they have to serve the first 24 months, plus the consecutive C's front minus the credit that only applies to the C.

To simplify the math, there are two percentages to look at. The first of those is the 42 percent rule that is in subsection 9 of NRS 209.4465, which states inmates must serve a minimum of 42 percent of their sentence regardless of credits. Inmates can earn more credits, which would be good for them in reentry, but will not shorten their time served requirement below 42 percent. On the back end, if you only take into account the good time credits for inmates who opted not to work, they will still serve roughly

66 percent of their sentence. If you want to figure out how long an inmate will serve on their sentence, but it in half and add 10 percent; that is a good rule of thumb.

Chair Hardesty:
Thank you. I will now open Item XIII, the statutory requirement that we take up the subject of arrestee DNA.

Kimberly Murga (Director of Laboratory Services, Las Vegas Metropolitan Police):
On July 1, 2013, NRS 176.09123 was passed requiring that a DNA specimen be obtained from all persons arrested for a felony offense. The legislation was named after Brianna Denison who was raped and murdered in 2008 after she was abducted from a friend's home in Reno. The suspect had a previous felony arrest but no convictions so his DNA was not in the Combined DNA Index System (CODIS) to link him to the DNA recovered from the crime scene (page 2, Exhibit L).

As a side note, we have a law on our books where convicted offenders are also required to provide their DNA sample upon conviction.

The costs to implement and maintain the Las Vegas Metropolitan Police Department (Metro) Laboratory Felon Arrestee Program are covered by a $3 administrative assessment which was authorized by Senate Bill No. 243 of the 77th Legislative Session.

SENATE BILL 243: Revises provisions relating to genetic marker analysis. (BDR 14-137)

That $3 administrative assessment covers the various costs of this program as listed on page 3 (Exhibit L). The procedural steps for getting an arrestee's DNA sample profile into the CODIS database, which is overseen by the Federal Bureau of Investigation, are listed on page 4 (Exhibit L). As we are entering sample data into CODIS, if we have any hits on those samples, we report those hits to any agencies involved.

If we receive notifications from the Central Repository For Nevada Records Of Criminal History, we expunge the profile and destroy the sample. Of the 12 expungement requests we have performed in southern Nevada, five of those have been associated with guilty pleas reduced to misdemeanors. Some of the original charges in those cases include battery, embezzlement, grand larceny, actions which constitute theft and possession of controlled substances with intent to sell. There is a typo on that page (page 5, Exhibit L), on both lines, it should be intent to sell, not no intent to sell.

Holly Welborn (Policy Director, ACLU of Nevada, Inmate Advocate):
Is there data on how many DNA samples have been destroyed due to lack of probable cause? Also, of the 12 expungement requests, what is the total number of samples from

DNA that have applied? I am interested in the rate at which people are applying for expungement.

Ms. Murga:
I believe Steve Gresko, the State CODIS Administrator, has numbers in his presentation associated with the number of samples that have been destroyed.

Stephen Gresko (Senior Criminalist, Nevada State CODIS Administrator, Washoe County Sheriff's Office):
I have some totals for the State on the number of samples that have been collected and placed into CODIS versus the number that have been rejected, but rejections are not necessarily because of probably cause. In fact, most of them have nothing to do with probably cause. If the system is working correctly, we would never know about it because most personnel would not collect that sample until they knew there was probable cause for the arrest.

I have yet to have contact from any of our rural agencies informing me that they have probable cause that was not upheld. I have had many samples that were collected and sent to us where probable cause was approved and then later on the arresting charge was downgraded to a grow misdemeanor. We have rejected those samples. As far as numbers of samples that were collected and the probable cause was not upheld; very, very few.

Ms. Murga:
To your second question, the aforementioned Central Repository would have information associated with any additional requests for expungement. We do not know how many requests have been filed. If the system is working correctly, we will only receive notification once all the paperwork has been verified and submitted to the Metro Forensic Laboratory for action.

We have had a 20 percent decrease in DNA samples collected in southern Nevada for the first two quarters of FY15/16 compared to the previous year (page 6, Exhibit L). Clark County detention center is primary collection site. Approximately 85 percent of the total samples collected in that area were from the Clark County Detention Center. Thousands of the felony arrests do not result in DNA samples being taken because the arrestee's sample is already on record.

We were asked to break down our arrestees by race. The vast majority of felon arrestees in southern Nevada are associated with Caucasians at 44 percent (page 7, Exhibit L). African Americans are the next most common arrestees at 33 percent, followed by Hispanics at 19 percent and Asians at 4 percent with Native Americans and other races at less than 1 percent each.

Metro's Forensic Laboratory has examined the type of crimes that most often result in the need for a DNA sample from the felon arrestee and found that the largest percentage, 29.5 percent, was from those charged with felony controlled substance offenses (page 8, Exhibit L), followed by assault and battery at 12.04 percent, burglary at 11.72 percent, etc. (pages 9-10, Exhibit L).

From July 1, 2014 to December 31, 2015, there were 21,765 felony arrestee DNA samples collected in southern Nevada and 20,172 DNA profiles entered into CODIS (page 11, Exhibit L). The difference in those numbers is due to the fact that we are always in the process of running samples in the laboratory and then entering them into CODIS, so there is always a slight lag. We did have 390 CODIS hits from arrestee samples and some of the hits were to more than one crime event. The majority of the hits were from burglary crime scenes.

Chair Hardesty:
Back to page 9 (Exhibit L), the qualifying offenses for arrestee sample collection, it looks like 1.37 percent of the roughly 21,000-plus samples collected were related to a felony arrest for sexual assault. That is slightly over 200 cases.

Ms. Murga:
Yes, we have had 38 CODIS hits for sexual assaults related to all the samples we collected. Looking at page 12; of the 390 investigations that were aided through CODIS hits, 38 of those 390 investigations are related to sexual assault felony arrestee hits, which is around 10 percent (page 12, Exhibit L).

Adam Laxalt (Attorney General):
That 38 is coming from the entire 20,000-plus DNA samples; it is not a subset of just the sexual assault crimes, correct?

Mr. Gresko:
If someone is arrested for sexual assault, it is very unlikely they will hit to their own sexual assault case in CODIS. We do not consider it an investigative aid or a hit in CODIS when they hit to their own crime. We already know about that. We are only going to call it a CODIS hit if it is providing us new information to a case we did not know about. When you extrapolate those 200 sexual assault arrestees, a few of them may have hit through other sexual assaults, but from my experience it is more likely that the people arrested for burglaries are the ones hitting to the sexual assaults. Nine times out of ten, if someone gets arrested for burglary, you find out they were also committing sexual assaults. Very common. So it is not likely that the 200 people arrested for sexual assault were also the people who hit to the 38 sexual assaults that Ms. Murga is talking about.

Tracy Birch (Executive Director, Criminalistics Bureau, Las Vegas Metropolitan Police Department)
I think we are looking at two different things here. We are looking at 200 people arrested for sexual assault offenses and then 390 investigative leads that were acquired through CODIS. When we are talking about 38 sexual assault investigative leads, that was DNA evidence from sexual assaults which was collected and hit to people arrested for felonies under this program. They may not have been arrested for sexual assault, but their samples were taken as part of the arrestee program and they hit to 38 sexual assault crimes that we entered their unknown profile into CODIS where we got hits.

Chair Hardesty:
Do you have statistics as to the number of convictions that were generated from the 390 investigative leads?

Ms. Murga:
No; this program is still relatively new and the investigations for many of these cases are still ongoing.

Chair Hardesty:
Are you attempting to capture that data in the future?

Ms. Murga:
We are looking at that type of data associated with something else we are working on statewide through a sex assault kit working group. We have received funding to test all the kits that extend back decades in southern Nevada. We are tracking every CODIS hit or investigative lead we obtain through the work we are doing with the sex assault kits, no matter when those kits were taken. We are tracking those hits and following them through the judicial system. We have not expanded that approach to all cases yet because it is very time consuming and labor intensive. We need a comprehensive pool of individuals from investigators to prosecuting attorneys to help provide that information.

Mr. Callaway:
Would I be correct in saying that out of those 390 hits, they are not all hits on cases in Metro's jurisdiction? They could be in other states or Nevada cities or communities, so for us to track each case, some of which are ongoing, it involves us into getting and following leads, interviewing witnesses and victims, verifying the DNA hit against the offender, etc. It would be cumbersome to track all these cases to determine the potential outcome of whether someone is convicted or the case is closed based on those hits.

Ms. Murga:
This is correct. When the Metro Forensic Laboratory obtains the matches through CODIS, all the information associated with the offender, once the DNA is retested to

absolutely confirm that is the genetic identity of that person, is turned over along with the case number from CODIS to investigators. This is a national DNA index system so we have all 50 states either funneling convicted offender profiles or, as in 25 states, arrestee profiles, as well as unknown profiles from crime scenes. We provide the information and it is up to the investigators around the country and locally to further investigate those crimes, try to determine if this person could have possibly committed the crime and then restart the investigation. If it is a cold case and time has passed and some of the original investigators and officers are no longer with the police force, that becomes a very labor intensive process. There are millions of profiles on CODIS. These are merely the smattering of hits we have obtained since this law launched in Nevada.

Chair Hardesty:
Using these numbers, it would appear that you have had 1.8 percent investigative leads generated from the felony DNA samples collected in 18 months.

Ms. Murga:
That sounds accurate, but as the DNA databases increase, those hits also may increase. One thing this law has enabled us to do is, in the event we obtain a sample from someone upon arrest and we can get that profile into CODIS as quickly as possible, is to establish those links. Before, it was on the back end; upon conviction. Sometimes it could be years before someone is convicted. Speaking with our Clark County Detention Center employees, they have had people in that facility for 9 years that have yet to go to trial. The purpose of the law, S.B. 243, is to link evidence found at a crime scene much sooner and render the streets safer through these investigative leads that come through the national DNA database.

One thing we did as a forensic laboratory was to analyze of those 390 investigations aided by CODIS hits. We broke down the top five classifications linked to those hits and found 270 burglary hits (page 14, Exhibit L); 38 sexual assault hits (page 15 Exhibit L), 37 stolen vehicle hits (page 16, Exhibit L), 20 robbery hits (page 17 Exhibit L), and 11 homicide hits (page18, Exhibit L). We then looked at the charges associated with the original arrest to see what they were linked to, working our way backwards to find out what were the charges related to when they were arrested and provided their DNA sample to see if there were similarities associated with crimes being conducted and what they were originally arrested for.

For the 270 burglary hits through CODIS, 31 percent were also related to burglaries and 25 percent were associated with controlled substances. One of the common themes we see is that controlled substances seem to play a significant role in some of these repeat offenses (page 14, Exhibit L).

Looking at the 38 hits associated with sexual assault, 24 percent of the charges from the original qualifying offense are associated with controlled substances, 13 percent

associated with assault and battery and 8 percent associated with fugitive from justice and 8 percent associated with burglary (page 15, Exhibit L).

There were 37 hits (page 15, Exhibit L) associated with stolen vehicles with 22 percent of those associated with motor vehicle damage or theft, 16 percent associated with controlled substance and 14 percent associated with burglary, etc.

The 20 robbery hits (Page 17, Exhibit L) also had the highest association with controlled substances at 30 percent, followed by robbery at 20 percent.

There were 11 homicide hits for the arrestees with 19 percent associated with charges related to fugitive from justice and 18 percent each associated with assault and battery and controlled substances (page 18, Exhibit L).

In summary, the DNA arrestee program has been successful with many CODIS hits. Most recently, we obtained a sample from a homicide case that hit to a Nevada arrestee, so the program has had a powerful impact on solving crimes in southern Nevada (page 19, Exhibit L).

Mr. Gresko:
There are three offender classes we collect DNA samples from in Nevada—arrestees, convicted persons and sex offenders required to register (page 2, Exhibit M).

The computer software we use to manage the DNA samples at the Combined DNA Index System (CODIS) is called the Sample, Tracking and Control System (STaCS). Other agencies use this system all over the U.S. through a web-based software program (page 3, Exhibit M).

When a felony arrest is made, jail staff can check to see if the arrestee's DNA sample is already on file using the State ID, Social Security number and fingerprints from the arrestee (page 4, Exhibit M). If the a sample already on CODIS exists, the arrestee's record pops on the screen with a warning that it is a potential duplicate. If there is question, that entry can be ignored and the process continued (page 5, Exhibit M).

If it is a new sample, the screen like on page 6 (Exhibit M) will pop up and need to be filled out as well as the conviction or arrest information (page 7, Exhibit M). All the agencies use this same software, including NDOC. The DNA sample is collected, sealed and sent to the lab once probably cause is confirmed. The labs then process the sample to obtain the DNA. upload that information into CODIS and the National DNA Index System (NDIS) for national searches and then file the sample for long-term storage.

The FBI's CODIS system is structured to allow local labs to collect samples and send them to a central state laboratory. In the example (page 10, Exhibit M), you see

Florida's system where the Local DNA Index Systems (LDIS) in Ft. Lauderdale, Tallahassee and Miami send their samples to a general state lab which then sends their profiles along with their own state profiles to the FBI for the NDIS. Certain samples will not be sent to national. Offender samples almost always go up unless there are problems with getting a complete profile. Page 11 (Exhibit M) shows an example of the information that gets entered and sent to the FBI.

A typical case is shown on page 12 (Exhibit M)with the profile being sent in to the State lab. In Nevada, the local DNA databases are located in Reno at the Washoe County Sheriff's Office and in Las Vegas at Metro. Those profiles then go to the FBI, which then runs a national search comparing all the profiles to each other twice a week. We upload our data to the FBI twice a week. If there is a hit, because CODIS uses no names, we use a separate database, STaCS, to track the information associated with each offender entered into CODIS (page 14, Exhibit M). If we get a hit to an offender from another state, we contact the CODIS Administrator from that state and ask them to confirm the sample and send us the identifiable information for that offender. The FBI asks us to complete this step in 30 days. Page 15 (Exhibit M) shows an example of a record.

The hit process (page 16, Exhibit M) first requires the hit to be confirmed. This involves confirming all the data and is mandated by the FBI because the offender samples have no chain of custody. Once confirmed, the name is released. Expungements are generally granted (page 17, Exhibit M). Washoe County Laboratory has received four expungement requests that have all been granted. There is what no real cost to the expungement process. We run a criminal history check and if there is no other qualifying offense, we destroy and expunge the sample and profile. It can be done by one person; me (page 18, Exhibit M).

The implementation costs of this program include the purchase of the STaCS program for $170,000 in 2012 and the cost to maintain the system annually, which is $145,000 to date. Other costs (page 19, Exhibit M) bring the total implementation costs up to just under $500,000. The Las Vegas lab collected 14,544 samples in 2015 which is about three times as many samples as the Washoe County lab in Reno, collecting 4,470 that year. Demographically, we collect samples from three times as many males as females, with the ratio at 24,808 to 8,463. Caucasians are the predominate race reported with 17,324 individuals while African Americans account for 8,878, Hispanics are at 5,333, Asians account for 1,163 and Native Americans are at 270. The administrative assessment collections in northern Nevada are on pages 22-23 (Exhibit M).

Chair Hardesty:
Are you behind schedule in testing DNA samples?

Mr. Gresko:
No, but as Ms. Murga said, there is always a lag between bringing samples in and the time it takes to process them and turn them around. We send our kits to a lab in Virginia to generate the DNA profiles. It takes 2 months. The Las Vegas lab is quicker because they process everything in-house.

Our CODIS hits in the Washoe County lab are shown on page 24 (Exhibit M). We have had 59 investigations aided from the northern Nevada arrestee program. The figures mirror Las Vegas on a smaller scale. Our hits were predominately hits to burglaries. Seven were to sexual assaults and seven were to robberies—we were very pleased with these good results.

Chair Hardesty:
The statute asked that this Advisory Commission create a subcommittee to study this issue and I question the need for it. Are there any issues or improvements that you would ask us to vet with the program? It sounds like you are reasonably satisfied with its implementation and funding. From the point of view of those implementing the program, do you have recommendations to us to improve, either from the standpoint of language in statute or funding mechanisms?

Mr. Gresko:
We spend some money to have STaCS integrated with the Central Repository's criminal history records. The primary reason we did that was to match up State ID numbers (SID) that come back from the Central Repository with the kit to make sure we have the correct SID number for each kit. Sometimes jail staff will make incorrect entries in the biographical information. The State wanted to clean up what was in STaCS so we paid for this integration. It is ready to go so now when jail staff live scans someone's fingers in the jail, the results will come back to the officer telling them whether or not they need to collect the kit. One problem with that is that it sometimes takes the State 24 hours to turn around that SID number, which can be an issue in an overpopulated jail. We have asked the State to be able to turn those SID numbers around to us within an hour or two 24-hours a day, seven days a week. Funding may be a problem for the Central Repository. That would be my biggest wish—to get the State the resources they need to turn those numbers around quickly so we can implement our new version of STaCS.

Ms. Murga:
I support what Steve said. One thing that is coming down the pike is the future technology of rapid DNA. Once there is a federal law change allowing DNA testing to be conducted outside the laboratory, that technology allows for collection of DNA to be moved out of the booking stations. The concept is that once the sample is collected, then staff could run the DNA sample on a self-contained apparatus, enter the profile into CODIS and then we would know much quicker if someone is associated with another pending case, which would affect the release of that person prematurely. With that

technology on the near horizon, having a quicker turnaround time on the verification of the identification process associated with the Central Repository is critical.

Mr. Gresko:
I absolutely agree. I have been talking about this for about 4 years with the FBI. The CODIS administrators meet together twice a year. We have our State administrator's meeting in May where I will be attending with a member of our Attorney General's office to discuss this and other legal issues regarding rapid DNA. One of the overriding issues will be our computerized criminal history record system. It needs to be updated to be compliant with the FBI systems. If not, we cannot participate. Right now, to implement it will be very expensive and that cost will go to individual law enforcement agencies. Currently, we bear the costs and the Las Vegas lab bears their cost. If a local law enforcement agency decides they want to start doing rapid DNA, they can but they would incur that cost. None of them will be able to do it if the Central Repository does not modernize its systems.

Chair Hardesty:
So that is the primary recommendation you have for improvement to the implementation of this program?

Mr. Gresko:
When someone's live scan is printed, 24 hours a day, 7 days a week, the FBI will have the results back in no more than 4 minutes. We often take 24 hours to turn that around. It is a problem. The records are as much as 80 percent inaccurate, so when I pull a criminal history if there are 10 arrest records, only two of them will have information about whatever happened with that case beyond the original arrest record so they are 80 percent empty of any information from the courts on what happened. This is irrespective of them being able to connect with the federal agencies. Julie Butler from the Department of Public Safety would know better what they need. That would be our No. 1 priority to help our current situation and be poised to enter the rapid DNA program when it comes down.

Ms. Wellborn:
Initially, my predecessor and some of the people who worked on this bill in 2013 had concerns about the expungement process. It looks like there are 23,000 or more swabs that have been collected and only 16 expungement requests. It looks like our concerns are coming to fruition. People are not applying for expungement. There certainly have to be more than 12 cases that have been dismissed. I want to express that concern. Is there anything to be done to let people know they even qualify to have their DNA expunged?

Ms. Birch:
There is a mechanism in place for the arrestees to be given information upon release. It is part of the statute. They can obtain information on the website through the

Department of Public Safety. One of the issues for us as laboratories to be able to expunge things as cases are adjudicated is that we would have to monitor the 24,000 samples on a daily basis to find out what the disposition of the case is. Speaking to what Ms. Murga and Mr. Gresko referred to through the Central Repository, if there was a mechanism in place to notify us automatically on the disposition of cases—either that they are plead, dismissed, acquitted or negotiated to a lesser charge of a misdemeanor—if that were a possibility, then that would be more good for us. I know the State is working on a modernization project for the Central Repository. At this point, there is no system is in place. I believe that is what the Subcommittee talked about when I sat on it over a year ago.

Mr. Gresko:
Automatic expungement is what we were talking about. We queried other states that are doing automatic expungement, and they have had to hire many multiple positions and spend money to integrate with their court systems. Exactly what Ms. Birch said. Currently, when someone is released from jail, if their sample was collected they are handed an instruction sheet telling them exactly what to do to get their sample out of the system. Every single person who is collected is handed that piece of paper with detailed instructions about what to do to have their sample expunged. If we went to automatic expungement, every kit that is created now becomes a research project for someone in the State or in the lab. Every single one has to be watched to see what the ultimate outcome of that kit is. Which means we have to come up with ways to integrate with our court system so we get that information and hire people to watch each individual case. Could it be done? Yes, but it is going to take a lot of money to make it happen.

Mr. Laxalt:
I just want to publically thank both of the labs for spending so much time over the past 6 months working on our sexual assault kit backlog and all our future plans. Both groups spent literally hundreds of hours on that project alone, on top of all the other things they are working on.

Mr. Jackson:
The problems with the Criminal Repository is a much more difficult problem than what you have described. The Central Repository has created Nevada Offense Codes (NOC). Since I have been the D.A. 9 years, they are in their third generation of NOC codes. All the codes need to be mapped to the charging statute under *Nevada Revised Statutes* (NRS). For example, the crime of robbery could have more than 30 NOC codes associated with it, so you have to make sure the NOC code matches the offense. It does follow, from the time of the live scan, because a person could be arrested multiple times on one given day, come through a facility, be booked, have their live scan, have their SID, and then there has to be that specific Police National Computer (PNC) number associated with that particular arrest for that particular crime. Then that case goes from the sheriff's office or police department to the prosecuting attorney's office who may charge different offenses other than what the person was arrested for.

Then there can be an amended complaint, and then an information and then a plea bargain, so the offense could ultimately morph throughout the system. Finally, it comes out through a judgement of conviction and all of that is supposed to be reported through the Central Repository. Ultimately it is put on the courts as the last agency to have contact with that particular defendant, but they may not have all the information that flowed from the arresting agency to the prosecuting attorney's office. When you have all the agencies throughout the State who have put an enormous amount of money into their case management systems—from sheriff's offices using one software program to a lot of the prosecutor offices using another system that is not integrated and interfaced with the sheriff's offices systems. And then the court systems have their own programs which need to be interfaced with the other offices. Behind the scenes, that NOC number can be embedded and follow it in an electronic format and the kick-outs will be immediate. I cannot even imagine the process both of these labs would have to go through if you were put to the task of monitoring and investigating these 20,000-plus cases in just the last 18 months when we cannot even get the information to the Repository which has been required by statute for a significant amount of time. We could not hire enough personnel to have the labs do that. You need to do what you are tasked with, which is the labs. Let us figure out the rest of that and we can make those recommendations to the Legislature and the Governor to get the proper funding to make this system work.

Assemblyman Anderson:
On the Washoe County side, it said there was no significant cost for expungement requests. Do you have any idea why people are not seeking expungement if they are due for it? Could we get a better estimate of how many would qualify for it? That way, if we were going to consider adding funding to do automatic expungement, we could have a clearer picture of what we would need.

Ms. Murga:
One thing I want to point out regarding expungements that may be resulting in a lag, according to section 8 and section 9 in S.B. 243, if an individual does not need certain provisions associated with a dismissal of their case, the successful completion of a pre-prosecution diversion program, a conditional discharge, an acquittal or an agreement entered into by a prosecuting attorney, they have to wait for 3 years to ensure that no qualifying charges were, or will be, filed in their case. That language which requires someone to wait for 3 years may be causing some of the delay associated with some of the expungements that may be able to be trickled down to the laboratory.

Chair Hardesty:
We are not in the position to take action as a Commission because we are on the cusp of a quorum. One thing I wanted to explore is whether it is necessary to evaluate this subject matter through a subcommittee or whether we can complete our evaluation of it as a committee of the whole. I am not a fan of more and more committees. I would like to continue this subject matter to the April meeting and ask between now and then if we

could get copies from Mr. Gresko and Ms. Murga of the forms used where defendants can request expungement. I will then ask both the court system to comment about probable cause determinations to see whether it is possible to take, for example, the 21,000 or so hits, run them through the justice courts in the states to see how many probable cause determinations were rejected. That would be the quickest way to assess that because quite frankly, with all due respect to Holly's comments, I am not surprised at the number of requests for expungements. I would interpret the statistics different. The number of probable cause determinations that come out of justice court are higher than 90 percent, so I am not too surprised at the requests for expungement based on that. I think Ms. Murga's point about the lag time as to the disposition in being able to submit expungement requests—3 years after conviction—is quite a period of time, so that would also contribute to this issue.

Finally, I want to secure some input from the Central Repository with respect to this issue. It is pretty obvious that Nevada is not equipped to become involved in any technological advance of the rapid DNA program. Unless there is an objection, my intent it to pursue this through the Commission because I do not think there are that many other issues. I also want to extend a public request to those who are interested in this topic to make public comment in April if they have anything to add.

I will now open Item XV regarding victims of crime. There are several different committees, most of them residing in the Office of the Attorney General (AG), that can provide information, suggestions or vet issues dealing with victims of crime. The Legislature would have us have a subcommittee on this topic. What I would like the Commission to consider is relying on the existing committees that exist through AG's Office.

Mr. Laxalt:
We can have the Domestic Violence Prevention Council report to the committee of the whole. That Council is comprised mostly of members who were actually on last subcommittee for this Commission. We also have established a Sexual Assault Kit Working Group, a piece of which is victim's rights and victim notification. In both those cases it would be helpful to provide that information to this Commission. We reviewed the notes that one of the outgrowths was a recommendation for a bill. There are at least three options which could be something coming out of the Sexual Assault Kit Working Group, the domestic violence group, or we also have victim's rights, which was a Senate Joint Resolution called Marsy's Law last Session, which will be up again for a vote this coming Session. We may want to consider if we want to endorse that as a Commission.

Chair Hardesty:
We will make an affirmative decision on that issue at the next meeting. My inclination is to rely on membership on the executive committee to fulfill input to this Commission. I will now open Item XVII. A report on the PEW Charitable Trusts First Initiative.

Nicolas C. Anthony (Senior Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau):
I do have a short overview of the Pew-MacArthur Results First Initiative (Exhibit N). Many of you who have been on the Commission will recall that in the past we have had dealings with Pew Charitable Trusts in relationship with the Justice Reinvestment Initiative, which is a branch of the Pew study aimed more at criminal justice reforms, sentencing reforms and the like. This program is a separate program. Results First is a joint project between Pew and the McArthur Foundation. It is aimed at a number of policy areas. The idea is to gather information on programs so decision makers can make decisions based on dollars and cents; doing a cost-benefit analysis. They took an interest in Nevada 18 months ago and are moving forward with studying in Nevada.

Their first area of policy analysis will be the adult criminal justice system. They recently formed a working group of people from P&P, NDOC, the courts, the legislative branch and the executive branch that will inventory all the criminal justice programs in Nevada and then compare that data to national databases and see if our current programs are cost-effective on a national model.

This idea has been going on for more than 20 years. It was started in Washington State and has the buy-in here of the three branches of government. A working group has been formed, a policy group has been formed, I have elected stakeholders who met last Thursday and were briefed on the project. I have attended both the working group and the policy group and can keep the Commission informed on the processes. The goal is to have those findings submitted to Pew by August at which time they will put it into the database and give a report to the 2017 Legislative Session.

Chair Hardesty:
It is an interesting program. I saw the presentation last week and essentially they take all the criminal justice programs in place and attach a cost-benefit ratio to them. It would inform the Legislature about where to direct your money. They also are able to demonstrate that from the amount of money you put into certain programs, it can actually have a negative effect. One of the things they talk about is that the money which has been put into Scared Straight programs by several states can actually have a negative effect and makes matters worse. They can demonstrate that from a cost-detriment analysis.

I will now open discussion on Item VIII with a presentation from Connie Bisbee since the NDOC already covered their portion of this Agenda Item.

Connie Bisbee (Chairman, State Board of Parole Commissioners):
To paraphrase this item, do we need an oversight or advisory board to advise on the issues listed there? My initial reaction is that I cannot picture how an advisory board for a board would happen. The way I would answer it is to look at the effectiveness and efficiency of the policies and procedures of the Parole Board. There is oversight of the

Board through Legislative Counsel Bureau (LCB) audit, which requires the Board to report to LCB on quarterly basis about its decision making.

Our last audit included this executive summary: "The Board of Parole Commissioners conducted parole hearings in accordance with State laws, regulations, policies and procedures. The Board notifies victims and law enforcement agencies of inmates scheduled for hearings, conducted hearings timely upon notice from NDOC that inmates were eligible for parole consideration, assessed inmates parole risk and make hearing decisions in accordance with established guidelines, ensured sex offenders were cleared prior to being released and notified victims of hearing decisions."

There were no negative findings in that audit. That tells you the Nevada Board of Parole Commissioners is already complying with the law, policies and procedures. I submitted a copy of Nevada Administrative Code (NAC) Chapter 213 which is the primary directives from the Legislature as to how the Parole Board conducts business (Exhibit O). I also submitted an October 2012 document on the operation of the Board (Exhibit P). We will be doing some revisions to that. If you go to the Board's website, you will find we are very transparent; anything we can put on there, we do. The criteria for making parole decisions is there, the forms we use for assessing risks are there, the results of actions are there along with agendas, quarterly reports, etc. We hope to start webcasting our hearings so anyone can view them from anywhere.

Under the NDOC budget, we have a 0.51 full time equivalent (FTE) programmer who is working on our risk score because we are required to have that revalidated every 2 years. We are off a year right now because we made some changes that require 3 years of data to revalidate correctly. The findings so far are that our risk assessment and actions are good, meaning we are putting out the right people and retaining the right people. These are just preliminary results, but the majority of people leaving NDOC in a year are from parole. The release period we are testing for the efficacy of the risk score was January 2013 through December 2013. That year there were 5,069 releases. Of those, the returnees were 1,378, so the suspicions we have of a recidivism rate of 27 percent seems consistent. Nationwide, that is an excellent recidivism rate.

One thing we changed last time was the age at first arrest. We made it higher to replicate what the Division of Parole and Probation uses in their assessments. We are looking at factors that include is the risk age at first arrest accurate in terms of recidivism, is the gang membership scoring at a higher risk and is that accurate for recidivism. There are 11 factors we are looking at. The deviation over our current risk factor assessment is about 5 percent over and less than 1 percent under our risk assessment. The decision making seems to be right on in terms of putting out those people who are least likely to recidivate. I am not sure what an advisory oversight board would do that is not already being done.

Chair Hardesty:
In these materials from you, we have a report of your Board's actions for 2013, 2014 and 2015. Can you give us an overview these reports and how you interpret that data?

Ms. Bisbee:
These are summaries that we provide to the Legislative Counsel Bureau and post on our website each quarter. There may be some deviation because we compiled them as 1-year studies. We report on all the hearings—the percentage of action by gender, the types of hearings, whether the parole was granted or denied, the number of mandatory hearings, etc. Page 2 of each report (Exhibit Q, Exhibit R and Exhibit S) lists all the actions taken that year. In FY2013 (Exhibit Q), there were 7,607 hearings, including violation hearings. Combining the grants and denials based on gender, parole was granted to 54.7 percent of males and 76.6 percent of females for a total grant rate of 57.2 percent.

On page 3 (Exhibit Q), under guideline recommendations, we used the risk assessment combined with the crime severity which is provided by NDOC to arrive at the guideline recommendation. On the chart, you can see the discretionary parole actions by guideline recommendation for parole at initial hearing was 606 paroles granted and 90 denied making 87.1 percent granted. The parole at first or second hearing was 67.6 percent. Under consider factors, which means we look at everything to decide whether it is wise to put this person out, that was 47.4 percent granted. The deny parole category includes those who are recommended to be denied, but we did grant parole to 5.1 percent of those individuals. We had a total of 56 percent parole granted in FY2013.

Down the chart, we have data on mandatory parole actions by guideline recommendation. There is a story behind mandatory. It does not really mean you have to parole that person. The chart breaks down the same categories as the discretionary parole action chart above it. However, those factors are not really considered under mandatory. The consideration under mandatory by statute is, does the Board believe this person is a risk to public safety. The total of these individuals granted parole in FY2013 was 60.2 percent.

On page 4 (Exhibit Q), you can see the actions that deviated from the discretionary parole guideline. Parole is an act of grace in Nevada. The guideline truly is a recommendation. It is based on the validated risk along with the offense severity so for the most part, the recommendation is solid. We only deviated 4.34 percent in not granting parole to those who were recommended for it. To those who should have been denied parole under the recommendation, we deviated 1.92 percent by granting parole. Bear in mind that the risk assessment is primarily an indicator for property crimes and the recidivism for those crimes. It does not consider violence which is why you see the deviation from the recommendation because the Board has considered the history of violence or the violence of the crime the person committed. The other thing it does not rate risk for is sex offenses or offenders. We will use the sex offender assessment

scores provided by NDOC. That is why you might hear sex offenders say they are low risk, but that is because the risk assessment primarily for property crimes, not sex offenses. There is a difference.

On page 5 (Exhibit Q), we have a summary of parole actions by offense group. Under sex offenders, we heard 448 discretionary parole hearings and granted 178 of those individuals parole, making the favorable percentage at 40 percent. When you hear that the Parole Board never grants parole to sex offenders, that is not true. Under the mandatory hearings, we heard 125 hearings, granting 61 paroles for a favorable percentage of 49 percent. As far as revocation hearings, there were 48 that violated, 12 of those were reinstated for a 25 percent reinstatement, so we had a 25 percent grant rate in that category. The chart illustrated the same data for different categories of crime—violence, drug, property, DUI and other and the totals are on the right, showing a total grant rate for FY2013 of 53 percent. It has been higher, as high as 63 percent, and it has been lower. Looking at the statistics, of the 4,000 we grant parole to, there are now approximately 400 less we granted that year. We are very transparent and we depend on NDOC to help us gather data.

Chair Hardesty:
When was your assessment instrument validated?

Ms. Bisbee:
The last one was in 2012 or 2013. We do that validation every 2 years unless we have a change, which we did this time—the age at first arrest—so we wanted 3 years of data to revalidate.

Chair Hardesty:
We will pass the rest of the agenda to the April 19, 2016 meeting. I have submitted a list of potential meeting topics (Exhibit T) that I want Commission members to consider for future meetings and get back to me in a week with your own list of desired topics. I will now open Item XX, public comment.

Mr. Goetz:
I want to add on to my previous comment. In the last 2 weeks I was taking some J-1 individuals, which are people with a visa from other countries who come to America to work at a casino or ski resort, to Reno and stuff. My parole officer knew I was taking these people to San Francisco to go shopping and charging a little bit of money. What would have been the proper thing to do was for him to tell me I should maybe see if what I was doing was legal and go to the transportation authority and see about getting a transporting license. Instead, he called them and told them what I was doing and I think he instigated a sting on me. A person called me and said he wanted to rent a limo. I said I do not do that, but said maybe I could rent a car and be able to take him where he wanted to go. He said for me to pick him up in Reno and that he wanted to go to dinner at the Chart House at Lake Tahoe.

So I rented a car on March 9, went to the location to pick him up and instead, I got a citation from the transportation authority saying I was illegally transporting people. They impounded the car. I asked what they would do with the car because it was a rental. He told me they would give the paperwork to the Budget car rental people the next day so they could pick up the car on Friday. Instead, Budget could not find the car. I found out later that the transportation authority gave the car to the wrong Budget location. Finally, the towing company said the police report did not put the right VIN number down.

My parole officer could have told me that this could be illegal and recommended that I go to the transportation authority to check it out. I now have to go to a hearing April 21 to see if there will be a fine. I talked to the chief at the transportation authority to see if I can get a license and an application. He was trying to discourage me that it would cost a lot of money to become a taxi driver just to bring these people where they want to go. He said I would have to get insurance. I called Las Vegas and asked what it would cost and they said the application is $380 for six counties plus $100 for each car. I only have one car. I called the insurance and they said it would be about $2,300.

When the person who did the sting first pulled me over and had me put my hands up, he knew my name. I asked how he know my name and he said my parole officer tipped him off. Yesterday I went to see my parole officer and I told him it is going to cost me $2,000 now for all this. Budget is charging $687 because the car was missing for 8 days, the impoundment was $1,300, so that is $2,000 I have to pay Budget. It was the fault of the police for putting the wrong VIN number on the paperwork. My parole officer, asked when my hearing is and I told him. I asked if he was going to come with me to it and be there on my behalf or their behalf and he said, “Why would I be there on your behalf?” To me, that proves he instigated the whole sting.

Can you help me solve this problem? I submitted three complaints (Exhibit E). It seems like every time I write a letter to the Office of Professional Responsibility, they take it and give it to P&P. Why do we pay this organization to investigate our officers when they just take the letter and give it to their own Division to investigate themselves? Since I have a April 21 hearing, it would be nice if Mr. Pierrott from this Advisory Commission could come to this hearing to see what is going on and to see what his parole officers are doing to sex offenders because I am a sex offender and I think the reason I am treated this way is because of that. Also, when I talked to my parole officer yesterday about this, he took my phone and started looking through my emails and messages, taking pictures and I believe he will use that against me when I go to this hearing. Can you help me figure out what to do to solve this problem?

Chair Hardesty:
No, this Commission’s jurisdiction is to study improvements to the criminal justice system. You presented two issues today; one this morning and another one right now. Both have to do with the performance of the Office of Professional Responsibility.

Mr. Goetz:
And the parole officers that are supervising me. My letters will give you details about what I have been living through for 7 years.

Vicky Maltman
I was a police officer, both city and federal for more than 17 years. I was trained in dealing with child abuse, pedophiles and domestic violence. My husband is retired from the U.S. Army and is 100 percent disabled as a Vietnam veteran. We have worked with veterans for 30 years and I have seen and heard things no one should ever see or hear. Veterans may have been exposed to a range of chemical, physical and environmental hazards during military service. Research has found that veterans diagnosed with PTSD are more likely to be violent toward their spouses; more than 14 times higher than the general population. From 2006 to 2009, domestic abuse in the U.S. Army rose 177 percent. We would like to see veteran's courts, better control on child abuse evidence and a better understanding of the difference between civilian and veteran programs. I have submitted my written testimony and a packet of information that includes statistics about veterans (Exhibit U).

Dee Williams:
Domestic violence is a very grave matter. On February 4, 2016, I referred to S.B. 27 which was passed in the 2013 Session of the Nevada Legislature.

SENATE BILL 27: Revises provisions relating to legal representation. (BDR 3-219)

This bill allowed for the Office of the Attorney General (AG) to defend government persons in the domestic violence network who are committing criminal activity. I believe the AG's office has the wrong idea of what this bill meant. On May 1, 2013, the AG's Office—this is while Catherine Cortez Masto was the AG—wrote a letter (Exhibit V) in support of S.B. 27. On page 2 of the letter, I will read the fourth paragraph. What that paragraph says is that if anyone is sued because an employee acts with an error or omission, the AG should represent that person. We survivors of domestic violence disagree.

At the testimony before the Assembly Committee in Judiciary on May 3, 2013, 2 days after writing that the legislation should be passed, Ms. Masto says," I do not think this requires legislation now." This should have been a red flag to every member of the legislature listening. She went on to say that over the course of the years, the AG's Office has not been actually asking Clark County to cover attorney's fees and costs when defending employees. The employee Ms. Masto's testimony is about goes by the name of Wendy Wilkinson, who sits on the AG's task force, a body that came up with about 70 items that need to be addressed when dealing with domestic violence. One item was that district attorneys have to stop pleading down domestic violence cases. We support that. It should be a felony battery which it is to any other person, but when a

domestic relationship connects the batterer to his victim, all of a sudden it is a misdemeanor.

Ms. Wilkinson was investigated by Metro. The police report, which was concealed, said this officer conducted an interview with Jillian Prieto the staff attorney for Clark County courts. Victims of domestic violence were not able to see this police report. We were never contacted that there was an investigation of Ms. Wilkinson. Ms. Prieto says in the report that pictures were taken by Family Court. Ms. Wilkinson is an employee of family court in the Eighth Judicial District Court Family Court. She supervises a program funded under the federal Violence Against Women Act. Nevada receives those funds and disperses them to Clark County, employer of Ms. Wilkinson to help domestic violence survivors get protection orders.

When I was beaten up by my husband and our 2-year-old was assaulted, I was given a card by Metro on how to get a protection order. On that card was Ms. Wilkinson's office number. We contacted her and went to her office. I was put into a small private room and had to strip naked for photographs taken by a stranger, which was a very humbling experience. Those photos were later destroyed by Ms. Wilkinson, who works for the Temporary Protective Order (TPO) section of Family Court. The police report says the detective had a phone conversation with her, which illustrates how nonresponsive law enforcement is to survivors of domestic violence. The detective could not even go to Ms. Wilkinson's office and see what the problem was. He did it over the phone.

The report goes on to say that the policy of the TPO department of Family Court to take a photo of an injury resulting from an alleged battery associated with the filing of a TPO. Wilkinson shredded the photographs. If that is not startling enough, the detective states that Wilkinson's area of Family Court only deals with TPOs and would not handle issues relating to child abuse. What makes a law enforcement officer say that protection orders are not for children?

I had to spend millions of dollars and millions of hours to get this concealed police report. It had the event number and the date changed and Ms. Wilkinson's confession was removed. The report reports interviewing Jillian Prieto, pictures taken by Family Court, and then the pictures were later destroyed by Wilkinson. Her confession was in this paragraph which had been removed and replaced by this Metro officer. "I conducted a records check in the Clark County Odyssey program which contains criminal and/or civil lawsuits." The confession was gone.

What does the Odyssey program show? Not TPOs. You may remember, Chair Hardesty, when you chaired the Commission on Preservation, Access, and Sealing of Court Records, June 3, 2010, the meeting was a product of Judge Chuck Weller being shot at. On page 5, at a meeting peopled with the AG and all court administrators, this testimony was made about reviewing the current retention period of photos

(page 10, Exhibit V). The current retention period of felony batteries to survivors and non-survivors of domestic violence is only 2 years, including batteries to children.

Under NRS 11, children's rights are protected until the age of 18, both property and any action they want to commence. NRS 11.180 and NRS 11.250 are the statutes that protect the children. So to destroy pictures of batteries to them every 2 years is a violation of statute. Keeping the records for 2 years comes from the 1988 passage of the minimum records retention schedule for justice courts. Under Rule 31, those courts can keep records for a minimum of 2 years up to permanently. When a TPO is issued with an On Behalf Of (OBO) a minor child, they should be retained at least until the child is 18 and then there are civil procedures. Any OBO, whether it is a children's OBO, a disabled OBO or an elderly OBO, should be retained permanently. If the court administration chooses to retain a restraining order until the child is 18, procedurally they have to contact that child and let them know they have the criminal evidence prior to destroying it.

Wendy Wilkinson works for the district court, where their minimum records retention policy is permanent. There are no records of the photos she took and later shredded in the files. Had the detective taken the time to go to the Family Court in Las Vegas and meet with Ms. Wilkinson, all he had to do was ask for just one protection order file. He would have then seen the survivor's name, which is usually the mother, and the OBO on behalf of the child. The detective would have been tipped off that this is a child abuse case file also. If he had asked for it, he would have seen this page (page 11, Exhibit V). What is this? It is put in place of all TPO court case files in lieu of the photographs of batteries to the survivors or the non-surviving victims. That is falsifying a court document and the concealment of falsifying a court document is a category C felony. These are felony crimes being committed by court employees.

Then, in lieu of all the photos Ms. Wilkinson took and then shredded, maybe even within 30 days since TPO files sometimes get closed within that time period, this document appears in the TPO files (page 12, Exhibit V). I was in that photograph, I saw the Polaroid. What happened to that picture? Where are my photographs? The testimony, the affidavits, the witness statements, police reports and medical records of all the batteries to my daughter, where are they? We are angry. We are asking this Commission to put this on as an agenda item so we can discuss this matter. There are national organizations keeping track of Nevada.

Currently, Nevada is No. 1 in the nation for domestic violence and murder of women. There is a reason for that. We are No. 6 for domestic violence with guns. There is a reason for that. The National Center for Youth Law, which won a $15 million lawsuit against Clark County, reports that in the first 6 months of 2015, near-fatality child abuse cases were greater than in the 2011, 2012 and 2013 combined. In 2014, they report, the combined incident of near fatalities and fatalities of children was double. It is not getting better.

Chair Hardesty:
I have allowed you to provide your presentation well beyond the time limit. I understand your request.

Ms. Williams:
I appreciate the time. Adam Laxalt just signed a contract with Clark County to defend the court employees who shredded these photographs. We survivors of domestic violence say this is wrong. He should not be defending these employees who concealed the shredding of photographs. There are people connected who know this is going on who would lose their jobs if this became public information. We survivors are not giving up.

Ms. Brown:
A lot of people do not realize that inmates are losing credits for no other reason, sometimes, than being sick. If they become sick in another institution and they are brought to another location for medical treatment, they are placed in a segregated unit for medical. Inmates in segregated units do not earn good time credits or work credits. There was an inmate who came into the institution with health issues and because of that, he could not leave. He could not get a job, was denied good time credits and lost years in good time credits. In those situations, they should not lose their credits. It costs the taxpayers money.

One concern with the expungement issue was that if a person got arrested, their DNA would go into the CODIS file and stay there. Who was going to pay for that? If the person was cleared, the DNA was still there. If you wanted to have it expunged, you would have to hire an attorney and pay for it yourself. The State would do it, but it was coming off the federal end. That is one of the reasons the expungements are not higher, because it costs the person a lot of money to have it removed, and this is money they do not have.

Also, the presentation on the aging inmate population is not quite accurate. For example, for sepsis, it shows four between the years of 2000 and 2016. Some people do not realize that in 2007 there was a MERSA outbreak. This is a highly contagious disease. Northern Nevada was having an outbreak and they did not know where it was coming from. Several inmates contracted it and I was told that two inmates died of it. I am just saying I do not think it is quite accurate, which leads me to wrongful convictions. When a person is wrongfully convicted, the cost of their incarceration affects taxpayers and the real perpetrator is out there still committing crimes. We need a public integrity unit.

I concur with Ms. Williams on the domestic violence. In 2012, I filed a TPO against someone in prison. I filed a TPO and provided photos where he tried to burn my elderly mother's house down with her in it. In 2015, I filed another TPO against the same person and asked for the photos I had provided from my first TPO. They were destroyed

after 2 years, so that evidence is gone. So if there are photos of damaging evidence of people committing domestic violence that are being destroyed in 2 years, that is not right. It needs to be saved.

Chair Hardesty:
We understand. You want the Commission to look at the retention schedules that exist with respect to TPOs. I have a submitted document to enter for the record from one of our Commission members who could not be here today (Exhibit W). Seeing no more people wanting to make public comment, I adjourn this meeting at 4:51 p.m.

RESPECTFULLY SUBMITTED:

_____
Linda Hiller, Interim Secretary

APPROVED BY:

_____
Chair James W. Hardesty

Date: _____

Exhibit	Witness / Agency	Description
A		Agenda
B		Attendance Roster
C	Cindy Brown	Written Testimony and Document
D	Tonja Brown	*Truthfulness and the Brady Decision*
E	Wes Goetz	Submitted Letters
F	Chad Westom	Presentation: *Status and Implementation of the Medical Marijuana Program*
G-1 G-2 G-3 G-4 G-5	Edwin A. Keller, Jr. Robert P. Spretnak	Medical Marijuana in the Workplace Reference Materials
H	Edwin A. Keller, Jr. Robert P. Spretnak	Presentation: *Medical Marijuana in the Workplace*
I	Scott K. Sisco, NDOC	Presentation to the Advisory Commission on the Administration of Justice March 23, 3016
J	Scott K. Sisco, NDOC	Part II - Presentation to the Advisory Commission on the Administration of Justice March 23, 3016
K	Garrit Pruyt	Presentation: *Accounting and Application of Sentencing Credits*
L	Kimberly Murga, Metro	Presentation: *All Felon Arrestee DNA Law*
M	Stephen Gresko, CODIS	Presentation: *CODIS, Combined DNA Index System*

N	Nicolas C. Anthony	Pew-MacArthur Results First Initiative
O	Connie Bisbee	NAC: Chapter 213 - Pardons, Paroles And Probation; Remissions Of Fines And Commutations Of Punishments
P	Connie Bisbee	Nevada Board of Parole Commissioners, Operation Of The Board
Q	Connie Bisbee	Nevada Board of Parole Commissioners, *Parole Board Report of Actions, Fiscal Year 2013*
R	Connie Bisbee	Nevada Board of Parole Commissioners, *Parole Board Report of Actions, Fiscal Year 2014;*
S	Connie Bisbee	Nevada Board of Parole Commissioners, *Parole Board Report of Actions, Fiscal Year 2015*
T	Nicholas Anthony	2015-2016 Advisory Commission Potential Meeting Topics
U	Vicky Maltman	Written Testimony and Documents
V	Dee Williams	Documents
W	Paola Armeni	Letter