

**MINUTES OF THE
ADVISORY COMMISSION ON
THE ADMINISTRATION OF JUSTICE**

MARCH 7, 2012

The meeting of the Advisory Commission on the Administration of Justice was called to order by Assemblyman William C. Horne, Chair, on March 7, 2012, at 9:44 a.m., at the Legislative Building, Room 4100, 401 South Carson Street, Carson City, Nevada and via simultaneous videoconference at the Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada.. The Agenda is included as [Exhibit A](#), and the Attendance Roster is included as [Exhibit B](#). All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMISSION MEMBERS PRESENT (CARSON CITY):

Assemblyman William C. Horne, Chair, Assembly District No. 34
Connie Bisbee, State Board of Parole Commissioners
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas
Metropolitan Police Department
Honorable James W. Hardesty, Justice, Nevada Supreme Court, Vice Chair
Mark Jackson, Douglas County District Attorney
Brett Kandt, Deputy Attorney General, for Attorney General Cortez-Masto
Richard Siegel, President, American Civil Liberties Union of Nevada

COMMISSION MEMBERS PRESENT (LAS VEGAS):

Judge David Barker, Eighth Judicial District Court
Senator Greg Brower, District No. 3
Phil Kohn, Clark County Public Defender
Sheryl Foster, Deputy Director, Nevada Department of Corrections
Assemblyman Richard McArthur, Assembly District No. 4

COMMISSION MEMBERS ABSENT:

Greg Cox, Director, Nevada Department of Corrections
Larry Digesti, Representative, State Bar of Nevada
Senator David R. Parks, District No. 7
Jorge Pierrott, Sergeant, Department of Public Safety, Division of Parole and Probation
Todd Vinger, Undersheriff, Washoe County Sheriff's Office

STAFF MEMBERS PRESENT:

Nicolas C. Anthony, Senior Principal Deputy Legislative Counsel
Angela Hartzler, Deputy Administrator, Legal Division, Legislative Counsel Bureau
Olivia Lodato, Interim Secretary, Legal Division, Legislative Counsel Bureau
Karen Bondi, Project Specialist, Legal Division, Legislative Counsel Bureau

OTHERS PRESENT:

Laurie Johnson, The Recovery Group Inc.
Tonja Brown, Advocate for the Innocent
Rex Reed, Nevada Department of Corrections
Claudia Stieber, Division of Parole and Probation
Kim Madris, Division of Parole and Probation
Bruce Bannister, Nevada Department of Corrections, Medical
Katrina Rogers, Legal Fellow, American Civil Liberties Union of Nevada
Bernard Curtis, Nevada Highway Patrol

Chair Horne called the Advisory Commission of the Administration of Justice to order and requested a roll call of the members present.

Ms. Bondi called the roll. A quorum was present.

Chair Horne opened Agenda Item III, Public Comment. He said another opportunity at the end of the session was available for public comment.

Laurie Johnson, Recovery Group, Inc., said she was the current Director of Programs and Rehabilitation for a Recovering Group. She was actively involved in proper justice, healing on victim and offender levels, the safety of all community members, and proper prevention moving forward, [Exhibit C](#). She submitted her comments for consideration from the Commission for the treatment of sexual abusers. She said incarcerated sex offenders and the facilities they were housed in were referenced on the Las Vegas Metropolitan Police Department notification site. She foresaw problems for the Nevada Department of Corrections. She said from a community safety stand point for notification sake, 3-7 business days prior to release for offenders could be sufficient, [Exhibit C](#). She wanted the State more involved in the prevention of child sexual abuse and any sexual abuse. She said she was available to answer any questions.

Tonja Brown, Advocate for the Innocent, said she had information regarding the computer glitch from 2007, [Exhibit D](#). She said the NDOC installed a computer system in 2007 that was unable to handle indeterminate sentences, meaning life sentences. She said the NDOC lacked the manpower to compare 13,000 inmates' files with the original criminal history and presentence reports. She said there was a report that it had happened up to 1,300 times since 2007. She referred to Nolan Klein's file printed January 24, 2011,

showing the computer glitch was still in his file. Ms. Brown read articles from her submission of testimony to the committee, [Exhibit D](#).

Chair Horne asked if there were questions on this issue. He said he was seeking information from Director Cox and Attorney General Masto on the issue. He had concerns that some inmates had felony convictions on their records of which they were never convicted. It may have had an effect on their parole release. He said it was premature to say that because a conviction was placed erroneously on their file it automatically resulted in a denial. He was interested in how many inmates were possibly affected by the computer glitch. He was also interested in remedies to the problem.

Justice Hardesty commented that the NDOC had suffered many problems in the transition of their computer system. He wondered if a report or summary had been generated about the various consequences and difficulties encountered in the transition system. He was also interested in how the problems were cataloged and corrected.

Chair Horne said he would put the request in the report to Director Cox.

Rex Reed, Administrator, Offender Management Division, Nevada Department of Corrections, said Ms. Brown had listed many topics he wanted to address today. He said there were not 13,000 errors in the PSI reports. He knew of several, and they were taken care of quickly. He said an inmate can and did review their file. He added that the NDOC also reviewed the files. A judgment of conviction went through three or four different reviews. He said when an inmate came in, by law, they had to come in with a judgment of conviction. The intake officer reviewed the judgment, then the caseworker at the intake unit reviewed it, next there was a specific individual in the central office who reviewed the judgment of conviction. He said the last step was caseworkers in the central office who approved all intake classifications. The errors some people thought had occurred did not actually occur. He said he understood Ms. Brown's concerns and would like to help put her concerns to rest in terms to her brother's sentences in the computer. He requested that Ms. Brown put her concerns in writing for him.

Chair Horne asked Ms. Brown to do as Mr. Reed requested.

Justice Hardesty asked Mr. Reed if there was a report generated. He asked if there were difficulties in the transition of the computer software and if some issues had developed.

Mr. Reed said there was no report he knew about. He said Management Information System (MIS) may have kept one, but he was unaware of an overall report. He said the two errors he was aware of were corrected quickly and they were to the benefit of the inmate. The biggest problem with errors was not the computer system but human error. He gave an example of an inmate with a PSI report given to the NDOC that said the inmate was guilty of a specific crime and it was entered into the system. He said a caseworker found a letter from the court or the Division of Parole and Probation stating

the inmate had the same name as another inmate, and it was the other inmate that had the conviction. He said it was corrected within 45 minutes after receiving the information. He said the biggest number of errors were human errors.

Chair Horne closed public comment and opened Agenda Item IV, approval of the minutes.

MR. SIEGEL MOVED TO APPROVE THE MINUTES FROM THE JANUARY 24, 2012, MEETING.

COMMISSIONER BISBEE SECONDED THE MOTION.

THE MOTION CARRIED.

Chair Horne opened Agenda Item V, appointments to Subcommittees of the Advisory Commission. He said the Committee on Child Welfare and Juvenile Justice was chaired by Senator Wiener and last time it was chaired by Senator Leslie. The Subcommittee on the Victims of Crime was chaired by Attorney General Masto and he suggested she continue to chair it. He said General Masto would select members of the subcommittee.

JUSTICE HARDESTY MOVED TO NAME ATTORNEY GENERAL MASTO CHAIR OF THE VICTIMS OF CRIME SUBCOMMITTEE.

MR. SIEGEL SECONDED THE MOTION.

THE MOTION CARRIED.

Mr. Siegel asked if the two subcommittees were statutory committees now. He said there had been a steering committee and various other subcommittees earlier. He said it seemed appropriate to discuss the future of the Commission and its purpose and direction. The overall purpose in the earlier commission was to assure that the system was efficient, effective, fair, and protective of the public. It was also a direct response to the fact that there were projections of the prison population from 2005 to 2010 increasing approximately 70 percent. He said the Commission did effective work to keep that projection from happening and that overall the prison population in the State was reduced by five or ten percent. He said there was good public response and no criticism of the fact they prevented the 70 percent increase in prison population. This was the time to think about new subcommittees.

Chair Horne said the subcommittees came up as issues arose during hearings. He said they did not need a steering committee again. They had a full agenda of suggestions presented to the Commission.

Mr. Kandt said General Masto requested that the Victims of Crime Subcommittee be delegated by the Commission review of the issue of trafficking children ages 12 to 21 for sexual exploitation. He said her office was already working with federal authorities and she wanted her subcommittee to form responses to the problem including potential legislation for consideration by the Commission.

Chair Horne said the suggestions were appropriate.

Justice Hardesty said there were 17 to 20 items identified for the Commission to study and he and Chair Horne wrote agendas that incorporated all but one of the suggestions for discussion. He was optimistic all items identified had an opportunity to be vetted by the Commission. He said two areas for potential subcommittees were an area concerning the correction of presentence investigation reports (PSI) that were the result of a Supreme Court Opinion, *Stockmeier v. State Board of Parole Commissioners*. He said a small subcommittee could summarize the problem and provide specific language suggestions to deal with that problem. The second area for consideration was after Dr. Austin's presentation concerning class B felonies and studies of the report.

Mr. Kohn agreed with Justice Hardesty that some questions can be resolved very quickly. He said the *Stockmeier* opinion suggested where legislation needed to happen. He said it addressed the problems mentioned by Mr. Reed and he was willing to serve on the Subcommittee.

Chair Horne asked Mr. Kohn if he would be the Chair of the Subcommittee. He also asked Judge Barker, Ms. Bisbee, and Mr. Jackson to be on the Subcommittee. He closed Agenda Item V and opened Item VI on the Agenda. He said Mr. Anthony would make the presentation.

Mr. Anthony said at the last meeting a request was made for staff to compile a list of all the committees possibly dealing with criminal justice topics that may overlap with the Advisory Commission. He presented a short summary of each of the committees along with backup materials to statutory authority and/or information from websites, [Exhibit E](#). He outlined the statutory duties of the Advisory Commission under NRS 176.0123. He said there was a Legislative Committee on Child Welfare and Juvenile Justice chaired by Senator Wiener and it had met twice this interim. The committee looked at issues ranging from youth risk behavior, bullying, cybercrime, gangs, statewide juvenile justice reform, and sex trafficking of minors. He said another standing committee was on Industrial Programs and it was charged with looking at programming for inmate offenders in the Nevada prisons. He said Governor Sandoval indicated that he would continue the Nevada Crime Commission established by Governor Gibbons. Governor Sandoval said he wanted

the commission to focus on public education, crime solutions, monitoring crime trends, recidivism, legislation supporting law enforcement, and seeking fund raising and grant opportunities.

Mr. Anthony thanked Mr. Kandt from the Office of the Attorney General for his help on the numerous committees the Attorney General's office oversaw. He said all the committees had met regularly. The committees included domestic violence, the Nevada Council for Prevention of Domestic Violence, multidisciplinary teams to review the death of the victim of certain crimes, Committee to Study Laws Concerning Sex Offender Registration, Technological Crime Board, Substance Abuse Working Group, Open Meeting Law Task Force, and victim information notification, [Exhibit E](#). He said the Open Meeting Law Task Force and the Victim Information Committees did not have a statutory authority.

Justice Hardesty said during the last session the evaluation of civil commitment of sex offenders was added for the Commission. He asked if the subject matter was being addressed by the Attorney General's advisory committee to study laws concerning sex offender registration. He asked if the subject matter was the same or was there information they generated that would be worthwhile to the committee.

Mr. Anthony suggested that Mr. Kandt might be able to better explain the policy.

Mr. Kandt said he sat on the committee and they had not looked at the issue of civil commitment.

Mr. Anthony said the discussion concerned the Supreme Court of Nevada. He said overlap of their review of specialty courts occurred with the Commission. The Commission on Indigent Defense established a determination for indigence, adopted a performance standard for indigent defense counsel, and established a uniform definition of case. He was unable to establish the status of the Specialty Courts Funding Committee. The Juvenile Delinquency Procedural Rules Commission was established by the Supreme Court. The Court also established a Commission on Statewide Juvenile Justice Reform.

Mr. Anthony said there were some other nonlegislative committees. The Advisory Committee on Criminal Justice Information Sharing was through the Department of Public Safety. The Committee was charged with statutory duties looking at all procedures. The State Council for Interstate Adult Offender Supervision and Juvenile Supervision were statutory requirements of all 50 states. He said the last council was for the prosecuting attorneys to develop best practices relating to the duties of the Attorney General, district attorneys, and city attorneys, [Exhibit E](#).

Mr. Siegel said he was surprised at how large the list was of the committees. He said any future subcommittees needed to see this kind of list before they added to it. He hoped after Dr. Austin's report in April, the Commission would consider the best practices

rapidly being put in place in this country. He said Texas was now a model of criminal justice reform and prison reform. He said best practices around the country could give the Commission ideas on what they could recommend in conservative as well as liberal to moderate states.

Justice Hardesty said the Legislative Committee on Child Welfare and Juvenile Justice and the Supreme Court's Reform Commission had communicated on the various subjects being studied. He said the Court's Commission had received reports on what was occurring throughout the country in an effort to try to develop an improved practice in Nevada on the handling of juvenile justice.

Chair Horne closed Agenda Item VI and opened Agenda Item VII, a presentation concerning the use of boot camp.

Sheryl Foster, Deputy Director, NDOC, said the establishment of the boot camps fell under NRS 209.356. Originally it was designed as a type of diversion program in lieu of imposition of sentence, or a type of shock probation program. She said it was a 190-day maximum program which involved strenuous physical exercise and hard labor, military style drills and sessions of instruction, stress management, building good character, rational behavior thinking, and preparing for and obtaining employment. The current requirements included being male, convicted of a nonviolent felony, at least 18 years old, never in jail or prison as an adult for more than six months, and eligible for probation. The positives of boot camp were that an individual would only spend 190 days maximum in incarceration. Boot camp was currently located at Three Lakes Valley Correctional Center and cost \$42.30 per day per inmate. She said they added an education component and one for community service projects to the program.

Ms. Foster said some of the research on boot camps noted that several other states and the Bureau of Prisons discontinued the use of boot camps as there was not enough of a positive effect on recidivism to justify the costs. Expanding the current program required money for additional staff and resources. She said for the interim, they had the capacity for a maximum of 65 inmates, but they could expand it to 75 participants with the current staffing and resources. She said one of the biggest negatives of the program was the lack of transitional support once boot camp was completed. She said they were released into society into the uncontrolled environment they were in prior to boot camp. Aftercare and transitional housing was needed for success of the program. The current staffing resulted in cutbacks in community service projects.

Ms. Foster offered some statistics from 2008 to 2011 for boot camp. She said the numbers were slightly skewed because it included offenders brought into the program during 2007 and completed in 2008. She said the raw numbers were 890 people assigned to boot camp; 86 offenders failed the program; 81 offenders quit the program; 6 offenders were rejected for medical reasons and 59 did not complete the program for unspecified

reasons. She said in the last 3 years, 390 participants were returned to prison for various reasons.

Ms. Foster said during the last Session the question arose about the Youthful Offender Program becoming a boot camp style program. She said there were issues with the suggestion. Inmates placed in the Youthful Offender Program did not meet the criteria for boot camp because most of them were violent offenders and some had served prior prison sentences. They did not qualify for minimum custody and some had very lengthy sentences. It would also require a large increase in staff and resources, [Exhibit F](#).

Mr. Jackson asked Ms. Foster about the numbers she presented. He said of the 890 people in boot camp, 622 failed the program or were returned to prison. He asked how she rated the success of boot camp based on the figures he stated.

Ms. Foster said she left out the most important number. She said there were 658 successful graduates from the program.

Senator Brower asked what determined how long the boot camp program lasted.

Ms. Foster said it usually lasted 190 days. The NRS reflected 150 days, but also allowed a period of time for the intake process. She said it could not go any longer than 190 days.

Chair Horne asked about the ability to expand from 65 beds to 75 beds. He asked if it required a statutory change for the implementation of the added beds.

Ms. Foster replied no, it was a budgetary issue for the NDOC.

Chair Horne asked about an aftercare program. He said many of the graduates went to probation and he asked what the level of supervision was when they were on probation. Casa Grande was never used to its full capacity and he wondered if it was a possibility for use for supervision after boot camp.

Kim Madris, Deputy Chief Las Vegas, Division of Parole and Probation, said once boot campers went back to the court and were sentenced to probation, they came into intake like any other offender. They did a risk and needs level on all incoming people and it determined the supervision. She said it was also based on the type of crime, but they usually went into general supervision which was approximately 90 to 1.

Chair Horne asked Mr. Reed to find information for the Commission on the current capacity of Casa Grande, staffing, and if it could be used for transitional housing for the recent graduates of boot camp.

Mr. Reed said the current overall capacity of Casa Grande was 396 beds. He said there were currently 306 inmates. There was capacity if the State wanted to use it. He said they received boot campers from all over the State.

Mr. Kohn said he was a strong proponent of boot camp. He said all the programs were started with the premise that nobody went who had a violent crime. The programs had proven their worth. He said it was time to reevaluate who qualified for boot camp. He was concerned about the blanket restriction of no violence. Some first time offenders with a violent crime were exactly the sort of people to put in a boot camp type program. He wanted the courts to have more discretion in sending people to boot camp. He asked the Commission to consider giving the courts more discretion.

Mr. Callaway agreed a boot camp type program could be beneficial to some people who committed a violent crime. He was concerned about the minimum security the facilities had and the possibility they could escape into the community. He said if the boot camp was moved to a more secure location, he would support the idea.

Mr. Kohn said there were cases where a person committed a robbery or had a violent overtone that prohibited them from boot camp, but they were on a low bail or on their own recognizance (OR) and behaved well while awaiting sentencing. He said those things should be considered. He said more discretion should be given to the judges.

Chair Horne said having a blanket prohibition was problematic, but they did not want to have a wide-open discretion. He said a definition of a crime of violence may be an important discussion.

Justice Hardesty said when he was a district court judge he saw many cases where the defendant would have been a good candidate for boot camp. He said those people did not seem to be a flight or escape risk because of their behavior during pretrial OR.

Judge Barker said he supported judicial discretion. He said judges were in a unique position in sentencing hearings. He had men before him that would be good candidates for boot camp programs who were unable to attend because of their crime.

Justice Hardesty asked if an inventory of action items was needed for future discussion and debate. He said it might be a potential amendment to the regimental discipline statute that would expand judicial discretion in some of the felonies. He asked Judge Barker if other judges in his district shared his enthusiasm for the regimental discipline programs.

Judge Barker said he could not speak for all the judges. He had never heard negative talk about it from the judges and the criminal judges thought highly of the programs. He said he would ask for opinions for the Commission.

Mr. Siegel asked if the boot camp program was a male only program.

Mr. Reed said yes, it was male only and there were no women in the program.

Mr. Siegel said they had learned that the female population was rising faster than the male population in the prisons. He asked if boot camp could be beneficial for women.

Mr. Reed said if there was a rise in female population, it was a very short term fluctuation. He said if the State developed a policy for women, the NDOC would carry out the requirements of the policy.

Mr. Siegel said they needed to consider the equal protection in law for females.

Ms. Foster said the topic was discussed in the NDOC. She said the NRS required males in boot camp. If the statute changed, they were already planning for the possibility of females in boot camp.

Mr. Reed said the capacity at Casa Grande was 396 people. He pointed out capacity for a program was limited by the fact that they had 8 wings and the capacity of wings was either 48 or 52. He said the State had been reluctant to mix felons and nonfelons.

Chair Horne closed Agenda Item VII and opened Agenda Item VIII.

Ms. Foster stated the 120-day evaluation program, also known as the safe keeper evaluation program, was originally designed as an evaluation program, [Exhibit G](#). The offender came into the system, went through an intake process, and was there for 120 days. She said during that time their prior criminal record, their mental and physical health, and the rehabilitation resources available were evaluated. The criteria for the program was someone convicted of a felony for which he might be sentenced to imprisonment, and had never been sentenced to imprisonment as an adult for more than six months. She said they were unable to determine a recidivism rate based upon the data available. However, earlier testimony stated 600 out of 2,000 people placed in the program had been returned to prison. She did not know who gave that testimony. She said the Advisory Board recommended the elimination of the program in 1997 due to budgetary concerns and limited bed space. Ms. Foster said the positives of the program were that the offender only spent 120 days in incarceration. Education was emphasized in the program. She mentioned that some life skills programs were available to the offenders. Ms. Foster said the negatives of the program were that there was never an appropriation for staffing or resources for the program. She added that if the program was reinstated, there needed to be staffing appropriated in order to conduct the program. She said the program was considered a costly use of medium custody beds. She said if the program was reinstated and housed at Southern Desert Correctional Center it would cost approximately \$48.00 a day. She said appropriate staff needed to include a caseworker, mental health counselor, re-entry staff, and additional custody staff.

Mr. Kohn said he wanted as much discretion for the courts as possible. Judge Herndon was a strong proponent of reinstating this diagnostic study. He said it was clearly a scared straight program. It gave young offenders who cannot go to boot camp an idea of how serious it is in state prisons. He said the program had a psychologist on staff who was better able to determine the mental health of the offender. He asked Ms. Foster to repeat the numbers concerning the recidivism rate.

Ms. Foster said she did not know where the numbers had originated. Someone testified 600 out of 2,000 offenders were returned to prison.

Mr. Kohn said if there were 1,400 offenders who did not reoffend, how was that number measured financially? He believed it was one of the most important programs in the criminal justice program. He reiterated he believed in judicial discretion.

Mr. Jackson said he looked at minutes from the Senate Committee on Judiciary and also the Assembly Committee and he could not find the numbers Ms. Foster quoted. He reiterated why the program was eliminated. He said the cost of the program in 1997 was \$15,000 per person. He said with 60 people, it cost the state nearly a million dollars. He said it was not a scared straight program, but dealt with participants who received expensive medical care at the cost of the State. Those were some of the reasons why the program was repealed in 1997.

Mr. Reed said the numbers quoted by Ms. Foster from 1997 were garnered from the Nevada Criminal Information System. He said the numbers could not be replicated due to the conversion process.

Chair Horne closed the hearing on Agenda Item VIII and opened discussion on Agenda Item IX. He requested Judge Barker ask his colleagues their thoughts of the 120-day diagnostic prison sentence. He said when he was a prosecutor he liked the 120-day evaluation program.

Chair Horne opened discussion on the Ely Prison Settlement on medical health care.

Mr. Kandt said *Riker v. Gibbons* was a federal lawsuit filed by inmates of the Ely State Prison for which an Amended Complaint was filed April 2008, [Exhibit H](#). He said it was a class action challenging the medical care provided at Ely State Prison. He said the case was settled and dismissed with prejudice. Someone else would provide additional information on the administration of the settlement agreement.

Bruce Bannister, Medical Director, NDOC, summarized the actions of the settlement agreement. Ely was monitored under six categories. The categories included medication, which involved administration of medication, chronic disease management, management of sick call, management of intersystem transfers, provision of specialty care, and the care provided in the infirmary of the institutions. He said they had received partial

compliance on five of the categories and substantial compliance on one on the first visit. The second visit had substantial compliance in three areas and partial compliance in three areas.

Mr. Siegel asked if the Ely situation represented anything that was unusual in terms of the entire NDOC system. He asked if staffing problems and Ely's isolated location had put additional pressure on staffing.

Dr. Bannister said Ely being in rural Nevada did present challenges for recruiting employees with the credentials required to work in medical in the prison system. He said right now they were successful in filling positions with qualified people. There was always turnover in employees. He said most of the prison actually had more medical resources than the local community. Ely had no mental health personnel for medical management in the community. The prison had psychologists, psychiatrists, mental health nurses, and family physicians that monitored the medication of approximately 160 to 170 inmates. Dr. Bannister said doctors traveled to Ely frequently to provide second opinions and provide support for the medical staff.

Mr. Siegel said the members of the Commission found somewhat limited medical facilities at Indian Springs and that area of the prison system. He said they were told some upgrading was occurring in terms of facilities and programs. He asked for a summary of the upgrades occurring in southern Nevada for the past three years.

Dr. Bannister was unsure of the meaning of "limited" health facilities. He said inmates were sent for something other than medical reasons. They were there to provide treatment for serious medical needs. He said regardless of location there was a right way to treat any particular medical condition. They had systems to determine what was necessary. He said at intake the inmate was classified based on their medical, dental, and mental health findings. He said those with a chronic disease, and there was proven medical treatment to cure or prevent progression, the treatment was followed.

Mr. Siegel said they were told there were plans to go to the Legislature for additional resources or use internal NDOC resources to provide a larger infirmary base and other facilities. He said medical and mental health care was the area of prison litigation where any state was most vulnerable.

Dr. Bannister said things had improved. He said at one time there was a plan to build a regional medical facility in the south similar to the one in Carson City. He said it was to provide a higher level of care for certain inmates and reduce the cost of using outside resources for care that could be done inside the prisons. Currently inmates were transferred to Carson City for certain levels of care.

Mr. Siegel asked if the facility had been built in southern Nevada.

Dr. Bannister replied it had not been built to his knowledge.

Ms. Foster said the regional medical facility was not built for budgetary reasons. However, there was a large expansion to the infirmary at Southern Desert Correctional Center and at the Florence McClure Women's Correctional Center.

Mr. Kandt said the issue of mental health care was not addressed in the *Riker* litigation or the settlement.

Chair Horne closed the hearing on Agenda Item IX and opened discussion on Item X.

Mr. Kandt said A.B. 579 and S.B. 471 were enacted during the 2007 Legislative session and were scheduled to go into effect July 2008. He said A.B. 579 revised Nevada's existing sex offender registration laws and made them compliant with the Sex Offender Registration and Notification Act, (SORNA), [Exhibit I](#). He said there were five differences between SORNA and Nevada law prior to enactment of A.B. 579. He said it went from an offender based system to an offense based system. S.B. 471 imposed on certain sex offenders new residency and movement restrictions, [Exhibit I](#). He said a number of lawsuits challenging A.B. 579 and S.B. 471 were initiated in both state and federal courts. He said on March 30, 2009, the Legislative Counsel Bureau issued an opinion which determined the sex offender laws in effect prior to the passage of A.B. 579 and S.B. 471 remain in effect during the pendency of the litigation, [Exhibit I](#). The Office of the Attorney General issued an official Attorney General Opinion 2010-01 which concurred in the LCB opinion. He said in April, 2010, the U.S. Department of Justice notified the Governor that the State had taken all the necessary steps to substantially implement SORNA.

Justice Hardesty recused himself from the subject matter. There were cases pending before the Supreme Court dealing with this subject matter. He was not a participant on this agenda matter and the subject related to it.

Chair Horne said this matter was closely watched nationally. He said both sides of the issue were being considered. He closed the hearing on Agenda Item X and opened the hearing on Agenda Item XI, a discussion of potential topics, dates and locations for future meetings.

Chair Horne said a hearing was tentatively scheduled for the week of April 16 through 20, 2012. The agenda items included were the projected increase in female inmates, ways to mitigate Pew research, and reform proposals. Other agenda items were A.B. 510 for category B felons; invite the Governor's office to review the veto of A.B. 136; the recidivism rates and Dr. Austin's report; district court jurisdiction to correct PSIs; and a reclassification of category B felons. Chair Horne said the next meeting was tentatively scheduled for May 27 through June 1, 2012. The agenda items included intermediate sanctions; lifetime supervision and impacts on Parole and Probation; coroner's inquest

process; and review of measures that did not pass in the 2011 Legislative Session. The week of July 9 through 13, 2012, the agenda included A.B. 107; Victim's of Crime Subcommittee report on sex trafficking of minors; and assault weapons and gun laws. He said a final meeting was tentatively scheduled for August 20 through 24, 2012, and was reserved for a work session to take up any action items for legislative action.

Mr. Callaway asked if the discussion regarding the coroner's inquest would include a presentation of the overall process. He wondered how it affected Clark County and the current litigation. He asked if it was Chair Horne's intent to look at alternatives to the inquest process.

Chair Horne said all areas were open for discussion by the Commission concerning the coroner's inquest process. He was interested in what was occurring now with the process.

Mr. Siegel requested the *Las Vegas Review-Journal* series on police matters be included in materials sent to the members before the meeting on the coroner's inquest.

Chair Horne said it could be included, but as a caution to the Commission, it was important to remember the articles were a media source of information.

Justice Hardesty asked Mr. Callaway about the lawsuit involving the inquest process. He asked if it was a State court case.

Mr. Callaway said he understood the police union filed litigation to halt the inquest process due to the fact the panel assembled and the ombudsman were a part of the new process. He said they believed it infringed upon and created an adversarial process and it became a court proceeding rather than a fact finding process. He said he thought there was a federal district court case regarding the matter from the Police Protective Association, and also a case involving a Highway Patrolman in either the state or federal court.

Justice Hardesty asked Mr. Kandt if the Attorney General's Office was involved in the litigation.

Mr. Kandt replied the Attorney General's Office was not involved. He was aware there were cases in both state and federal courts regarding the process.

Justice Hardesty asked Mr. Kandt to inform Judge Barker and himself about these pending cases.

Chair Horne had a policy of not taking up legislative matters that might include impending litigation. He closed the hearing on Agenda Item XI. He called Katrina Rogers to testify in public comment.

Justice Hardesty recused himself if Ms. Rogers's testimony related to the coroner's inquest or to SORNA.

Katrina Rogers, Legal Fellow, American Civil Liberties Union of Nevada, commented on Justice Hardesty's questions regarding the litigation on the coroner's inquest. She said there were two suits filed, one in state court and one in federal court. The federal court order has been decided and they remanded one part of the decision to state court. She said unless there was an appeal to the Ninth Circuit Court, there were no federal court cases. The other matter in the state court was still pending.

Ms. Rogers addressed Agenda Item IX, concerning the Ely prison settlement. She visited the Ely prison as part of the group monitoring the process of the medical reviews. She said they were pleased with the NDOC's cooperation and the access given to counsel and medical monitors regarding the facilities and reviews of the files. She said the NDOC had met with substantial compliance with the concerns in the settlement.

Ms. Rogers discussed Agenda Item X concerning the status of the litigation regarding the Sex Offender Registration and Notification Act. She said the ACLU filed a petition to the United States Court of Appeals in the Ninth Circuit for a rehearing. Some of the main concerns regarding the decision were that it was based on new factual findings and they said it should have remanded back to state court for an additional hearing. The ACLU also had concerns regarding the punitive effects of A.B. 579 and whether or not it would be applied retroactively. The final concern was with some due process issues on registered offenders determining whether or not their convictions actually trigger A.B. 579. The petition to the Court of Appeals asked they review their decision en banc before it proceeded to any other court level.

Bernard Curtis, Nevada Highway Patrol, asked if a member of the Division of Parole and Probation could be on the subcommittee chaired by Mr. Kohn regarding PSIs. He suggested Kim Madris be appointed to the Subcommittee.

Mr. Kohn said he looked forward to Ms. Madris's participation on the subcommittee.

Ms. Brown said she contacted the press. She said in 2011 legislation was passed to have an ombudsman oversee the NDOC. She said the Attorney General's Office failed to tell her who the ombudsman was or to return her telephone calls. Misinformation still existed in 2010 on the NDOC website. She said there were other medical problems besides the ACLU settlement agreement that did not involve the agreement. She received information that the NDOC staff told inmates different information from other medical experts. She said there were concerns also with the inmate welfare fund and money entering the fund and then disappearing. She said it was time for an oversight committee for the inmate welfare fund.

Mr. Kandt clarified that there was a Senate bill sponsored by Senator Parks last session to create an inmate ombudsman program in the Attorney General's Office. There was a resource issue with the bill and the bill that was passed granted the statutory authority to establish an inmate mediation program modeled upon the successful program for federal inmates. He said they had that statutory authority, but no statutory mandate establishing an ombudsman in the Attorney General's Office.

Mr. Jackson said Ms. Brown had been told by several inmates they were denied either medical treatment or prescriptions because they lacked the ability to pay. He asked Ms. Brown who the inmates were and where they were housed.

Ms. Brown said it was not that they did not have the ability to pay, she questioned the reason they were not given whatever they needed. She said one inmate was at the NSP, but he was no longer there.

Mr. Jackson asked: "who was he and who is they".

Ms. Brown did not recall his name, but Joe Carpino has been out of heart medication for over a month. She was informed several weeks ago he believed he had a small heart attack. Randall Brewer had an MRI referring to the tumor on his spine. He had a 2007 injury, but other doctors' stated it was from his injury. He was not diagnosed with MS until 2010, but the NDOC claimed they cannot do surgery due to the MS. Ms. Brown said she got her information from websites and letters she received over the years and months.

Mr. Reed said she was correct there was no longer a lot of data on the Internet. He explained that the NDOC had a dilemma concerning some of the public information getting inmates in the system in trouble. He said sex offenders were looked upon poorly and even aggressively by fellow inmates. They were responsible for protecting the safety and welfare of the inmates and staff. He said the information was not on the Internet because it was being used to put some inmates at risk.

Ms. Johnson asked Mr. Reed why inmate's information was removed from the NDOC. She asked if LVMPD referenced the facilities where inmates were housed. She asked how that was going to be addressed.

Mr. Reed wondered if Ms. Johnson was asking whether the Las Vegas Police Department had information on where inmates were located. Mr. Reed said the NDOC had no authority over LVMPD on allowing them to tell where inmates were located.

Ms. Johnson asked where she should turn to have the Las Vegas Police remove the information from their website. She said it could cause huge problems for the NDOC and inmates.

Mr. Kohn suggested Mr. Callaway check to see if it was posted on LVMPD websites.

Mr. Callaway said he understood Ms. Johnson was saying in sex offender notification they listed sex offenders addresses as to the facility where they were being held. He said he would verify and make sure LVMPD was in compliance with what was required.

Chair Horne reminded the committee to respond as quickly as possible concerning the future meeting dates. As there was no other business for the Commission, he adjourned the meeting at 12:28 p.m.

Submitted by:

Olivia Lodato, Secretary

APPROVED:

William C. Horne, Chair

DATE: _____

EXHIBITS

Committee Name: Advisory Commission on the Administration of Justice

Date: March 7, 2012

Time of Meeting: 9:30 a.m.

	Exhibit	Witness/Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Laurie Johnson	Comments
	D	Tonja Brown	Comments on Computer Glitch
	E	Nicolas Anthony	Committee Report
	F	Sheryl Foster	Questions and Answers for ACAJ
	G	Sheryl Foster	120-Day Evaluation Program
	H	Brett Kandt	Riker v. Gibbons Lawsuit
	I	Brett Kandt	AB 579 & SB 471
	J		
	K		