# MINUTES OF THE
# 2015-2016 INTERIM
# ADVISORY COMMISSION ON THE
# ADMINISTRATION OF JUSTICE
# APRIL 19, 2016

The meeting of the Advisory Commission on the Administration of Justice was called to order by Chair Hardesty at 9:31 a.m. at the Legislative Building, Room 4100, 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.

## COMMISSION MEMBERS PRESENT (CARSON CITY):

Justice James W. Hardesty, Nevada Supreme Court
Connie Bisbee, Chairman, Nevada Board of Parole Commissioners
Judge Kevin Higgins, Justice of the Peace, Sparks Justice Court
Mark Jackson, Douglas County District Attorney
Adam Laxalt, Attorney General, Office of the Attorney General
James Dzurenda, Director, Nevada Department of Corrections
Jorge Pierrott, Lieutenant, Division of Parole and Probation, Department of Public Safety
Eric Spratley, Lieutenant, Washoe County Sheriff's Office
Judge Lidia S. Stiglich, Second Judicial District Court, Washoe County
Holly Welborn, Policy Director, ACLU of Nevada, Inmate Advocate

## COMMISSION MEMBERS PRESENT (LAS VEGAS):

Senator Aaron D. Ford, Senatorial District No. 11
Senator Mark A. Lipparelli, Senatorial District No. 6
Assemblyman John Hambrick, Assembly District No. 2
Paola Armeni, Representative, State Bar of Nevada
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

## COMMISSION MEMBERS ABSENT:

Assemblyman Elliot T. Anderson, Assembly District No. 15

## STAFF MEMBERS PRESENT:

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:**

Dee Williams
Tonja Brown, Advocate for the Innocent, Advocate for the Inmates
Wes Goetz
Justice Michael L. Douglas, Nevada Supreme Court
Natalie A. Wood, Chief, Division of Parole and Probation, Department of Public Safety
David Helgerman, Captain, Northern Command Reno, Division of Parole and Probation, Department of Public Safety
Jim Wright, Director, Department of Public Safety
Stephanie O'Rourke, Major, Division of Parole and Probation, Department of Public Safety
Julie Butler, Administrator, General Services Division, Department of Public Safety
Erica Souza-Llamas, Repository Manager, General Services Division, Department of Public Safety
John Witherow, President, NV-CURE
Patricia Ann Bascom
Robyn G. Covino
Donald Hinton, Director, Spartacus Project

**Chair Hardesty:**
I will open the meeting of the Advisory Commission on the Administration of Justice (ACAJ). We have two new members: Judge Kevin Higgins of Sparks Justice Court, representing the Nevada Judges of Limited Jurisdiction, will replace Judge Glasson; and James Dzurenda, the new Director of Nevada Department of Corrections (NDOC), replaces Interim Director E.K. McDaniel.

I will open Item III, public comment.

**Dee Williams:**
I represent mothers in the Eighth Judicial District Court in Las Vegas whose photographs of our battered children were shredded by Wendy Wilkinson. She is a court employee in their Family Division. I have been before this Advisory Commission twice this year. I am disappointed to see that this grave matter of escalating domestic violence in Nevada is not on the agenda. Are there plans to address escalating domestic violence in Nevada during this Interim?

**Chair Hardesty:**
On today's agenda we have been asked to discuss our statutory duties as well as topics for future meetings. I will be asking Commission members for agenda items to be included on our upcoming agendas.

**Ms. Williams:**
I hope this topic will be included. The problem of protection orders in this State are the subject of ADKT 410, which created the Commission on Preservation, Access and Sealing of Court Records. This document—the policy for handling filed, lodged and presumptively confidential documents—was adopted by the Nevada Supreme Court (NSC) in 2013. We appreciate the NSC for addressing this matter. Rule 2 of the policy states that the duties of the court clerk are ministerial and the clerk may not refuse to perform such a duty when documents are submitted to the court. This is where we have found the problem. The Eighth Judicial District Court has been refusing to file the photographs of the batteries to our children. The photographs are given to Wendy Wilkinson. What she did with them, we do not know but we know they are not in our children's battered court case protection order files.

**Chair Hardesty:**
Thank you. Please tender your documents to the secretary and they will be submitted as an exhibit for the record of today's meeting (Exhibit C).

**Tonja Brown (Advocate for the Innocent, Advocate for the Inmates):**
Since this Advisory Commission began, I have asked that you consider a public integrity unit commission to look at wrongful convictions. I also ask that you consider implementing criminal procedures, the motions and practices of discovery, so that when a person is arrested, the law enforcement agency turns information over simultaneously to the prosecution and the defense.

In my submitted packet (Exhibit D), there is a 1988 motion for discovery by the defense, an opposition to that discovery and a 1988 order from Judge Peter Breen ordering Deputy District Attorney Ron Rachow to turn over all evidence. The motion for discovery document includes a letter from the prosecutor defying the court order. Twenty-one years later, all that evidence that should have been turned over was finally turned over when Judge Adams ordered Dick Gammick's office to turn it over just prior to Mr. Klein's death. Had the evidence been turned over, there is no doubt in anyone's mind he would have been exonerated, particularly since the jury had been deadlocked.

I also ask you consider including arrestee DNA issues for future discussion. I am asking that if the petitioner is denied DNA testing, that person can still move forward with DNA testing at his or her own expense. There are organizations that will pay and family members, too. A person should not be denied DNA testing.

This Advisory Commission in the past has done studies on eyewitness identification. Nevada has no statistics on how many wrongful convictions have occurred based on eyewitness identification through photo lineups.

**Wes Goetz:**
I presented some information at the last meeting. Did anyone read my paperwork?

**Chair Hardesty:**
This is your opportunity to make public comment. If you have additional input that is new, we would welcome it. Materials received by the Commission are read at the leisure of each Commissioner. I read your material.

**Mr. Goetz:**
If you read the material, you can see that to me, Officer Chambers is in retaliation because I filed two complaints against him.

**Chair Hardesty:**
This Commission does not provide a remedy for those kinds of complaints. We do not have jurisdiction to do that. We have the jurisdiction, if the Commission makes it a priority, to examine processes and procedures within the Division of Parole and Probation (P&P), and that is on our agenda today.

**Mr. Goetz:**
That is why I want to see my computer records so I can see if there is retaliation going on for me coming before this Advisory Commission. Since the Chief of P&P and Mr. Pierrott are here, I want to know why, when I asked to see my computer records, they denied it. I was wondering if they could say why since we are all here. Anytime you go to the court, the judge will say, “Yes, you can see your records so you can make a defense case.” I want to know if that is going to happen.

**Chair Hardesty:**
No, not in this meeting.

**Mr. Goetz:**
On today’s agenda, the P&P is giving a presentation on the use of specific assessments for offenders determining supervision levels and also lifetime supervision of sex offenders. Back in 2013, Connie Bisbee asked the Technical Assistant Grant to research the psych panel and the assessment tools for sex offenders from the Department of Public Safety (DPS) to figure out what tier level they are at. There were recommendations including that the DPS suspend using the current tool for sex offenders. They said it was outdated and not developed through sound research. They recommended using the Static-99 or the RRASOR tools to complete the risk

assessment and assign tier levels to the offender. I have submitted a copy of the study (Exhibit E). Since this came out, have they used any of the recommendations?

**Chair Hardesty:**
Good question. I suspect we will be following up with Ms. Bisbee and the Division of Parole and Probation on that subject. If you have written comments, please provide those to the Commission.

I will open Item VI, a presentation by my colleague Michael Douglas on the status of the Supreme Court's Commission on Statewide Rules of Criminal Procedure.

**Justice Michael L. Douglas (Nevada Supreme Court):**
In early 2015, the Nevada Supreme Court convened an administrative docket matter as to criminal procedure. I have submitted some illustrative documents on this matter (Exhibit F). Based on appeals that were coming to the Supreme Court, we had concerns about the application of criminal procedure in the State. Not that it was necessarily deficient, but concerns were about the uniformity of its admission in use, and in some cases, a slight deficiency.

As a practitioner, you wind up going to *Nevada Revised Statutes* (NRS) in a number of different places. You go to the Supreme Court rules in a number of places to find out what the criminal procedure is in our State. You are also burdened with going to local rules to find out what the criminal procedure is in our State. This makes getting true justice in our criminal courts a daunting task.

In 2015, the NSC formed a Commission on Statewide Rules of Criminal Procedure with Justice Michael Cherry and myself as co-chairs. We decided we did not want a number of "cooks in the kitchen" to examine this issue, so we drew on a mix of judges, district attorneys and public defenders representing Nevada's two urban areas and our rural communities. Those eleven members are listed on page 2 (Exhibit F). We charged the members with four areas to study in subcommittees—discovery, jury instructions, life and death practices, and motions practice. Each member of the Commission opted in or out of one of those four subcommittees, incorporating other members to assist in the study of that topic and make recommendations.

We last met in February, but there were weather difficulties preventing a full report and meeting that day. We meet next in May. We wanted to have our subcommittee work groups in the four areas of study come up with plans, concerns and recommendations for our Commission to consider. Following that, we hope to have some statewide public hearings about those recommendations on all four topics with a recommendation to the Nevada Supreme Court followed by a recommendation to this Advisory Commission. We are trying to ascertain whether the problems we have are structural in nature, where

parts of NRS need to be altered or amended, or if it is something we can do within the Supreme Court's rules on criminal procedure.

Within that subset, we are looking at criminal procedure rules in the Second Judicial District in Reno, the Eighth Judicial District in Las Vegas and in the rurals so we can identify the uniformity of practice for jury instructions, discovery process and motion practice. This would not only simplify the process, but create a fairness that inherently should be there. That is our goal and our hope. We have reports in process now that we have not had a chance to fully vet because of the missing members at our last meeting due to weather. This is a daunting task, but the time has come and the opportunity is there to bring some of our procedural rules and practices kicking and screaming into this pleasant millennium.

**Chair Hardesty:**
We appreciate the effort of the Commission. To one of today's public comments about discovery, can you mention some issues the discovery subcommittee has discussed?

**Justice Douglas:**
Discovery is always critical to defense as well as to prosecution—the timing of availability of all pertinent evidence as well as a certain degree of fairness. I have a letter from the Las Vegas Metropolitan Police Department dated December 29, 2015, where there was a discovery request made and the response back was that unless a court order orders a specific discovery request pursuant to a particular NRS section, it would not be provided. In some parts of the State, we have an open policy, sometimes, by some of the district attorney's (DA) offices that will make all information available. Other jurisdictions do not have that and instead require a motion filed by the criminal defense attorney in a particular proceeding.

Additionally, we sometimes have a gamesmanship between the State prosecutor and local law enforcement where local law enforcement will withhold information and not make it available until time of trial. If the defense attorneys find this out at that time, there is a delay if they need additional time to ferret out what is in the information that is coming forward so late. There should be clarity in the discovery process about what should be allowed. As Ms. Brown pointed out, whether I agree or disagree, there are things that should be looked at in terms of timing of that discovery and how it is made available. Mr. Kohn, who is on both this Commission and the Advisory Commission, can probably speak to this.

**Phil Kohn (Clark County Public Defender):**
This exercise has been the most frustrating in my nearly 40 years as an attorney. Like we have seen on this Advisory Commission, the difference between southern Nevada and the rest of Nevada is significant. Mr. Jackson, also on both commissions, has made it incredibly clear that in Douglas County he tells the police to give us everything.

Christopher Hicks, the Washoe County DA, has said the same thing. Last week, the Clark County DA's office put out a new policy which made it clear they do not have an open file policy. So on this Commission for the Supreme Court, we are sort of deadlocked because the rest of Nevada says it is working well but I am here to tell you that as a Clark County public defender in the south, it is a disaster. We will meet again in May and I suspect we will have the same problems. I do believe statutes are necessary for orderly discovery. This is an incredibly frustrating situation where I think most counties are working properly, but not all counties. And the county that is not working properly is the most populous. I do not have an answer right now.

**Justice Douglas:**
That is not totally true in terms of being confined to just Clark County. In some of our rural counties, they have similar statements made by the local law enforcement in terms of providing timely information. One example is Elko in terms of production of evidence when requested. The DA making the request there was told the same thing as the defense counsel—that they would not provide it until time of trial.

**Mr. Kohn:**
Yesterday I was provided a copy of statutes on criminal procedure in Arizona and how discovery is required in their timelines—30 days out from trial. We do not have those rules. We need to establish those rules. I will forward this copy to the members of the Commission and to my Subcommittee so we can look over the Arizona criminal procedure rules and report to the Committee of the Whole in May.

**Mark Jackson (Douglas County District Attorney):**
This Commission on the Statewide Rules of Criminal Procedure has been a fabulous commission. I appreciate both Justice Douglas and Justice Cherry for bringing people together from all sides. I understand the frustrations Mr. Kohn just spoke of, but I have confidence that we will come up with solutions. Sitting on the Jury Instructions Subcommittee chaired by Judge Scott Freeman with input from others including Judge Lidia Stiglich from this Advisory Commission, they have put together a table of contents with 28 chapters of more than 332 jury instructions from jurisdictions all over the State. This will benefit everyone.

I am also on the Motions Practice Subcommittee chaired by Jeremy Bosler and we are looking at the differences in all 17 counties in Nevada. There are some significant differences we are all now aware of. By looking at the specific motion practices in surrounding states including Colorado, Utah, Arizona and California, we can come together and bring something forward to the Commission. This is not an easy job, but it is something that should have been done decades ago. We will be better off as a State when we complete this process.

**Chair Hardesty:**
To me, the essential question is whether most of the issues being covered by the Supreme Court's Commission can be addressed by rule, or whether statutes are necessary to address some of these questions. For the Legislators on this Advisory Commission, there is a question about the extent to which statutes are necessary or whether a lot of this can be addressed by Supreme Court rule. Senator Ford in particular is familiar with the fact that there are Nevada Rules of Civil Procedure which address the processes by which civil cases are handled in the court system. It is pretty extensive, dealing with discovery, disclosures, experts, witnesses and the like. If the Commission chaired by Justice Douglas and Justice Cherry can formulate a set of rules similar to the Nevada Rules of Civil Procedure, it will reduce the necessity of this Advisory Commission presenting any statutory recommendations to the Legislature. We will watch this group's progress to see if there is further action necessary by this Advisory Commission or the Legislature.

I will now open Item IV, the approval of the minutes of the March 23, 2016 meeting of this Advisory Commission.

> CONNIE BISBEE MOVED TO APPROVE THE ACAJ MINUTES FROM MARCH 23, 2016.
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> LIDIA STIGLICH SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY

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**Chair Hardesty:**
I will open Item, VII, a presentation from the Division of Parole and Probation on several topics we asked them to address (Exhibit G).

**Natalie A. Wood (Chief, Division of Parole and Probation, Department of Public Safety):**
One of the topics you asked us to present is the evidenced-based supervision practices from the Pew-MacArthur Foundation. There are volumes of paperwork on this topic and I am happy to answer specific questions about that but I do not want to speak on their behalf.

I will begin with a brief overview on the topic of sex offender lifetime supervision (Exhibit H). Page 2 shows a synopsis of sex offender lifetime supervision as governed by NRS 213.1243 which specifies that lifetime supervision is a special sentence required on the 23 most egregious sex offenses, including lewdness with a minor,

sexual assault, possession of child pornography, etc. Lifetime supervision commences once any term of probation, parole or incarceration has concluded.

Page 3 of Exhibit H lists important statutes specific to sex offenders—NRS 176A.410 for probationers, NRS 213.1245 for parolees and NRS 213.1243 for lifetime supervision offenders.

Page 4 (Exhibit H) lists other statutes concerning lifetime supervision, including NRS 179D.490 for registration requirements and tier levels and NRS 179D.550 deals with the violations of sex offender registration laws by, among other things, offenders changing their address, employment or name without notifying the Sex Offender Registry (SOR). Currently, tier levels are based on a score received by the SOR, ranging from Tier 1 for the lowest offense to Tier 3 which is the highest, as defined in NRS 179D.113, NRS 179D.115 and NRS 179D.117.

Page 5 (Exhibit H) illustrates the contact guidelines the Division of Parole and Probation (P&P) uses which are minimum standards. In many cases, more contacts are made on an offender from issues identified by the supervising officer. If we notice an offender is having some difficulties in the community, we have the discretion to enhance the level of supervision to help them achieve their compliance and success on supervision. Sex offenders are required to have a personal contact every 60 days.

The Division conducts the same intake paperwork and contacts on every offender, concluding with a supervisory review (page 6, Exhibit H). The Vermont Assessment of Sex Offender Risk (VASOR) is used nationwide as a predictive tool to assess offender recidivism. The last study on that was done in 2014.

The Dangerous Offender Notification System (DONS) is briefly explained on page 7 (Exhibit H). One of the challenges with lifetime supervision is the filing of new charges. Many times, when an offender on lifetime supervision is in violation, it is usually due to a technical violation, rather than new charges. Depending on the county, some prosecutors may not elect to file a new case based on a technical violation such as alcohol use, moving without permission, or a positive drug test. Currently, the law requires that if a lifetime sex offender violates conditions and new charges are to be filed, the offender has to be returned to the county where originally charged and prosecuted within 24 to 48 hours.

There are challenges for both the Division and the defender with lifetime supervision (pages 8-10, Exhibit H). An offender can be arrested in Las Vegas and need to be transported to Reno within 24 to 48 hours due to current law. The necessity to transport these individuals presents fiscal and logistical constraints to the Division, including the loss of manpower for daily operations. More importantly, when offenders are transported to the sentencing jurisdiction and released in custody, they may not have

the support in that community for transportation or residence. When you take the person out of their resident county and transport them to another jurisdiction, it can impact the offender's employment, counseling requirements and disrupt family and childcare.

**Chuck Callaway (Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):**
If a sex offender on supervision lived here in Clark County but the charge originated in Washoe County, and the person was arrested in Clark County for another crime that violated the supervision rules, would that person serve their time and face the local charges here and then once that is adjudicated, have to be transported to Reno for the violation of the supervision? How does that work?

Could the violation issue be addressed while the offender is in Clark County awaiting trial or serving sentence if it is less than a year at the Clark County Detention Center for the crime committed here in the south? How often does this occur, requiring that someone has to be transported across the State?

**Ms. Wood:**
In that case, if you were arrested for an offense in Clark County and you were on lifetime supervision, you would need to be transported back to Washoe County once your Clark County charges had been adjudicated. So we would then transport you to Washoe County. It does happen quite frequently and it is a challenge for us.

**Chair Hardesty:**
Would it be possible to get the numbers on the frequency?

**Ms. Wood:**
We can try to dig into it.

**Chair Hardesty:**
This must create a budget issue for the Division.

**Ms. Wood:**
Absolutely. It is a tremendous challenge, especially if you have an offender coming in that commits an egregious offense and needs to be transported to Clark County on a Friday at 5 p.m., so we are transporting to a local jurisdiction jail. We have to figure out the logistics to transport that person in 24 to 48 hours. If it is a more egregious offense, there is more of an appetite to pursue those charges. If it is a technical violation such as alcohol abuse, there is not as much of a push. You can have offenders coming in multiple times inebriated and we have to make the decision whether to file a new charge or place them in treatment for maybe the third time.

Another challenge for lifetime supervision is difficulty in obtaining a warrant because the courts may not be familiar with the required timelines for transport (page 9, Exhibit H). Because the lifetime supervision report is a new crime report, rather than a traditional violation report, it is cued with other new charge reports with no transportation deadlines. Per Interstate Compact guidelines, a warrant must be obtained within 15 days that the person is out of state. Crime reports take more than twice the time for an officer to prepare compared to a violation report because there is a lot more detail that goes into the new charges. It can take months compared to a probation or parole violation which only takes weeks. Why is this a concern? According to organizations such as the National institute of Justice, immediate and fair sanctions for any offender helps reduce future violations. This can have a significant negative impact on the supervisors and the offenders, their families and their counseling progress.

Page 10 (Exhibit H) shows that as per NRS 176.0931, offenders on lifetime supervision can still be eligible for release after 10 years, even after committing multiple violations for alcohol, drugs and other minor technical violations. The challenge is significant with this because you are releasing someone from lifetime supervision when they really have not complied, but they have also not exceeded what the statutory requirement for release would be.

**Chair Hardesty:**
Can I have an example of that?

**Ms. Wood:**
If an offender came in multiple times and tested positive for alcohol or drug use, even though we have attempted to get the person into treatment and work with them to get stable in the community, and if they receive a psychological evaluation saying they are not a threat to the community and they have not committed a new offense that would make them a threat to public safety, they still qualify for release because they have met the statutory requirements.

Page 11 (Exhibit H) is a proposed bill draft request (BDR) for the Commission's review. We encourage your input. We do not want to be presumptive and say we are moving forward with this. We are just here to present on some of our challenges. If this BDR becomes law, P&P would no longer have to transport offenders to other jurisdictions to file lifetime supervision charges. It would reduce the offender transport time for officers and reduce costs associated with transports. More importantly, it would reduce the impact to offenders from relocating to another community and disrupting their families, their counseling and ongoing treatments.

It could be a wash for the counties so we do not have a fiscal impact amount. I am not sure there is a tangible amount that could be set for what this would cost. The transporting goes two ways, so if the person is arrested in Las Vegas but their charges

were in Washoe County, there can also be a person arrested in Washoe County needing transport to Las Vegas. The frequency of arrests in each county determines the costs. By the very size of Clark County, there would likely be more people arrested there. The BDR addresses technical violations, the disruption to the offender's supervision and some of the logistical challenges we have.

**Chair Hardesty:**
Do you know what the rationale was for inserting these timetables and the transporting of sex offenders between Las Vegas and Reno?

**Ms. Wood:**
I do not know. I would not have the historical data on that, but I can tell you that supervising that caseload and then hopping in a car on Friday night to drive 10 hours with an offender to Las Vegas is a challenge.

**Senator Mark A. Lipparelli (Senatorial District No. 6):**
This is a rather inflexible position to have to respond within 24 hours. There has to be some basis for why that was created in the first place unless it just fell out of statutory construction somehow over the years.

**David Helgerman (Captain, Northern Command Reno, Division of Parole and Probation, Department of Public Safety):**
The timeframes are not specifically addressed to violations of lifetime supervision. Those are not considered felonies, so those timeframes are applicable to any new felony charge. The challenge is that a normal felony violation for a parolee or probationer would go to the justice court for that jurisdiction. However, the way the statute reads, we have to return them to the county that originally sentenced them.

**Chair Hardesty:**
I will ask our Advisory Commission Counsel, Nicolas Anthony, to look into the legislative history of this. I do not know, but I have a feeling that some of this is driven by the sense that an offender has to be returned to the judicial district where their original offense began and that somehow it is important for the judge who handled that matter to follow that ad infinitum. From my perspective, that really is not necessary because all the district court judges in the state have jurisdiction to handle these subjects. If it comes up in a particular county, let that county deal with it. It seems like kind of an unnecessary expense and time crunch. We should explore this.

**Mr. Callaway:**
Not knowing how many times this occurs, but considering the crowding of jails and the costs to the department presenting and to counties as a whole, the cost of transporting someone might be small compared to the cost of housing a prisoner at $140 per day in a local detention center. Hypothetically, if most of these cases are occurring in

Clark County and we change the law so they do not have to go back there, then they end up in Washoe County, incurring the costs of housing these offenders and costing more money to that municipality and impacting the jail there. I do not know what the answer is. Maybe it is extending the timeframe for transport and providing a bus or something along that line.

**Chair Hardesty:**
It would seem like if the original charges are still going to be dealt with in the county where they occur, the cost to the jail will be the same because they will deal with those issues before the transport has been made. That is my understanding.

**Mr. Kohn:**
My recollection is that some time ago, for incidents that happened in a particular institution in state prisons, those prisoners would come back to their original jurisdiction. The idea is if Clark County sends people all over the State, bring them back here. That is certainly not the law anymore. If someone commits a crime in Ely, White Pine County deals with it. I think we should look at it that way. Since the violation is a new felony, that may well be dispositive of the case, so I think we should look at changing the statute in the way proposed.

**Chair Hardesty:**
Mr. Callaway, could you reach out to the jailers in Clark County about what they are seeing there? I will also ask for information from Washoe County.

**Mr. Callaway:**
I will follow up on that.

**Mr. Jackson:**
I want to highlight what Mr. Helgerman and Mr. Kohn said. The fact that this is a separate offense is very important. We just had a case where an individual on lifetime supervision in another jurisdiction violated. The person was brought back to Douglas County. We looked at the offense, reached out to the prosecutor in the other county and we looked at the time that person was serving for the offense that lead to the violation. I exercised prosecutorial discretion and we did not file the new felony charges. It was not popular with the officer from the Division but I stand behind it.

We all know that in cases where an individual is arrested in one jurisdiction and they are looking at offenses in multiple jurisdictions throughout the State, for judicial economy and what is in the best interest of the system, we look at these global type of resolutions. We see these cases in Douglas County. There is a significant cost, not only to the State, but to the local jurisdictions. For that reason, and based on what I see as the District Attorney in Douglas County, I support this proposed BDR.

**Chair Hardesty:**
We will gather some additional information. I will ask Mr. Anthony to highlight this as one of the topics we will debate further. There are two separate areas involving lifetime supervision and it is important that this Advisory Commission understands those are separate. One directly impacts the Division of Parole and Probation and the other is for those who get out on parole. Can you discuss that, Chief Woods?

**Ms. Wood:**
Can you narrow that down for me?

**Chair Hardesty:**
Someone who is in prison and is released is placed on lifetime supervision as a means of supervising the parolee. That is different than a lifetime supervision which is part of someone's probation term.

**Ms. Wood:**
Yes, if an offender is on lifetime parole and then violates the conditions while on lifetime parole, that individual would go back before the State Board of Parole Commissioners. That process is more expedient than the violation of lifetime supervision, which comes with a new charge.

Also, if offenders flatten out in custody, there is a uniqueness to that portion of it. If they flatten out their time and come out on lifetime supervision, you are dealing with registration requirements. We can go into more detail on that if you like.

**Chair Hardesty:**
That would be useful, since the terms lifetime parole and lifetime supervision get used to cover different subjects.

**Mr. Helgerman:**
It does become confusing because those terms end up being used synonymously with people who have a lifetime parole sentence or lifetime supervision. Within lifetime supervision, there are two different places in statute, under NRS 176 and NRS 213, the latter typically applying to parolees and the State Board of Parole Commissioners (Parole Board). I believe that is where some of the confusion comes from. Within our Division of Parole and Probation (P&P), we try to refer to them as "life parole" just to differentiate them from lifetime supervision.

**Chair Hardesty:**
From your perspective, what are the differences?

**Mr. Helgerman:**
With lifetime supervision, the person is not actually on supervision for their entire life. That is one of the distinct differences. Under lifetime supervision, the person could actually never be in custody while under supervision. A parolee is someone who has spent time incarcerated under the Department of Corrections and comes out on parole.

In lifetime supervision, the person could be off of supervision in as little as 10 years because the period of supervision can include the period of time the person is on probation. You could have someone sentenced for a sex offense serve 5 years under probation and then serve an additional 5 years under lifetime supervision and then get off of supervision. Contrast that with a life parolee, who will be supervised by P&P for the rest of their life unless that is pardoned.

**Chair Hardesty:**
I have a request that you supplement this presentation with a chart that shows the differences between the two. I think the issue that comes up is why we approach these in different ways. For example, one person is released on parole, has satisfied for the most part all the requirements to society and is on lifetime parole with no way to get off that, ever, and another person is placed by a judge on lifetime supervision as a condition of probation and that person can get off eventually, so it is not for life. This disparity warrants conversation.

**Ms. Bisbee:**
Even lifetime parole does not mean it is for the rest of the person's life. There is a statutory allowance that if recommended by the Chief of Parole and Probation, the person can apply to the Parole Board. Primarily, it is someone who has done 20 years on lifetime supervision and has a spotless record. If P&P recommends it, we have a hearing and we can then recommend that the person's lifetime parole should end. We then petition on behalf of the parolee to their original court, asking it to make that decision. This happens very rarely. Everyone gets confused by lifetime supervision versus lifetime parole.

**Chair Hardesty:**
And the conditions for taking someone off lifetime parole are different than the conditions under which someone is relieved of lifetime supervision.

**Ms. Bisbee:**
Exactly. Lifetime supervision, if you meet the statutory requirements, P&P sends them to us and we sign off on the release from supervision. If the statute says they have to meet certain requirements, it does not have anything to do with whether they have been easy or difficult to supervise. I suspect the main reason behind lifetime supervision for a sex offender is the concern that they not be out in the community recommitting sex offenses.

**Chair Hardesty:**
But the concern is the same with respect to both, and yet we treat them differently depending on whether they are going through the probation process or an incarceration and parole process.

**Ms. Bisbee:**
If I heard you correctly, you asked Mr. Anthony to give a history of lifetime supervision. When you actually start at ground zero with lifetime supervision, it has nothing to do with what we are doing today.

**Chair Hardesty:**
My request to Mr. Anthony was to just take a look at the statutory history behind this one statute. I do think it would be helpful if we could have a chart to look at to understand both the statutory implications and the differences that exist for the consequences of lifetime supervision and lifetime parole.

**Mr. Helgerman:**
We can certainly put that together.

**Ms. Wood:**
Page 12 (Exhibit H) discusses the Interstate Compact and some of the federal Interstate Compact laws governing the specifics of how a warrant and a transport must be handled.

Page 13 (Exhibit H) discusses Electronic Pre Parole Investigation (EPPI). The Division has been proactive in the last year regarding the streamlining of our internal operation, not just when it comes to sex offenders, but to parolees also on the pre parole investigations which are not electronic.

We require the offender to submit more than one address in case the primary residence they are asking to be released to is inappropriate or is not a valid address. We have opened up Casa Grande Transitional Housing in Las Vegas to our parolees and that has been very successful. We have revised our letterhead on the application stating the reasons for immediate denial of proposed release plans, meaning they have to come up with alternative plans. If they have requested to be paroled to a residence where the victim still resides, that would not be appropriate.

We create an informational flier we send to the inmates to prepare them for their Parole Board hearing. It helps them understand the process for what will be required of them to be paroled into the community. We are working on an informational video for the inmates which is scheduled to be completed this coming summer. Our communications with the Parole Board and NDOC are very good right now. We have active communication on a weekly, if not daily, basis concerning a variety of topics. We

are working collaboratively with NDOC on the Casa Grande project, releasing parolees into a residential treatment facility, whereas previously we could not place them in the community because of unviable addresses.

Page 14 (Exhibit H) addresses sex offender violation reports. The process takes approximately 2 weeks in Las Vegas due to the electronic filing of violation reports with the court and having parole violations hand delivered to the Parole Board.

Page 15 (Exhibit H) addresses sex offender violation reports. If the prosecutor elects to pursue the new charges, this process can often take months. Some of the cases may or may not go to trial. At times, the charges are not pursued but are instead plead as misdemeanors, depending on the circumstances of the case. If an offender is released, then P&P continues to supervise that person while the new charges are pending.

**Assemblyman John Hambrick (Assembly District No. 2):**
Some states are adopting civil commitment for those sex offenders who are just too dangerous to be let out of jail, even though they served their time. The professionals still believe these individuals would pose a significant danger to the community and they are being held on civil commitments. Have you ever considered civil commitments on these prisoners who are so dangerous to the community even though they have served their time?

**Ms. Wood:**
We do not have control over that. I would defer to the NDOC Director or Chair Bisbee of the Parole Board.

**Ms. Bisbee:**
If you look at the origins of lifetime supervision, it actually started out as a civil commitment. The lifetime supervision is what we ended up with. It is an extremely expensive process. We probably have very few at a level where you would even want to try that here. Two sessions ago, Assemblyman Horne brought this idea forward for information purposes. There are a few states doing that, California is one of them. They have whole facilities just for that type of person. When Nevada started looking at it, it was not popular, primarily because of the extreme cost. That is what is interesting about lifetime supervision—it started out as a civil commitment bill.

**Chair Hardesty:**
This issue is one of our agenda items for future discussion.

You mentioned on page 15 (Exhibit H) that the offender awaiting the probable cause arrest report “is afforded bail or other form of release by the Justice Court Judge.” What kind of bail would there be for someone known to be under lifetime supervision? The

"bail or other form of release" suggests an own recognizance (OR) or supervised release when they are pending charges. Is that realistic?

**Ms. Wood:**
They do actually have a bail set. For every new charge, there is a bail amount. It does happen; quite often, actually, because the offender is still vested in the community, with a job and family. Just like any new charge, there would be a bail set.

**Chair Hardesty:**
We currently have a pretrial release committee studying this subject and looking at the bail differences throughout the State. I suspect the bail is different with respect to this subject, depending on the district you are in.

**Judge Lidia S. Stiglich (Second Judicial District Court, Washoe County):**
We have discussed some of the practical concerns in the delays in being able to move on a violation of lifetime supervision, but the process of lifetime supervision revocation to bring a proceeding seems very cumbersome for a high risk population. Do you find that because of the process in place, there is a tendency to "not sweat the small stuff?" Who is going to do a full arrest report because there have been multiple alcohol violations? Do you find the cumbersome nature of trying to monitor people on lifetime supervision puts the Division in a Hobson's choice on how to move forward?

**Ms. Wood:**
That is exactly it. You can see that philosophy creeping in, not only with the supervising officers, but also with the district attorneys at various stages, too. You look at the gravity of the case; at a technical violation versus a serious violation, and you make the decisions whether to go full board press for a violation of lifetime supervision, asking if we have exhausted our treatment options or are we going to uproot this offender out of the community and transport the person back to the sentencing jurisdiction?

It is a challenge for the Division, the offender and also for the legal consideration. The Division attempted to introduce a BDR last Session in regard to the challenges of lifetime supervision and the perception that people think that lifetime supervision is for life and it is not. You are eligible for release after 10 years from lifetime supervision if you have complied with the statute. We have no discretion to deny that regardless of how many technical violations you have incurred.

The final page of my presentation (page 16, Exhibit H) is the text of our proposed BDR. This is just suggested language we believe would assist us. We also have last Session's proposed BDR, not in this packet, but we would be happy to discuss it. This is a difficult issue. The Division just wants to point out that we have a problem with the supervision of offenders on lifetime supervision—the perception of what that is and the consequences when they violate. If they are on probation and parole, it is easy because

we can go back to the courts or to the Parole Board. If they are not, and we have to file new charges, there are difficult challenges with that.

**Chair Hardesty:**
I would like to have you submit the other BDR. We could put it on the May 6 meeting and you can offer the objectives of it. This will give Advisory Commission members time to noodle on the subject.

**Ms. Wood:**
It would provide a lot more background information and some suggested remedies. They may not be ones that are adopted, or that the Advisory Commission feels would be appropriate, but it would be very helpful.

**Chair Hardesty:**
How many lifetime supervision offenders is the Division supervising? I am not talking about lifetime parole. What is the intensity level of that supervision?

**Ms. Wood:**
I can get that information for you. We have about 1,500 sex offenders statewide with 797 on lifetime supervision.

**Chair Hardesty:**
Are the rest on life parole?

**Ms. Wood:**
It would be a mixture. They could be on probation for a sex offense or parole for a sex offense.

**Chair Hardesty:**
These folks have a different level of intensity of supervision. That is, an officer has a greater or lesser caseload, depending on their tier level. Could you provide that background as well?

**Ms. Wood:**
Absolutely. The Tier 3 category is the more egregious, more potentially predatory of the offenders. They are on a 45:1 caseload, so we have 45 offenders assigned to one officer. That caseload can be a mixture of probation, parolees and those under the special sentence of lifetime supervision. Each one of those offenders can be at various tier levels, depending on the nature of the sex offense they committed and their criminal history.

**Chair Hardesty:**
Can you also break that down as to how many are under supervision in the rest of the State by judicial district?

**Ms. Wood:**
Absolutely. We can provide those statistics and add that into the next presentation on lifetime supervision.

**Chair Hardesty:**
We received public comment about a person under lifetime supervision wanting access to the computer screen that deals with entries from their supervising officer. Without getting into that specific case, could you share with the Advisory Commission the policy issues behind allowing or not allowing an offender access to the supervising officer's computer screen of how they are approaching supervision?

**Ms. Wood:**
I am not sure how much detail you want to go into. Obviously, our database is confidential. I am somewhat familiar with Mr. Goetz's case. I can tell you it has been looked into and he has been advised of the procedure in requesting the specific records he is eligible to access. We have provided him with that information. At that point, he is going to need to go through our legal counsel regarding the specifics he wants, but he cannot have access to see the chronological entries.

**Chair Hardesty:**
You do not allow any offenders access to the chronological entries by their supervising officers?

**Ms. Wood:**
That is correct. They can go through their counsel. The Division has, at times, depending on the legal advice we receive from the Attorney General's office, sat down with counsel if there is something specific they are looking at.

**Chair Hardesty:**
Is there a regulation governing this or is it the policy of the Division regarding access to these records?

**Mr. Helgerman:**
It is in a statute regarding nondisclosure of information gained by the Division and who we can disclose that information to. One of our primary concerns about giving access to the chronological entries is it sometimes has information from the victim or victim's family, or confidential information other people have supplied. That is why we do not disclose it. I do not have the specific statute on me but I believe it is under NRS 213.

**Senator Ford:**
I hear there is a statute that addresses it and we can look up the minutes of the legislative hearing where that statute was enacted for the rationale. Does the statute make exceptions to the rule? For example, would you be able to disclose the information in a redacted form without the victim information?

**Ms. Wood:**
That is something we would discuss with counsel. It would be a discussion between counsels to see specifically what information they are looking for and whether it would be appropriate to accommodate him and whether it goes outside the parameters of that statute.

**Senator Ford:**
Part of my thought process is that an offender should have access to what is out there about him. As a general course, you just give them everything that is not confidential or private. Looking at the statute, we will be able to ascertain what exceptions, if any, exist and what amendments you might want to consider making. Off the top of my head, I cannot think of a reason we would not want to offer the offender that information, outside the examples you gave.

**Ms. Wood:**
The other caution is that in those chronological entries, there are case management notes that the officer makes, including personal observations about the offender regarding, say, a proposed treatment plan. It also includes what the supervising officer has noticed personally about the offender. There can also be personal and confidential information about the offender from family members. Some of those notes are our reflections of what we believe is going on with the offender.

**Senator Ford:**
That also begs the question, why is it not pertinent for the offender to know this? For example, if you are erroneous in an assumption or observation, then offenders should know about it and be able to talk to counsel and challenge it if they want to. It seems to me that some of the examples you have just given militate in favor of allowing access to those types of records, except for victim-based information. I do not see why the full and complete barring of information in the chronological entries could not be allowed to be given to the offender.

**Chair Hardesty:**
I think we will include this issue as part of the policy discussions when we get the statute and can continue this debate if this is okay with you, Senator Ford.

**Senator Ford:**
Sure, thank you.

**Chair Hardesty:**
We are still on Item VII of today's agenda, so please continue, Ms. Wood.

**Ms. Wood:**
My next presentation is on the Division program concepts (Exhibit I) which includes some areas you asked the Division to present to this Advisory Commission.

**Chair Hardesty:**
Commission members, I had a very productive meeting with Chief Wood and another Division Director and made a number of requests on these items. During that meeting, she shared some information about work the Division has been doing over the past months, so we are getting into this concept area. Is that right?

**Ms. Wood:**
Yes, I am excited about some of the concepts the Division of Parole and Probation is looking at. We are right up there with some of the ideas and concepts occurring across the nation. We are in line with some of what the Pew-MacArthur Results First Initiative is putting out as some of their top concepts. Some of the changes will not occur overnight, but the fact that we are going down this road and diligently looking at some of the options is a credit to the Division and to the DPS.

When I was appointed to this position, the Director of DPS asked us to make changes and look at some innovative concepts to move the Division forward and in line with some of the national standards. After the last Legislative Session, I tasked my command with chairing various committees from IT to training and equipment to reinvestment and reentry. We also formed a committee to review how we could reduce recidivism (page 2, Exhibit I), which I felt was a very important topic to both the Division and DPS. The committee reviewed evidence-based practices and core correctional practices used in other county, state and federal supervision agencies and conferred with the American Probation and Parole Association.

We looked at caseload size and officer training to apply principles and intermediate sanctions. The Division has notoriously had very large caseload sizes (page 4, Exhibit I). It is ebb and flow, but for the most part, our Las Vegas office has a significant challenge with caseloads. At the last Legislative Session, we came up with a low risk supervision unit almost out of necessity because of our vacancies. We are finding that it is working.

One of the more productive ideas to come out of the Pew-MacArthur studies is that the less concentration you do on low risk offenders and the more you do on high risk offenders, the greater the success. Many of these low risk supervision caseloads are very successful. Depending on the oversight an officer gives, I will be very blunt; you can push an offender into a technical violation. That is not our goal or purpose. Our

purpose is to focus our resources and operational needs on our high risk offenders and less on our low risk offenders who are already almost integrated back into society. Those individuals are functioning, they have a job and they committed less egregious offenses like cheating at gaming, etc. They do not need the same level of supervision as the Tier 1, 2 or 3 sex offenders or someone who committed armed robbery.

It seems like common sense, but we really needed to look at that issue, especially with our current resources and our vacancies. What really matters at the end of the day? We looked at how this could be accomplished by increasing low risk caseloads through a team concept approach. Such concepts would enable the Division to concentrate better on high risk offenders and conform to the supervision methods supported by these evidence-based practices. We found that by having an effective evidence-based assessment tool, we would be in a better position to accurately assess an offender's level of supervision and better predict their recidivism.

But we cannot bring in some of the suggestions from Pew-MacArthur, such as evidence-based practices or new assessment tools to depict someone's recidivism rate if our caseloads are enormous. If we reduce those caseloads we would be in a better position to work with the offender to get some of the social counseling and case management. When an offender comes in the door and has just lost a job, the officer knows it is important to engage the person to help, but when caseloads are up around 120 offenders per officer, it tries their patience. It makes working with offenders challenging because they are not getting the attention they need and we are not doing our jobs as supervising officers.

By lowering the caseload sizes to bring them more in line with national standards instead of one of the highest in the country, it will allow us to bring in evidence-based practices and trainings such as the Effective Practices in Community Supervision (EPICS) and go to a new assessment tool such as the Ohio Risk Assessment System (ORAS). This will make us, as a Division, more effective and it will make the officers more successful.

**Chair Hardesty:**
Can you give us numbers?

**Ms. Wood:**
Currently, our lowest supervision unit in Las Vegas runs on a team concept where a certain number of officers, administrators and staff, including retirees, are brought back to fill vacancies. That unit is doing well, so we can focus on high risk sex offenders and some of the gang and intensive supervision units. The caseloads vary. It is a constant battle and what I testify on today can change in an hour. Anything over 80:1 is a difficult caseload to manage and is not within national standards. I would like to drop the caseload ratio to 60:1, but I do not have the bodies to achieve that.

So how are other states achieving the national standard? Focusing on high risk offenders and less on the low risk offenders—creating low risk supervision units, medium risk supervision units and high risk supervision units. That is the concept referenced by the Pew-MacArthur studies, unlike what we do, which is to mix low, medium and high risk offenders all on one caseload and then have an intensive or sex offender in another unit. With the vacancies we cannot keep up. General supervision ends up going to administrative bank caseloads with no oversight.

What are we really achieving? With low risk supervision, there is oversight and accountability with drug tests and home contacts being conducted, but not at the level under the old supervision module. We are looking at a supervision module, but we are not there yet. We have to go through a transition phase and see what we are budgeted for, coming out of this upcoming Legislative Session. We want to come in line with national standards with the personnel we have been approved for.

**Chair Hardesty:**
Where do you get the national standard of 60 offenders to one officer; 60:1?

**Ms. Wood:**
We did a multi-state evaluation of reduced probation caseload sizes and evidence-based practicing. We used a 2011 study from Abt Associates and the Journal of Offender Rehabilitation. Our Las Vegas office reached out to 17 states under Interstate Compact to see what their caseloads look like. In California, it is around 25:1 and we found it varied from state to state. On average, 60:1 seemed more responsible for general supervision. We found that low risk is more the norm. Many states do not have a general supervision category. Instead, they have a low risk category, a medium risk category and an intensive category. We also looked at American Probation and Parole Association (APPA) and the Pew-MacArthur studies.

**Senator Ford:**
Will your budget request include all you need to get to that 60:1 caseload ratio?

**Ms. Wood:**
I am limited by statute on what I can state specifically about our budget.

**Chair Hardesty:**
Senator, I am not limited by any statute about what they can ask for. When I met with them, I told them to ask for what was best practices, and for once, have the Legislature debate whether you really want to move to best practices or continue to operate this buggy show we are operating on supervision.

**Senator Ford:**
You and I agree on that. I am trying to get an understanding on financially what we are looking at. You talk about caseload and the elephant in the room is the fact that it costs money to reduce your caseload. I would like to know how much it would cost to reduce your caseload in a way that would allow you to go to the next step.

**Ms. Wood:**
I cannot discuss that at this time. I can talk about some of the concepts we are exploring, but putting a monetary amount on it would be premature and inappropriate.

**Senator Ford:**
Can you speak hypothetically?

**Ms. Wood:**
Not yet.

**Chair Hardesty:**
Senator, I have asked the Chief and her boss to get to that point while this Commission is still in session this Interim.

**Senator Ford:**
Obfuscation will not help us to help you. We can complain about caseloads and the lack of resources, but if we are not told, either in the Legislature or here in the Advisory Commission, it is difficult for us to guess and make decisions.

**Chair Hardesty:**
I have tried to make the point with Mr. Wright, Ms. Wood, Ms. Bisbee and Mr. McDaniels, that if we are going to make meaningful recommendations, we have to have numbers so we can put policies to numbers. Otherwise, we are operating in a vacuum. Our work as an Advisory Commission can be effective and make meaningful recommendations with fiscal impacts attached. I urge all departments that want to make some steps in the criminal justice system here, to give us numbers. Whatever the processes are that currently constrain the evaluations and developments of those budgets, I get that, but we are moving forward with the Governor. We all need to jump in and see what those figures are.

**Lisa Morris Hibbler (Victim's Rights Advocate):**
We have heard these presentations multiple times, even last year, and we have been unable to get those numbers. Is there another way this Commission can get those numbers? I am concerned that if Ms. Wood is unable to bring that information forward, are we not at a stalemate in this process.

**Chair Hardesty:**
Not in my view. I think the Commission can secure the information going forward. I am happy to discuss the alternatives later in our work.

**Mr. Kohn:**
This is the same frustration I had last month, listening for two and a half hours to the Department of Corrections (NDOC) talk about their aging population. All of us knew that when we went to life without being life without, adding longer penalties, that we were going to have an aging prison population. It is expensive, because people get ill and require medical attention which in Ely, does not exist. There was not a single word last month—and I realize the Director was outgoing and we have a new Director—about what will it take to solve the aging population; about where we are going to put them and how we are going to get the needed medical care. Yes, it is all about money but if we cannot have the discussion about what it takes to do it right, why are we doing this?

I have done this for 9 years. Why are we doing this? Ms. Wood and I have this fight every single time about how we get more officers to Las Vegas to get the same amount of care here as they get in the rest of the State. I am not beating you up on that one again, but unless we can get the money, and know what money they need, there is no reason to have this discussion or have these meetings.

**Jim Wright, Director (Department of Public Safety):**
I hear this message loud and clear. Some of the difficulties are that as we are moving into our budget preparation period, we have to remember that there are requirements upon departments because this is the Governor's budget we are preparing for and that is kept confidential.

However, what we could do to help you to help us, is to put together some numbers as to what some of these concepts could cost. Be prepared for sticker shock. You need to know that. I will be addressing the pay parity issue, because that is a bigger issue to us than it is at the Division level.

A couple meetings ago, Senator Ford asked us to say what we need. I was prepared to say today that a 30 percent pay increase for our officers would put us where we can stop the bleeding from our officers leaving. They are leaving for metropolitan departments, not for White Pine County or Eureka County. They are going where the pay is better. To get us there, you are talking about that kind of an increase and that is probably lowballing it. We have to take into account what the State can afford to pay. We know there is a cap on that, but that is at a higher level and will be dealt with during the budget preparation process and the Legislature. I do not see where we would run afoul by putting some numbers to concepts. I directed Chief Wood to come to you and talk about program concepts.

**Chair Hardesty:**
I appreciate that, but the point is, in order to effectuate recommendation on concepts, we need the fiscal impact of those concepts. It is the Legislature's job to sort out the prioritization of who gets funded and at what level, but we will never achieve any success in best practices if we do not make recommendations that identify the best practices and what they cost. Then the Legislature can debate whether they want to continue a horse and buggy operation or whether they want to move to best practices over a period of time.

We have to face the reality that this is a big girl state with big girl problems and issues. I do not think the Commission can do its job effectively and make sound recommendations unless it can attach to it specific and detailed fiscal consequences. That helps the Legislature; they would benefit from this kind of analysis which is exactly what the statute that creates this Commission expects. I encourage you, the Director of NDOC, and Ms. Bisbee to do the same. Let us not obfuscate, let us get down to business and crunch numbers.

**Mr. Wright:**
I agree. I look at these things as service levels. What is the service level being demanded here? What is the fiscal consequence attached to that service level? Then, it depends on how much is in the checkbook.

**Chair Hardesty:**
For the State of Nevada's public officials and the Legislature, it should be worrisome to all of us that the NDOC is relying on old people to come back in and fill in for duties because we cannot fill those positions. You folks are having to do the same thing. Eventually, some of these old people are going to time out. So does the State really want to be building their criminal justice system on the backs of retirees? This is not going to work. There has to be a better way.

**Senator Mark A. Lipparelli (Senatorial District No. 6):**
Both Senator Ford and I sat on the Senate Committee on Finance last Session and I remember some of the challenges presented there with regard to this department. At the risk of extending the analysis, the Legislature always faces difficult choices in how they allocate dollars. One thing I would like to see, if it makes the task of what you present to this Commission more simplistic or straightforward, would be if you had your preferred allocations of resources for the for high risk and medium risk offenders. That breakdown would be most interesting to me. I realize the low risk offenders also are part of the equation, but the Legislator ought to know that the high and medium risk offenders are treated at a different touch level than you have at the low risk. You may already do this just by the very nature of how you manage your department. I would want to know that you have adequate resources on at least the high and medium risk offenders.

**James Dzurenda (Director, Nevada Department of Corrections):**
Do you use the ORAS system for analysis?

**Ms. Wood:**
No.

**Mr. Dzurenda:**
Both systems I came from use ORAS and that was an easy way to determine how to split up supervision to levels of high, medium and low risk. What is the reason for using the team concept for low risk supervision? Would it not be more important for high risk offenders for mental health supervision, when the low risk offenders do not need much supervision?

**Ms. Wood:**
It is to fill the staff vacancies—we were forced to create supervision units based on our current staffing levels and we had to make some tough decisions. When you have more than 2,000 offenders in what we categorize as general supervision, with 8 or 10 officers to supervise them, it is not practical. So we had to look at best practices and ultimately what we want to transition to. When you come into a large Division, you deal with the current supervision module that you have. You look at a transition module that takes time and then you look at the module you ultimately want to go to. In-between this process is the Legislative Session. We are not at the epitome of what we would like our working module to look like, but we are working towards it.

Another concept the Division is looking at is training our officers to apply the principles of effective intervention (page 5, Exhibit I). In the past, officers have balanced casework with law enforcement duties, so informally they have learned these skills. It is not that they are not practicing the techniques; it is just not being trained in a structured environment.

One program being used in this training nationally is Effective Practices in Community Supervision (EPICS), which was developed by the University of Cincinnati. This training teaches officers how to use structured social learning and cognitive behavioral therapy techniques during their interactions with offenders. This is critical for the success of the offender and it also allows officers to develop personally with their caseload and have more success. The University of Cincinnati found increased offender retention rates and reduced recidivism rates among officers who implemented EPICS training. The future of the Division is to invest in this evidence-based training to ensure officers are prepared to help offenders succeed on supervision and actually reintegrate back into society successfully.

I do appreciate what the Commission is trying to do to help the Division. We are limited on specifics with regards to budget and what we can discuss. But by presenting on

these program concepts, you can appreciate that we are trying to meet the Commission halfway. Although we do not have final monetary amounts right now, I assure you that the Division is actively looking at innovative ways to reorganize and streamline our operations. I want to thank the Commission for listening to us. We are definitely making an effort to bridge the gap and to open the lines of communication.

The third concept we are looking at is intermediate sanctions (page 6, Exhibit I). The Division is specifically looking at the concept of a day reporting center. Currently, if a probationer or a parolee gets arrested on a technical violation such as drinking alcohol or a positive drug test, that person will spend a minimum of 3 weeks in custody because of the court system, the Parole Board, and all the processing and serving of the offender. That costs a county an average of $140 per day. There are roughly 250 offenders in the State who would qualify to go on a more intensive program such as a day reporting center where we could take that person and put them on house arrest with a specialized group of individuals administering programs like anger management, substance abuse counseling, etc. This is a one-stop shop.

Rather than have these offenders sit in custody for 3 weeks where there is a high likelihood they will be reinstated on probation or parole, this intermediate sanction could be imposed. The offenders would still report to an officer at the day reporting center, but the officers could get the offenders services to help them—from a GED to filling out a job application, qualifying for health and human services care, etc. We have looked at what this could potentially cost through a private vendor because our officers are not substance abuse or anger management counselors. We see an avenue where this kind of unique care could make the offender more successful as they go back into society instead of spending $140 per day sitting in custody.

We think this is a viable option. The courts would be happy, the Parole Board would be happy and NDOC would be happy with the return of offenders. We would proactively be able to say to the offenders that we have given them every opportunity to succeed so when they return to the system, there would not be much of an argument that we did not give them the resources. There is an age-old argument that the Division is not doing enough and returning people to custody on technical violations. This intermediate sanction could help with that issue.

**Mr. Jackson:**
I agree it is important that we look at everything. One of my concerns is that I want the public to be safe. On March 20, 2016, The Denver Post ran an article: *"Colorado has reduced its prison population but at what cost to public safety*?" The article reported that an effort to reduce recidivism rates among Colorado parolees has left dangerous ex-cons on the streets, including a man accused of murder, another who shot a Denver police officer and another accused of pimping a teen runaway. The article further stated that a 2015 law designed to reduce the prison population changed the way parolees are

arrested and sent before the parole board in Colorado so that within 3 months, recidivism rates were cut in half for technical violations. Parole officers there reported much difficulty with the new law, leaving them feeling frustrated and powerless to protect the public. The law spawned some intermediate sanctions which were called "sure and swift." Instead of the 3 weeks in custody you referenced, this sure and swift model reduced that to the offenders being in custody for closer to 3 days. The offender who committed the murder, someone with a lengthy history of violent crimes, had been through the sure and swift custody three times and was still not held accountable before he killed a member of the public. The article concludes with the statement that community safety should be the goal and that if a program to help reduce recidivism rates among parolees saves money but does not protect the public, it is a failure.

I have recently read articles on this subject from large metropolitan areas, including Chicago where similar things are happening as a result of some sentencing reforms. Some of these offenders are committing murders and violent crimes including rape. The Wall Street Journal had an article on February 23, 2016 talking about incarcerations, and saying that what is driving our prison populations are not drug convictions but violent crimes. It all ties together. We talk about money, numbers and budget, but I want to know what is behind the numbers.

There was a memorandum Brett Kandt from the Attorney General's Office put together when he was Executive Director of the State of Nevada Advisory Council for Prosecuting Attorneys which spoke to the importance of drilling down and getting answers to questions about who makes up the prison population. If a person is sentenced on a property crime, why is that person there for a category C theft? We look deeper and we find the offender had nine prior felony convictions, failed every parole and probation, had three violent offenses, stolen guns and the sentencing judge looked at all that and determined the person needed to be in prison.

The big question is, do we have the right people in prison? We need the right type of prison study, which has never been done and brought before this Advisory Commission or the Legislature. We also need to be careful and not lose sight of the fact that some of these programs, based on what is being reported from other states from sentencing reforms and intermediate sanctions, have resulted in the worst types of crimes being committed. I do not want to see that happen in Nevada. That is my number one priority.

**Holly Welborn, Policy Director (ACLU of Nevada, Inmate Advocate):**
If we are talking about comparisons with other states, what is the reentry program in the state that was just discussed? The day reporting idea is a sound one because you are linking people to services they need when they leave prison and are on parole. Those programs have seen a high level of success. There is plenty of data state to state that we might be able to get a presentation on for a future meeting. Maybe the commission working on reentry programs could talk about the successes of those programs.

**Ms. Wood:**
The Division of Parole and Probation (P&P) wears two hats–law enforcement and case management. The difference here is that we are talking about technical violations. We need to give the officers the discretion to say to an offender, "That is not workable what you are doing," as opposed to, "That is workable and we do think there is some worth in continuing to work with you." Remember that 90 percent of the time, on a technical violation, the person is going to make it back to the community either on probation or parole. I am not talking about egregious offenses, because we need to be swift and direct on those. I am talking about technical violations where we are seeing the person being reinstated. It is frustrating for the officers to go through all this work only to see them come out and fail. The intermediate sanctions would be for those individuals we believe are salvageable, not the ones we know are a risk to the community. I assure you that community safety is paramount. Case management is equally as important because these individuals are in the community anyway.

**Ms. Stiglich:**
How do we address the tension between due process and public safety? One of the points you raised is that somebody may be in custody for 3 weeks. Why are people not promptly being brought before a magistrate or a judge? How would that affect the timelines in resolving some of what you determine to be technical violations where people are in custody for 3 weeks before even getting to court?

**Ms. Wood:**
I cannot speak for the courts, but I know they have attempted to speed up their process through video arraignments. Transportation becomes a challenge, also. We have to look nationally at what other states are doing to expedite the revocation violation hearings. The Division does not have any control over the court calendar. We have a significant amount of individuals at any one time and we want to ensure they have their due process but we do not want to rush it so much that we forget something. We also deal with the attorney's calendars. Many of these offenders have assigned public defenders and their caseload ratios are heavy.

There are a lot of challenges and reasons why these violators remain in custody for an average of 3 weeks. From P&P's standpoint, we have a timeline of when we have to serve them with their right to a preliminary inquiry hearing, which tells them what they are being violated on and why we are pursuing a violation. If they request to have that hearing, they could be in custody for 2 weeks. That can be a potential issue. There is not one specific thing, and I think the courts are doing the best they can with what they have. I certainly think there should be a study on how to speed it up because it is costing the counties in the local jurisdictions millions of dollars.

**Mr. Kohn:**
Ironically, this issue came up in a meeting with the jail last week. There is a district court judge's meeting tomorrow and this issue is on the agenda—why it takes 3 weeks to get someone to court for the first time on a probation violation. In Clark County, because it does cost $140 per day, we will start the inquiry process tomorrow at the request of both the public defender and the detention center.

**Senator Ford:**
I am happy to provide the Division with what they need. Mr. Jackson made some very good points about making sure we have public safety at the forefront of this issue. The concept Ms. Wood is talking about is probably based on two things—one, ensuring we have an appropriate level of punishment for folks who are technically violating; and two, it is probably a money issue as well; a resources and case management-based issue. If it is costing the State millions of dollars a year, I can only imagine a lawsuit that comes out of what we have just heard from some of my colleagues on this Advisory Commission that says this 3 to 4 week time period is unconstitutional and violates due process. That will cost us even more money.

What we need, as I have said before, is an adequate dollar figure for what you need. We can then make a decision whether or not we can get up to a 30 percent pay increase to help with the caseload. All of this is wrapped with the same bow. We want to deal with public safety and also we want to deal with reentry programs. To pay for it, we need to know how much it will cost to get it done from the experts who are in charge.

**Ms. Bisbee:**
There seems to be a difference between probationer and parole violators. We work closely with the Division on the parole violators. It is rare that we do not see a person within 2 weeks of being arrested. That has been the Parole Board's desire and the Division has worked hard at getting them through to us. The parole violation rate of intake that the NDOC will see is about 15.8 percent of their intake. It tends to be fifty-fifty in terms of those with new felonies and those that are technical violators.

Considering that we are always tight for money, I think we have done an admirable job of mitigating risk to the community. When you are talking about those low percentages and you look at our overall recidivism, it is extremely low compared to the national rate which is around 44 percent. The highest we have gotten is 27.6 percent. Chief Wood spoke to the frustration when officers have a probationer or parole violator who is reinstated. Everybody works hard not to get to that point because we prefer them not to be in prison, just to reinstate them.

There are a few officers who need more training, but for the most part they are working hard to keep these people out in the community and safely. I will get a violation report that illustrates four or five different times the officer has wanted to try different things. It

is not like these offenders are getting booked unnecessarily. I do not want us to be Chicken Little and think the sky is falling; that there are all these hugely dangerous people out there and we are all at risk. Overall, the agencies are doing a pretty good job. We are at the point now where we want to take it one step further and be excellent. The day reporting programs and the reentry programs will help. We are going in the right direction. We appreciate that Senator Ford and this Advisory Commission are anxious to make that happen.

**Mr. Dzurenda:**
A risk assessment assesses risk. It is not a crystal ball. If you have been a good person forever, you can have a bad day, so there are exceptions to every rule. So something violent could happen with any individual at any time out in the community. When you talk about public safety, programs are public safety. If you do a drug/alcohol program in the prisons, you should be almost 100 percent successful because there should not be any drugs or alcohol in prison. You want to do these programs in the community for public safety because when you can be successful at drug/alcohol programs while the person is in the home environment where the community temptations are present, that is when it becomes successful.

Keeping them locked up all the time and then releasing them into the community is a public safety danger. The worst thing we could do is let people go from our back door right into the neighborhood. You need to have that successful program while they are in the neighborhood, not just while they are in prison. Both are important, but it is more important that they are successful in these programs in the communities. It will save money down the road because if you do those successful programs in the community and keep them out there longer to make sure they are successful and not dangerous, you will see the savings come even if we are not trying to. It is not about money all the time, but the public safety is not all about the supervision. It is about the programs, too.

**Jorge Pierrott (Lieutenant, Division of Parole and Probation, Department of Public Safety):**
There is an existing statute that provides the Division 2 weeks to handle a violation report. It is not a process established by P&P. I refer to NRS 176A.580, which provides the information you need regarding the preliminary hearing inquiry and the timelines the Division has to serve someone who has violated their conditions of probation and when they need to be presented before the court.

**Chair Hardesty:**
How many Commission members are familiar with Hawaii's Opportunity Probation with Enforcement (HOPE) program, established in Hawaii to handle probation violators? One of the innovative steps taken by a trial judge there was the creation of the HOPE court process. It is kind of a takeoff of Chief Wood's concept of day reporting. That process had a probation violator in front of a district court judge or a trial judge within 24 hours. It

had a huge success rate getting violators in front of a judge to deal with that subject matter. Admittedly, there have to be resources available for the judge to be effective.

This was attempted in Clark County. I do not know the status, but it seemed to me that it may have failed or discontinued. It is something we should look at as part of Chief Wood's suggestion for day reporting. If this Commission is interested, we can get a presentation on it because HOPE is operating successfully in Hawaii.

**Ms. Wood:**
The time the individual is in custody is in no way contributed to by the Division. It is a due process issue that we have to serve certain paperwork. It is not a delay on our part. It is not a lack of service. We have no control over the in custody time. I want to make that clear.

**Chair Hardesty:**
I think the point about even though the Division has 2 weeks to serve a violation, the 3 weeks you are talking about is after that. That is the problem area.

**Ms. Wood:**
Yes, and I would also like to say that I appreciate Senator Ford's comments and know he wants to get down to the nitty gritty of what the Division needs. To answer that would be that we need support of our budget at the time. When the time is appropriate, we will be having a very strong statistical and financial statement about what our needs will be and any support this Commission, the Senate and the Assembly can provide us would be appreciated.

**Chair Hardesty:**
The point is, in order for this Commission to make recommendations to the Legislature, it has to go through that cost-benefit analysis. Otherwise, concepts are vague and unclear.

**Ms. Wood:**
I can appreciate that.

**Senator Ford:**
Obviously, 99 percent of the time, I am going to support your budget. That is not the question. The question is whether it is an adequate budget. That is what I want. I want to know what it costs to get us to the point where we have an adequate criminal justice system on the back end to help you out. Those are the questions I am asking. I know you are carrying water, if you will, and you are gagged on what you can and cannot say, so this is not really directed at you. I know who I can talk to further about this to try and get additional information. At the end of the day, that is what the Legislature needs. We

need to know—just like I asked during the last Session—what do you need, not what are you allowed to ask for, but what you need.

**Ms. Wood:**
I appreciate that. I can assure you I will ask for what I need to bring us up to national standards.

The last page of my presentation discusses the fact that all these concepts have to work together to be successful (page 7, Exhibit I). Each step of the redesign is integral to the other steps.

**Judge Kevin Higgins (Justice of the Peace, Sparks Justice Court):**
The delay of seeing P&P violators has always been kind of an urban legend. When I see them, no one in justice court is setting bail. We get the paperwork and we see them on something else and they are being held as a no bail hold out of the district court. Nobody in the justice court level is evaluating the technical violation to say, "Well maybe if he has been caught with a minor drug violation, he should be released pending a hearing." Normally, everybody who gets arraigned on a new violation comes to the justice court. That is not happening in Sparks. I think there is a disconnect somewhere and we need to change the way the bail is being set on those cases.

**Ms. Wood:**
Perhaps I can clarify. Because they have already been sentenced and sanctioned by the court, if it is a probation violation, they are going to go back before the district court. So justice court will never see them unless they come in on a misdemeanor or a new offense irrespective of the probation violation.

The same with a parole violation—they will go back before the Parole Board. The district court would then be out of the loop on that. Then when they are in custody, through statute they have a due process right to a preliminary inquiry hearing, notifying them of what they are being held on. It is a no bail hold, you are correct.

Before I begin our final presentation, I want to address something that was asked of us by Advisory Commission member Phil Kohn at the February 4 meeting, which was to provide an expenditure analysis for the staffing of the courts in our southern command. We ran the numbers and it is a little more than $4.6 million for the biennium (Exhibit J).

**Chair Hardesty:**
Just so we are clear, the point was that Clark County is served differently than the rest of the State with the availability of parole and probation officers. I believe the question from Mr. Kohn at that February meeting was what it would take to bring parity to Clark County with the services that are needed there versus the rest of the State. Is that correct?

**Mr. Kohn:**
In every district court that is handling criminal matters throughout the State, there is a parole and probation officer in court to address questions that come up. That is not true in southern Nevada. It was for many years, and Ms. Wood can probably tell me when that policy changed. What I have been asking is what it will take, so thank you for that answer. You have previously pointed out that one of the problems is how many courtrooms we have and how long the calendars take. I would like to sit down and figure out if, and this is a huge if, we could convince the courts to handle parole and probation matters at a certain time, or give you a chance to go from courtroom to courtroom. Is there a way to do this in a way that would provide the Eighth Judicial District Court with the same amount of service other jurisdictions are getting?

This goes back to how long does someone sit in the detention center before the person's probation matter is heard. Lieutenant Pierrott pointed out earlier that by statute you have 2 weeks to bring the report. But just because you have 2 weeks, does not mean you have to use 2 weeks. How can we get people through this process quicker, wherever they are going to be? As the NDOC Director pointed out, they could be in a drug and alcohol program or in some type of program for intermediate sanctions. Mr. Jackson pointed out we have to think about public safety. Sitting in jail for 3 or 4 weeks is not good for anyone in the system. That is my concern. We need probation officers back into the courtrooms in southern Nevada as they are throughout the rest of the State.

**Ms. Wood:**
We do not have P&P officers in the south. Throughout the State and in Washoe County, they are specialists; they are the presentence investigation report (PSI) writers. Now and then we will have the officers show up if they have a personal case going in for revocation, but as to staffing the courts full time, those are not sworn P&P specialists.

I want to be absolutely clear about the issue of offenders staying in custody. It is not a Divisional issue regarding our operation. It is a due process procedural right that the offender has. The Division officer can serve the offender as expediently as possible, but it still will not speed up the process. I want to be very clear that this is not a shift of blame. I am pointing out a procedural issue the Division can assist on with some intermediate sanctions.

**Mr. Kohn:**
I don't care what you call whoever is in the courtroom, but whatever service you provide to other counties, I would like you to provide to Clark County. I am not telling you to put them in the courtroom, and I am not blaming you for why it takes 4 weeks when we have people in custody. It may be my office's fault; it maybe the district court's fault. It is not about fault and I am not trying to assess blame. It is about how we can get these cases resolved quicker. I do not care what you call the officers.

**Chair Hardesty:**
In a very small way, this issue addresses one point that Senator Ford has been asking about. We have a clear difference in the kind of services provided in the district courts between the rest of the State versus Clark County. To fix that difference costs $4.6 million. So the Clark County court system suffers and labors under this limitation and it is only something the Legislature and its money committees can fix.

**Ms. Wood:**
I will start our third presentation requested by this Advisory Commission; an offender assessment overview. The offender classification is guided by statute (page 2, Exhibit K). The Division is seeking a change in the Nevada Administration Code (NAC) so we can utilize the Ohio Risk Assessment System (ORAS) the Director brought up earlier. Every offender is assessed currently based on their risk to the community. We believe there is a better tool out there and after extensive research, ORAS looks to be a viable tool with national recognition.

A copy of the proposed Nevada Administrative Code (NAC) change (Exhibit L) shows how restrictive the current NAC is about which assessment tool we can use. The proposed change will allow the requirements to be more general. This would also enable changes to our assessment tools in the future without going through legislative changes. We are proposing the removal of NAC 213.590 which limits us to using only the Probation Success Probability (PSP) form. Some of the other changes can be seen on page 2 (Exhibit K), specifically the discussion of NRS 176A.300 and NRS 176A.370 inclusive which addresses the regulation of the supervising of an offender who secured their probation by a security bond. The statute is not practiced by any of the courts at this time. The 6 month timeframe to reassess the offender is a minimum and can be completed more often as needed, depending on the person's activity and risk to the community.

With the change to ORAS, the Division will be using a tool that is predictive and evidence based, allowing us to address offender and gender needs as well as identifying the risk to reoffend. The majority of tools now are oriented to males. Females are playing a bigger role in the criminal justice system in the last decade and we need more effective tools to assess these female offenders. This tool has been validated using a group of 678 self-report questionnaires providing 200 potential predictors. It has been in use in Ohio since 2010. The ORAS tool is designed to function at every level of the criminal justice system. We would be using it in P&P for offender management and supervision in the community. It is designed to link to all stages including pretrial, post-conviction and internal within the prisons. It promotes consistent and objective assessment of risk throughout the system. Implementation of ORAS at every level is reported to improve communication, avoid duplication of information from one system point to the next and more accurately depict the risk of reoffending.

Our current assessment tool is functioning reasonably well (page 4, Exhibit K). However, changes in assessment tools and practices in the last 8 years has caused the Division to take the proactive step to implement ORAS to better address offender risks and needs. Because of the national trends and studies from institutes like Pew-MacArthur, the Division recognizes that it is time to upgrade to a more predictive tool.

Traditionally, within the first 30 days of supervision, officers are required to complete an initial risk and needs assessment (page 5, Exhibit K). This initial assessment allows officers to accurately assess an offender's needs, some of which might be impulse control, counseling or substance abuse counseling. The assessment allows the officer to provide the appropriate referrals to the offender and can be adjusted at any time, but should be done at a minimum of 6 months.

The basic risk data categories are similar to many risk assessment tools and are utilized within ORAS in much greater detail (page 6, Exhibit K). The needs data category is stressed in ORAS, allowing the officer to base their referrals more on the needs of the offender than on the risk to reoffend (page 7, Exhibit K). As ORAS states, this provides thorough information to aid and inform decision making. In a nutshell, the difference between ORAS and our current assessment tool is that ORAS is more evidence based with a greater prediction for recidivism. There are 200 indicators in ORAS compared to the ones on pages 6 and 7 (Exhibit K).

Page 8 (Exhibit K) gives a greater overview of the point scoring. This is used only for the assessment of offenders being actively supervised and is not part of the offender's PSI. Officer overrides must be approved by the supervisor, with overrides more routinely used in specialty units like a sex offender unit, intensive supervision unit and low risk supervision unit, based on the offender's criminal history in conjunction with their risk and needs assessment. This is to ensure those populations are supervised at the proper level for community safety.

We have a proposed bill draft request (BDR) we would like input from the Commission on (Exhibit M). We are proposing the revision of earned compliance credits received by offenders for maintaining employment and/or paying restitution and fees while under supervision. This bill clarifies when an offender receives credit, defines the fiscal obligations for supervision fees and restitution fees and allows the Division to define the word "current." The BDR is being proposed because we have difficulties from jurisdiction to jurisdiction as to what the term "current" defines.

**Chair Hardesty:**
What steps are necessary to amend the NAC to allow the Division to go forward with the ORAS program? The NDOC currently uses that program, so it is not coming out of nowhere.

**Ms. Wood:**
It is a lengthy process to move to ORAS. We have already started that and met deadlines. There will be a public hearing involved so affected parties can have input. June 1 is one of the deadlines. We have sought the legal advice of the Office of the Attorney General (AG) and our counsel regarding the language involved. Major Stephanie O'Rourke with the Division is involved with this already and can answer some of your questions.

**Stephanie O'Rourke (Major, Division of Parole and Probation, Department of Public Safety):**
We submitted our proposal to change the NAC to the Legislative Counsel Bureau (LCB) this week and are currently waiting for feedback. We will then proceed with scheduling public hearings and getting public comment.

**Chair Hardesty:**
What is the timeframe?

**Ms. O'Rourke:**
We have to first get the information back from LCB and then the AG has provided us with a guideline on how to proceed. I am hoping we can get the public hearings scheduled for later this fall.

**Chair Hardesty:**
So the NAC would not be able to be amended until as late as the end of this year?

**Ms. O'Rourke:**
That is correct.

**Mr. Helgerman:**
One of the first things we are attempting to do with the BDR (Exhibit M) is to clarify when the offender gets credits. There has been confusion among the courts as to whether or not this is an all-or-nothing situation. The Division's interpretation is that if a probationer is working, they receive 10 days for working. If they are paying their fiscal obligations, they receive 10 days for that. If they are doing one and not the other, it is the Division's interpretation that they receive 10 credits for the one they did and they do not receive 10 credits for the other one. Some courts have interpreted it to be all-or-nothing, meaning if they are working yet not paying their fees, then they receive no credit whatsoever. The BDR clarifies that breakdown of credits.

The other thing the BDR does is define the fiscal obligations as supervision fees and restitution only. It removes the court ordered fines and fees from the credit calculation. The reason for that is the Division has no way to determine on a monthly basis whether or not the offender has made some payments to the court for their fines and fees. It

does not remove the offender's obligation to make those payments to the court; it just removes it from the credit calculation that we figure every month. It is still something the Division will address with the offender throughout supervision, but it is not factored into whether or not they receive credits every month.

Lastly, the BDR defines the word "current." The way the Division now defines current is to take the total number of months the offender is under supervision and divide that number into how much restitution he or she owes. The problem with that formula is that it does not give an accurate representation of what the offender can actually pay. We have some offenders paying less than what they could actually pay, not making the victim paid off soon enough. Or, they could end up having some unrealistic amount like if they owed $100,000, and their monthly payment came out to several thousand dollars per month. That would be unrealistic. This change would allow the Division to monthly go through a budget with the offender and determine what they could actually pay. That would determine what current ends up being.

**Ms. Bisbee:**
Regarding the amendment of NRS 209.4475, section 2, subsection (b) on your proposed BDR (page 2, Exhibit M) where it says "a person shall be considered current for every month that a minimum payment, as determined by the Division…", for parolees, the Parole Board determines restitution. So that is my concern. The Parole Board sets up the … however many months on supervision divided by how much they owed. There is a vehicle for them to pay less but they have to fill out the form and make the request for the Board to review it. I understand what you are doing, but I have concerns because it makes it sound like you can set restitution other than what the Parole Board recommends.

**Mr. Helgerman:**
One thing we looked at was making sure the court or the Parole Board always had final determination as to what the monthly payments would be, meaning they could order a special condition as to what the restitution payments would be.

**Ms. Bisbee:**
Which we have, by saying whatever amount is owed, divided by the number of months under supervision.

**Mr. Helgerman:**
Most of the challenges we had with this BDR apply to probationers. We mirrored their language for the parolees just to be consistent.

**Ms. Bisbee:**
You cannot always mirror, because the court and the Parole Board have different jurisdictions, or different rights. I do have a concern because anyone reading that part of

the BDR would think it gives you the authority to change the restitution amount when it has already been set with an ability to change it by going through the Parole Board. I understand what you are trying to do, but it is not apples to apples when you are talking about probation and the Parole Board on that particular piece of the restitution.

**Mr. Helgerman:**
The change we have is applicable to both subsections (a) and (b) of section 2 of NRS 209.4475, one of them being the cost for supervision. The Division could certainly look at amending it so there is clarification regarding the restitution payments.

**Ms. Bisbee:**
It is just semantics, but we have all seen when we change something in the law and it is not interpreted as you mean it. I have no objection as long as it makes it clear that you cannot change restitution.

**Chair Hardesty:**
If no one has other comments about this BDR, I will ask Mr. Anthony to defer this to the May meeting for further discussion.

**Ms. Wood:**
If there are any questions, we can field those, too.

**Chair Hardesty:**
Could you give an overview of Pew-MacArthur and Justice Reinvest or would you defer that to May?

**Ms. Wood:**
The reason I provided a link for that was because it is extensive. Many of the Division program concepts we came up with were top recommendations from Pew-MacArthur national studies. They reference focusing more on high risk offenders and less on low risk offenders because through oversight, you can push a person into violating at a low level. They also reference programs like Scared Straight, which has been shown to be relatively unsuccessful. Additionally, Pew-MacArthur addresses pay for parole and probation officers.

One of the successful programs Pew-MacArthur talks about is house arrests. Day reporting centers are also touted as an intermediate sanction that is effective. They talk about ethics training and how, if officers are not engaged in recognizing trigger points, they are less successful. Pew-MacArthur also acknowledges that if caseloads are high, a division cannot implement EPICS training with officers.

We were approved for a new Super Offender Tracking Information System (OTIS) at the last Legislative Session and I hope that will allow us the ability to assist other agencies

with data collection to define recidivism and put some of those tangible numbers to the questions we get. We simply want to move the Division forward into national standards instead of constantly dealing with a vacancy rate we cannot possibly keep up with. Our biggest challenge is our vacancy rate and retaining our officers after they graduate from the academy. We are a training ground and we do our best to adjust internally, but it does affect our caseload numbers.

**Chair Hardesty:**
One other question we had for you was the history of pay and classification studies.

**Mr. Wright:**
After this was discussed at the last meeting, we went back and asked because the last known pay raises we got were in a 10 year to 12 year cycle. In the mid-1990s, we were behind in pay, then there was an increase and in the early 2000s, it was the same thing. We are back at the 10 to 12 year mark again where we are behind in salaries. Unbeknownst to us, in 2012, the Department of Administration's Human Resources Division did a scheduled salary comparison. They used to do salary comparisons for various classes. They produced that comparison for us and we found that during that time, we were in the middle of all the furloughs. The survey had gone out to various local governments within the State. The smaller jurisdictions were lower than our Department and the larger jurisdictions were ahead of us.

We have tried everything we can do as a Department. I have 870 officers across six of our eight divisions. When we lose an officer, we look at their exit interview. Common statements are, "I hate to leave DPS and I love working here because of the variety of options, but I have to go for more pay to support my family." We all understand that and cannot blame them. We lose these officers to North Las Vegas, Henderson, Metro and Washoe County, not to smaller towns.

When you compare what people are getting paid in different areas, you have to look at salary, benefits and retirement. We are finding that salary-wise, we are maybe only 10 percent lower than those agencies that are getting our people. The kicker is that the local governments are paying the Public Employees' Retirement System of Nevada (PERS) benefits of their employees, which is about 20 percent of their pay. That is how we come up to a 30 percent difference. We can give you that number we need to stop the vacancies. We will multiply 870 officers times their salaries and tag 30 percent on to that, but I know it will be a hellacious number.

We have implemented a recruitment drive to bring officers in. We will soon be graduating 33 officers from our academy; 22 will be going to Nevada Highway Patrol (NHP) and 11 will go to P&P. We start a new academy in July. We will start our first Las Vegas academy in October. We are hoping to start an academy every 90 days to help us catch up and fill vacancies. Last year, we were down 100 officers. We had two

academies fill approximately 65 percent of those vacancies. We have implemented the use of retirees, but we know that is only a bandage. I am grateful to those individuals who can come back and help us during this tough time. It is good for them and good for us. It has particularly helped our Capitol Police Division. The Division of Parole and Probation is using returning retirees to do the office portion that an officer would be doing so the officers can be out on the streets, and NHP is also using a few retirees.

It is a struggle. It takes 1,000 applicants to get 50 participants into the academy. The class that is just graduating 33 officers started with 38 individuals. Even through all the background processes, I cannot reduce the standards to get more people. We are not going down that road. We are not alone. Other states are having the same problem. It is just the nature of it in today's world. We have to work harder. Our recruitment drive will be putting advertising out in the public and even in theaters soon.

**Chair Hardesty:**
How many vacancies do you have to fill now?

**Mr. Wright:**
Last calendar year we were down about 100 officers. In P&P, the sworn vacancies are down at 31 and NHP is the same, so we are running about 60 to 75 vacancies. We do two academies a year and we are putting on a third academy in Las Vegas because we have found that there are a lot of candidates there who cannot afford to come to Carson City for 16 weeks. Hopefully we will grab some more candidates this way.

**Chair Hardesty:**
Am I right in assuming you cannot accomplish any of the concept objectives as long as you are this short staffed and without getting additional authorized personnel?

**Ms. Wood:**
It is a Catch-22. I can ask for 50 more positions, but it is useless if cannot fill those positions. I will never, ever be fully staffed, but if I came close, I could still pull these concepts off. But again, it is ebb and flow with the attrition. I do believe that if we reorganize now, given our current staffing needs, we might have to ask for additional bodies for day reporting. We are working on that. We can come pretty close, but we will never ever be fully staffed. We request our positions based on JFA Institute projections, which calculates population growth based on population and caseload ratios. It tells us how many officers we get to ask for. The problem is, it does not take our vacancy rate into account.

**Chair Hardesty:**
Are you experiencing the same issue NDOC has with occupancy being higher than what JFA projected? Are those under supervision by your Division greater in number than what JFA projected?

**Ms. Wood:**
I do not see that as the issue. It is more the caseload ratios and the vacancies. Currently, JFA is saying general supervision should be 80:1, but as I testified earlier, that ratio is too high; we should be looking at 60:1. The population growth of inmates is not my concern; it is the vacancies and readjusting the caseload ratios to better align with national standards.

**Senator Ford:**
You said something that has resonated with me. We heard the Director say a 30 percent increase in salary would be necessary to make the Department competitive. Obviously, recruitment and retention ratios are dynamic. Part of that is based on money. A 30 percent increase in salary will help you to recruit and retain these officers so you can close the gap. Based on communication with other organizations and associations, what else would be conducive to getting more people wanting to come to DPS and stay? Would it be benefits? What else besides cash would be helpful?

**Mr. Wright:**
In discussions with other departments and what they are utilizing, the benefits are one thing. The State package is better than some local governments. We have looked at little things, especially what we can do to entice people to come and stay. The officers we are losing are not the new academy graduates; they are the journey level officers who have been with us for 4 to 5 years. The reason they leave is because we have been in the period of furloughs where they have seen no pay increase and no step increases. Even though this past Session saw the furloughs lifted and step increases reinstated, there is an internal problem now with compaction. We have that experienced group that went without raises for a period of time and the new officers who are coming out at almost the same pay step as the more experienced officers. We are asking the old ones to be field training officers for no additional money, and they are supervising people who are almost at the same salary level. It is another complication.

As Director, I have to look at everything I can possible do to improve morale. I am instituting a uniform change. The uniformed officers have been wanting a different look. It is hard to distinguish who is who when multiple local jurisdictions are wearing similar uniforms—unless you clearly see the patch, you are not sure who you are dealing with, especially on video. The officers are excited about this uniform change and it has caught on. We need a distinctive State law enforcement uniform. It may seem menial but it is big for morale. I want to give our officers a distinct look that identifies they are officers within the State of Nevada. There are other fringe benefits out there, but it boils down to how much money we will have. I will definitely not lower standards to get people into our academies, though. If I did I would probably have to add legal staff to help me through problems if we reduced standards for officers.

**Senator Ford:**
I believe your Department is doing what it can. That is why I keep asking about money. Is there anything we can do in the Legislature to help? Can we help with the compacting? Can the Legislature help with recruitment and retention?

**Mr. Wright:**
Thank you, we appreciate your interest and care on this matter. Anything will help. The compaction needs to be addressed in our salary process. We have to figure out how we can get the steps back in order. Maybe it will have to be a phased-in approach, to adjust someone who has been here 5 years to get them to the step they would have achieved if we had not had furloughs, etc. It will be a tremendous task. We would take any help.

**Mr. Kohn:**
As Ms. Wood pointed out, my concern about having court officers is that those are not law enforcement officers. Can you retain the writing officers who are not post-certified? If not, where are they going?

**Ms. Wood:**
We do not have as much turnover in the court services; the specialists staff. When they do leave, they go to other local agencies if the pay and benefits are higher. The turnover is not as noticeable as it is with the sworn officers. Many of our writers have been in their positions for a significant amount of time.

**Mr. Kohn:**
That is my experience and I appreciate that. To the Director, that compaction issue is a Clark County problem, too. There are a number of attorneys in my office and the district attorney's (DA) office who did not get raises for a number of years and how you go back and make that right is an incredible problem. I know the county has worked with it. I do not have the answer, either, because as soon as you talk about how to fix it, the question of back pay comes up. I have compassion for your problem. We have lost a number of lawyers as has the DA's office. No one anticipated the recession. Nevada grew for so long. I have explained that to attorneys who work for me and I am sure you have done the same to officers who work for you. I do not think there is an easy solution.

**Assemblyman Hambrick:**
Director Wright, in the next few weeks, I would like to talk offline with you. We had a conversation during the last Session about some ideas and I think we have some common ground to discuss.

**Chair Hardesty:**
I will now open Item VIII, a presentation regarding the Criminal History Repository for Nevada.

**Julie Butler (Administrator, General Services Division, Department of Public Safety):**
Our statutory authority is contained within chapters 480 and 179A of *Nevada Revised Statutes* (NRS) (page 2, Exhibit N). The General Services Division is one of 13 divisions in the Department of Public Safety and houses the Criminal History Repository which is charged with collecting and maintaining statistical data for use by criminal justice agencies in Nevada as well as collecting and arranging all records of criminal history submitted to the Repository by Nevada criminal justice agencies. We are tasked with using a record of personal identifying information, a biometric, as a basis for criminal history records. Currently, that biometric is fingerprints, but with A.B. 224 from the last Legislative Session, that has opened the door for criminal justice agencies and for the repository as our systems are modernized to use other biometric means such as facial recognition, scars, marks, tattoos and potentially, iris recognition.

**ASSEMBLY BILL 224:** Revises provisions governing records of criminal history. (BDR 14-977)

We are essentially the centralized storage facility for rap sheets for the State (page 3, Exhibit N). That is our primary responsibility, including records of arrests and dispositions for all Nevada criminal justice agencies. We have an active applicant background check program to conduct fingerprint-based background checks for various employment and licensing agencies. Typically, people working in positions of trust, which includes those working with the elderly, disabled or children, are required to have fingerprint-based background checks as a condition of being licensed as a teacher, nurse, physician, realtor, etc.

In fiscal year (FY) 2015, the number of criminal fingerprints we received was around 82,000, or 6,800 per month. For FY 2016, we are trending about 6,700 per month for criminal arrest submissions. The volume of the applicant background checks grows every Legislative Session as new bills are put forth to background check different occupational groups. In FY 2015, we did a little more than 197,000 applicant submissions, averaging around 16,400 per month. In FY 2016 as of mid-March, we were at 114,000, which is 16,200 per month.

We have an active Nevada Offense Codes (NOCS) program which provides a standardized coding methodology to share charge information electronically between the Repository, courts, prosecutors and law enforcement. Unfortunately, the NRS does not provide the specificity we need when considering all the enhancements to share charging information back and forth, so the way we solve that is through NOCS. We received two positions for this program in the last Session.

Every state has a centralized conduit where information is transported back and forth to the FBI. For Nevada, it is the Criminal History Repository. That function is called the FBI

Criminal Justice Information System (CJIS) and includes the National Crime Information Center (NCIC), Next Generation Identification, National Data Exchange, National Instant Criminal Background Check Office (NICS), National Sex Offender Registry, and more. We are also required to audit and train all criminal justice agencies in Nevada on the use of Criminal History record information.

Over the years, the Division has been tasked with a variety of special services including the Sex Offender Registry, Brady Point of Contact Program for firearms transfers, name-based background checks for employment purposes, and the Uniform Crime Reporting Program, which also includes the Domestic Violence Protection Order Registry and the Repository for Information Concerning Crimes Against Older Persons (page 4, Exhibit N).

To give you some idea of the volume of our programs, we currently have about 6,600 active registrants on our Sex Offender Registry (SOR), meaning they live in Nevada, are not incarcerated and they annually fill out compliance packets. There are a little more than 23,000 registrants total, but not all of those individuals fill out the annual updates. Our Point of Contact Program for firearms processed 94,859 transactions or 7,905 per month in FY 2015 and to-date in FY 2016 we are averaging 9,449 transactions per month. That uptrend is consistent with what the FBI is seeing. Our Civil Name Check program processed about 4,400 transactions per month in FY 2015 and around 4,700 transactions per month so far this year. This program is used primarily by the casino industry in southern Nevada to vet their nongaming employees.

**Chair Hardesty:**
Can you provide the Advisory Commission with information on the status and methodology for communicating arrests and convictions, including the status of that reporting from various courts in Nevada?

**Ms. Butler:**
If you go to page 9 of my presentation (Exhibit N), in October 2013, the Repository was notified by Las Vegas municipal court that they had more than 600,000 dispositions that had never been sent to the Repository. Around that time, staff conducted some outreach to look at how many courts were reporting to the Repository. We found that only about one third of the courts were reporting dispositions consistently and timely to the Repository.

At around the same time, a story broke in the Reno Gazette-Journal about a mentally ill man under the guardianship of his parents who purchased a firearm through a private party. This prompted the Chief Justice of the Nevada Supreme Court—you, Chair Hardesty—to require that all courts go through their records and send the Repository all mental health adjudications and any other information that had not been reported to the Repository. By December 2013, in addition to all the mental health adjudications that

were reported, we received around 800,000 dispositions that had never been posted to criminal history.

We approached the Interim Finance Committee in June 2014 to request authority to hire 10 permanent and 10 temporary positions. We later added 10 more temporary positions, for a total of 30 full time equivalent (FTE) positions to devote to disposition data entry into State and FBI criminal history systems. The staff works around the clock 5 days a week on disposition backfill data entry.

Today, all 78 courts are reporting dispositions and we are getting mental health adjudications reported consistently to our Brady office. Those are posted the day we receive them. We ended up with more than 900,000 dispositions that had to be posted to Criminal History. We are about two-thirds of the way through that. We are current on current dispositions, (page 10, Exhibit N) not creating a new backlog. One thing that will be very helpful is a bill that was passed last Session, Senate Bill (S.B.) 240, which added a 60-day disposition reporting requirement for criminal justice agencies.

**SENATE BILL 240**: Makes certain changes relating to public safety. (BDR 14-955)

We are estimating completion of our disposition backfill project in 2017. We are currently 62 percent complete and accurate for every arrest having a disposition posted. We were only about 28 percent complete in 2012, so we are making tremendous strides.

**Chair Hardesty:**
One issue that came up was the fact that virtually all those dispositions were communicated to you in a paper form. Has there been a conversation to enable the Repository to communicate with the courts electronically? Would that speed up things?

**Ms. Butler:**
We received a federal grant and have hired a contractor to build a disposition matching tool for us. In a study commissioned several years ago, we know the dispositions are out there, so we are working on a tool to extract that information and auto-populate those dispositions into the Criminal History Repository.

**Erica Souza-Llamas (Repository Manager, General Services Division, Department of Public Safety):**
My staff is working with the vendor to test the tool designed to handle the disposition backfill. We are also working with the State Enterprise IT Services (EITS) to develop our side of the tool to absorb the dispositions into the State Criminal History database.

**Chair Hardesty:**
What is the timing to convert to this?

**Ms. Souza-Llamas:**
I do not have a timeline from EITS.

**Ms. Butler:**
I think we can get that information to you.

**Chair Hardesty:**
Are the courts a part of this process so your computers can talk to each other? We hear all the time that divisions want their computers to talk to each other.

**Ms. Souza-Llamas:**
Yes. We have three courts that are piloting this project with us—Union Justice Court, Las Vegas Municipal Court and the Eighth District Court.

**Chair Hardesty:**
If you could update your status and that information, that would be helpful.

**Mr. Callaway:**
Speaking of computers talking to each other, one thing that has come up in the past is the ability for an officer out in the field, through local systems like Shared Computer Operations for Protection and Enforcement (SCOPE) or through NCIC, to be able to see immediately when they stop someone at 3 a.m., whether that person is prohibited due to a mental health adjudication. Often, through SCOPE or local systems, we can see prohibitors for other things—the person is an ex-felon, or has a prior conviction for domestic violence—but we have not been able to see the mental health adjudication, which can be critical. Can we get that information yet, or could we push it down to the local level where it would be readily available to our officers in the field?

**Ms. Butler:**
There is a statutory prohibition on that through Assembly Bill No. 46 of the 75th Legislative Session, where we enacted the NICS Improvement Amendments Act in Nevada. That bill referenced sharing the mental health information with the Repository to share up to NICS, but that is the only use for that information. By statute, we cannot share that information with law enforcement. As much as I would like to be able to put the mental health prohibitor as a flag to criminal history so the officer on the street knows it at 3 a.m., I am prohibited by statute.

**ASSEMBLY BILL 46**: Makes various changes concerning the right of certain persons to purchase or possess a firearm. (BDR 14-271)

**Mr. Callaway:**
I guess I would make a recommendation that we try to change that statue to allow for that information to be pushed down to local law enforcement.

**Chair Hardesty:**
We will include that on our to-do list. Does SCOPE only operate in Clark County while the rest of the state is dependent on NCIC?

**Ms. Butler:**
Yes.

**Chair Hardesty:**
Does SCOPE duplicate what NCIC does? Talking to the judges in southern Nevada, they are very complimentary of the timeliness and productivity of SCOPE and less so of the NCIC information they get. That is a concern to me. Do we now have a flip, where Clark County's criminal history information is more current, timely and accessible than the rest of the State?

**Mr. Callaway:**
I cannot speak to the data in SCOPE being better, but in the field as an officer, typically we could access both SCOPE information, which is local, and NCIC information, which is broader. I recall it being timely information we were receiving and that we received information through SCOPE that we might not have gotten otherwise.

**Chair Hardesty:**
Who supplies the data for SCOPE?

**Mr. Callaway:**
I am not 100 percent sure who all has access to input information into SCOPE. Some of it comes from the local courts, I believe. I could report back to you.

**Chair Hardesty:**
This came up in the pretrial release discussion, that SCOPE used by court services officers, the department chaired by Anna Sanchez, would get better, more accurate data than, say Washoe County. As we talk about a risk assessment tool for pretrial release of defendants, Washoe County and the rest of the State indicated they had to rely on arrest information rather than conviction information, which begs the question of why that would be the case. It impacts the quality and the validation of the risk assessment tools to use different data. I would like a better understanding for the Commission about SCOPE and how it operates.

**Ms. Butler:**
There is duplication in terms of the criminal history portion of SCOPE, but my understanding is that it is also used for work card permits and local cite and release information that does not necessarily meet the serious threshold to funnel up to the Repository. My staff uses SCOPE extensively in our Brady background check program for firearm transfers. We use it in the sex offender registry and it is used in the civil

name check because there is additional information available. Even with some duplication, it is an additional tool in the toolbox. Could there be areas of efficiency to combine? Yes, but that would take a lot of examination.

**Chair Hardesty:**
I brought this up so the Legislators on this Advisory Commission can be aware of this issue, because you have—I will overstate the case—criminal history information being formulated and used by SCOPE, and you have the same thing taking place at the State level. It seems like most of the Clark County folks are more reliant on SCOPE, even you are relying on it. In essence, we have a State agency and whoever it is that does SCOPE—the county presumably—duplicating this process. And at what cost? It just seems like if there are efficiencies, we should try to identify those and take advantage of them where they exist. We would like more data on this.

**Ms. Butler:**
I would be happy to get that for you. Back to my presentation (Exhibit N), on page 5 we have the Information Security Unit, which is tasked with maintaining compliance with the Federal Bureau of Investigation's mandate to audit the technical security of all agencies with direct connectivity to DPS systems, and indirectly to FBI Criminal Justice Information Systems. The Information Security Officers are a resource for all Nevada criminal justice agencies when contemplating new equipment purchases, software or anything that touches the Nevada criminal justice system or indirectly touches those FBI systems. We need to make sure we are technically secure, so there is staff for that.

The Nevada Criminal Justice Information System (NCJIS) is a conglomeration of systems managed by the Repository that all law enforcement and criminal justice agencies in Nevada tie into (page 6, Exhibit N). It is the conduit through which all those agencies touch the systems of the FBI, including some international groups like Interpol, RCMP, etc.

The complexity of the Nevada Criminal Justice Information System (NCJIS), the Justice Link or JLink structure, and the variety of outside entities the Department interacts with is illustrated on page 7 (Exhibit N). All the systems here communicate through a message switch, Justice Link, in the middle of the page. Our information touches local, State, national and international levels. The IT provider, Enterprise IT Services, is responsible for keeping the system up and running around the clock all year.

We are in the process of modernizing this system because it is ancient by technology standards (page 8, Exhibit N). In FY 2012, the then-Records and Technology Division received a federal grant to commission a study to recommend the best way to replace the critical systems of NCJIS, the Computerized Criminal History System, the Offender Tracking Information System, and the Temporary Protection Order System, because these applications and the underlying systems that support them are at risk of failure, no

longer vendor supported and are overly complex by today's standards. We began that work in the 2014-2015 biennium and received a General Fund appropriation from the Legislature of $2.3 million for the purchase of items listed on page 8 (Exhibit N).

The DNA expungement process (page 12, Exhibit N) proceeds when an individual who wishes to have his or her DNA expunged applies to the Central Repository on a form found on our website (Exhibit O). If the individual has the proper forms, staff runs a query and provides the results to the individual lab that has the applicant's specimen. If the lab does not destroy the specimen, the Repository notifies the applicant immediately. If the lab does destroy the specimen, the Repository waits for the lab to provide an updated expungement list and then staff removes the DNA flag on the person's rap sheet. The Repository then notifies the applicant that his or her DNA has been expunged. As of last week, we have received 121 requests for DNA expungement; 28 have been granted, 74 have been rejected and 19 were not eligible (page 13, Exhibit N).

**Mr. Higgins:**
I was in the hearings on behalf of the Nevada Judges Association when the DNA registration bill was introduced. My understanding was that once the DNA is in CODIS, it is not possible to expunge it from the FBI. You are only talking about expunging it from the State, is that correct?

**Ms. Butler:**
The NRS says it is supposed to be purged from the State database and from CODIS. I would have to defer to somebody at the lab to see if it is possible to remove that profile from CODIS.

**Mr. Callaway:**
In the presentation we received from our crime lab at the last meeting, one of the slides showed that the feds purge CODIS, I believe they said on a weekly basis. I would have to refer back to the slide, but there was a slide that talked about it being expunged at the federal level.

**Ms. Welborn:**
On page 13 of your presentation (Exhibit N), it lists what happened to the 121 expungement requests. Why were the 74 requests rejected by the lab?

**Ms. Souza-Llamas:**
My staff only maintains statistical records, not the reason why or why not. There could be many reasons. If the appropriate documentation does not include what is outlined in statute as far as what is eligible to purge, my staff would reject it back to the applicant with an explanation.

**Ms. Wellborn:**
So people applying for expungement get an answer to why their request was rejected?

**Ms. Souza-Llamas:**
Yes.

**Senator Ford:**
How about the requests that are not eligible on page 13 (Exhibit N)? I would like an overview from you next time on the types of reasons that expungement requests are rejected, and what the difference is between being rejected and not eligible. I cannot imagine why a person would be rejected except for not being eligible. I remember testimony pretty vividly on this in 2013. I initially opposed it.

Also, I thought I remembered in testimony that the requirement was that the forms are given to the individuals, and not that they have to go to a website, download the forms, etc. How does it operate?

**Ms. Souza-Llamas:**
To my knowledge, the booking facilities provide the forms to the inmates upon release.

**Mr. Callaway:**
The Clark County Detention Center does provide the form at the time of release. As to Senator Ford's question about rejections, I have had these conversations with our lab about that. Here is one way it can work and this is a common reason for rejection. Say I am arrested for an offense that qualifies for my DNA to be taken, so I go through the process and then get released on my own recognizance (OR) and I am back on the street, pending trial on that offense. Say I commit another crime requiring DNA collection while out on OR, but that offense does not need DNA taken because my DNA is already on file from the first offense. If my first offense case is dropped or I plead to a lesser crime, a misdemeanor not needing DNA, and then I petition to have my DNA expunged while the qualifying second offense is still pending, the DNA would not be expunged until the second case is adjudicated. That would be an example of an application for DNA expungement being not eligible.

**Senator Ford:**
That is helpful, I still want a broader explanation on what reasons have been given for rejecting otherwise eligible expungement requests.

**Ms. Butler:**
Respectfully, that is not up to us to say if the criteria is met. It is the lab's determination. We simply collect the form, run the subject's criminal history and forward it on to the lab. They then notify us what they determined regarding the expungement request and we

notify the applicant. To the reasons why an applicant is rejected, my staff and I cannot speak to that.

**Senator Ford:**
Point taken. I will ask respectfully to the Chair who the right individuals or entities are, so we can get answers to those questions.

**Mr. Callaway:**
Our lab would have that information from Clark County and southern Nevada so I could get that information for our region.

**Chair Hardesty:**
I will ask Commission member Eric Spratley to see if he can secure that information for Washoe County and we can check with the rest of the State and also get those presentations from the last meeting and ask those folks to provide us with that information.

**Senator Ford:**
I recall from that last testimony that there was supposed to be some demographic data being tracked and then presented to this Commission. Do we have information on that?

**Mr. Callaway:**
I believe that information was in the material presented by the labs at the last meeting. I believe demographics data was in it.

**Chair Hardesty:**
Senator Ford, take a look at the exhibits from the last meeting. If they do not adequately answer your concerns, we can supplement that information for sure. Ms. Welborn had similar questions at the last meeting, too.

**Mr. Jackson:**
The Central Repository has a significant impact on the criminal justice system, from officer safety in the field, charging decisions by prosecutors, sentencing considerations by judges to decisions on parole, etc. Dealing with the mapping of the new NOC codes with the NRS statutes, and changes the Legislature makes, and dealing with prosecutors, sheriffs and police departments across the State and their various systems—all of that is complicated and you do it well. I commend you.

**Chair Hardesty:**
I would join with Mr. Jackson's comments and observations and want to compliment you on all the work you have accomplished. I am looking forward to your help and input on some of these issues regarding your Division's scope and a better understanding of how we can improve the reliability that so much of the criminal justice system places on

you and your work. Also, thank you for being so cooperative in helping the courts become current. If they are not, let me know and we will fix it.

I will now open Item XIV and Item XV, discussing potential future topics for this Advisory Commission. Mr. Anthony and I have been working at trying to schedule a number of presentations so we can get through our statutory duties and areas of interest. We have made a list of potential meeting topics (Exhibit P) for members to peruse and add to.

As of the last meeting, we have received an invitation to work with The Pew Charitable Trusts on criminal justice reform issues. I am hoping to schedule a presentation on that for the next meeting.

**Mr. Kohn:**
I would ask that you move specialty courts out of June because I will not be here. This is an important topic to me, so any other month would be good.

**Mr. Jackson:**
For the last two interims, when we have talked about prison studies and reports provided by Dr. Austin of the JFA Institute, I have been critical about what I consider the lack of information. The DA's Association has discussed this topic and we have reviewed reports from John Speir, PhD, with Applied Research Services, Inc., out of Atlanta, Georgia. We are reaching out to him to provide data and information which would make sure that we know who we have in prison and whether we have the right people in prison. We have heard anecdotes, rumors and innuendos, but we need the data to back up that information. I would like that to be something we could discuss in August.

**Chair Hardesty:**
If that individual or organization wants to develop a formal process for providing data to the Commission, I am happy to talk to them or schedule them. It might be helpful for them to be here and heard from the rest of the Commissioners what they think might be helpful in such a work program.

**Ms. Wellborn:**
The ACLU just completed a study on the use of administrative segregation in the Nevada prison system. We surveyed 378 inmates who are currently in isolation or were previously in isolation. I would like to present the findings of that survey and schedule that for an agenda item any month after May.

**Senator Ford:**
When Mr. Jackson says, "Who we have in jail and do we have the right people in prison," are we talking about offenses, demographics; what specifically does that mean?

**Mr. Jackson:**
The report provided by Dr. Austin has some misinformation. When they broke down categories of offenses such as murder, drug offenses, and why the person was in prison, I do not think it tells the whole story. There was also some misinformation that they had possession of a controlled substance, listing that as a category B felony. All of us in the criminal justice system know that simple possession of a controlled substance is not a category B felony. Most likely, what we are talking about is trafficking or sales, which would be a category B felony.

The issue that comes up is sometimes we see that, for example a person is in prison for a category C felony theft and we wonder why that person is in prison. What is not being shown is that this person has nine previous felony convictions, three of them violent offenses, they have violated every parole and probation and when they came before a sentencing judge, that history is something the judge took into consideration, sending him to prison instead of probation. We have been asking for these reports for years to drill down and look at who these people are. Are we trying to protect the public or are we just trying to look at the broadest categories and say because they fall into these categories, they are not deserving of being in prison?

**Senator Ford:**
I would like to know how other states have enacted reform for low level offenses for people without a history or record of previous crimes. Connecticut has passed what they call the Second Chance Society, which has retroactively re-categorized certain offenses to allow people convicted of simple possession of marijuana to not be in jail for as long as they had been. I would like to know what other states are doing in their criminal justice reform efforts, like in the Denver Post article Mr. Jackson read—what types of ideas are they putting out there and what are the results they are seeing? Is in fact public safety being challenged? If so, who are these folks? Are they the ones Mr. Jackson just described who have nine other felonies, or are they just people who had marijuana one time and are not considered a danger to the public?

**Chair Hardesty:**
This may be of use to the Commission. In talking with Pew, one of the things I wanted them to do is to share what is taking place in the states they have been assisting—what reforms were considered, which were implemented and how are they working? They assist four states per year, so they are just coming off a few states and that is why they reached out to Nevada. We can get information from them about other states and what they are doing. They could probably address the Connecticut approach.

At a presentation for our last meeting, NDOC Acting Director McDaniel referenced the statistics of those who were in NDOC by category. One of the things that caught the eye of many of the Commission members was the 269 incarcerated category E felons. We wanted to find out why those inmates are in prison for offenses that should only result in

probation. They would not be there unless something else was going on, so what else is causing that? That is what Mr. Jackson is talking about; that there are other things going on which create these situations. It would be helpful to us to have a presentation on why those 269 category E felons are in prison. That might help us to proceed on the broader questions.

**Mr. Kohn:**
Those of us who work in the justice system know that they have to have violated probation or done something else. We agree on this. There are 13,000 people in the State's prisons, and it is impossible to look at only what they did in this one case, but how many cases they had before, how many times they violated probation to get there, etc. I cannot imagine what group has the resources to go through 13,000 cases. I agree with the Chair, that if we look at the ones who plead to categories C, D and E—which by nature should not be violent—there may be some cases where people were given a break where, for example, a robbery was knocked down to some kind of theft. If we look at the category C, D and E's and then get to the big bubble of B's later, clearly we know those lower felony offenders had to do something to screw up.

I think this is what we were supposed to be doing for the last 8 years—finding out who is in prison, seeing if we have the right people in prison and how we avoid building another prison, or if we even need another prison. We have never addressed that. I just do not know how we could possibly look at 13,000 cases, but starting from the bottom up might give us some valuable information.

**Mr. Jackson:**
Several issues before this Advisory Commission, and ultimately before the Legislature, deal with good time credits. We have had presentations about Assembly Bill 510 of the 74th Session, which applies to our category C, D and E felonies.

**ASSEMBLY BILL 510**: Makes various changes pertaining to offenders. (BDR 16-1377)

There have been requests and bill draft requests (BDRs) to extend those good time credits to the category B felonies. Currently, with the A.B. 510 credits, offenders get the credits off both the front end and back end of their sentences. This does not apply to A or B felonies, where the credits only come off the back end so the offenders still have to serve their mandatory minimum sentence before being eligible for parole. This all affects truth-in-sentencing and prosecutors have to deal with this prison math issue in talking to victims and trying to calculate an offender's actual sentence.

Other topics of conversation that have occurred through this Commission look at dealing with the burglary statutes and whether or not there should be different degrees of burglary. We have also discussed drug offenses, specifically the drug trafficking offenses. I am not talking about marijuana and I cannot remember the last time I saw

one of those because the amount is so extremely rare you hardly ever see a trafficking charge. If you do, the feds are going to prosecute it.

For the trafficking of our other Schedule I controlled substances—methamphetamine, cocaine, heroin, etc.—looking at the three levels we have, there has been discussion whether those levels should be raised or not. This all affects the category B felonies and that is the heart of the issue, those category B's. I have no issue looking at these 269 category E felonies and asking why, but this does not deal with the question. We talked about one thing affecting the other—how a crime is categorized will affect the sentence. When we look at sentencing reforms we need to look at—again, for the public safety—are these the right people in prison and why is this category B person in prison?

There are only a few category B felonies where the discretion is taken away from the sentencing judge so the judge must sentence that person to prison. The rest of the category B felonies are discretionary for the sentencing judges. They are looking at the PSI reports, taking into account the offender's prior history—I am sorry, this is a major factor for sentencing judges—they will look at that. They will look at how well this person does within the community and they will take into consideration if it is a violent offense. My point is, even though a person may be incarcerated now on a category C or category D felony, they may have a significant history with higher level felonies, either here in Nevada or from another state, which are violent-type offenses. That is something we have never drilled down into. The report that was done in Arizona talks about violent offenders, repeat offenders, violent and repeat offenders, non-violent first offenders, going through the prison population of the 40,431 inmates in state prisons in 2009, when the report was done. I know it can be done—we have less than a third of the prisoners they covered.

**Chair Hardesty:**
It is one thing to talk about category B offenses, but two sessions ago, we learned there are a lot of crimes within that category and the sentencing ranges go from 2 to 10 years up to life with. A finding of this Commission, acknowledged by prior Legislators and staff, is that many crimes inserted into the Nevada's criminal code never had a debate on the sentencing length. What was the reason a certain crime was labeled a category B, and why was the sentence length chosen? Most records show the Legislators never debated the sentencing length. In fact, all that was debated was the determination to criminalize some behavior.

Since I have been on this Commission, we have never looked at our various crime types and determined whether the sentencing lengths within those crime types make sense. Why, for example, would we have a certain period of time at the low end and a certain period of time at the high end? This is particularly relevant to the question raised about the combination of A.B. 510 credits where you have DUI offenders who are getting out of prison within a matter of days because their credits allow that. They spend

almost no time incarcerated. This does not make sense to me. I would like for this Commission—since category B is such a big category—to look at the crimes in that category and ask if this is the appropriate sentence for the crime.

If there are multiple crimes, prosecutors can charge multiple offenses and there will be concurrent or consecutive sentences to address that. But what we have not debated is whether the sentencing lengths are reasonable for each offense. For example, is 35 years appropriate for a sex offense? I do not know, but in many instances, that is a life sentence, depending on the age of the offender. Was it debated? I do not know, but it is a policy choice for the Legislature to make. That affects length of stay, which costs money. I think most prison officials would say that what costs money is length of stay, which is driven by the upper and lower length of the offender's incarceration period. Is that fair, Director Dzurenda?

**Mr. Dzurenda:**
Yes, and length of stay is what is driving the age limits up in prisons, and older inmates cost more in medical care, mental health care and other factors.

**Chair Hardesty:**
If we were to evaluate the correlation between crime and sentence length, that would have a more direct impact on the number of people incarcerated and the length of stay in the prison. Is that correct?

**Mr. Dzurenda:**
Absolutely.

**Chair Hardesty:**
Since the Commission agrees we should look into this, I will ask Nick Anthony to dig out the schedule from about 4 years ago that has all the categories listed and the correlating sentencing lengths. This happened when truth-in-sentencing was adopted. Since then, when all the various crimes have been adopted by the Legislature, the staff basically chose the sentencing length to attach to each crime.

**Mr. Higgins:**
Another topic I would like to discuss is the no bail holds for P&P holds. Looking at the statute, it seems to consider that a judge should be setting bail after those individuals are arrested, but that is not a process that is being followed. Washoe County is 3 weeks to 4 weeks, and I understand Clark County is 5 to 6 weeks sometimes. As soon as they are seen, the judge is letting them back out anyway if it is a minor offense. I would like to discuss the process by which bail is considered for parole and probation providers. It might free up some jail space.

**Mr. Callaway:**
If I could speak openly, certainly this is not a critique; it is just my personal observation. This is my third term on this Commission and I know there are those who have been on it much longer. I know the Legislature sets certain things this body has to look at, and it seems like every session, more and more gets piled on. Looking at this list, (Exhibit P), there are a lot of topics that are very important to many of us.

It seems like in the past, we have had cursory presentations on a lot of topics and maybe our action was to send a letter to the Governor's office and in some cases, a bill came forward. I do not believe we have ever taken one or maybe two topics and seriously dug into those topics. Maybe this is along the lines of what the Vice Chair was alluding to about digging down and getting into the weeds. Regardless of the topic, whether it is category B offenses or sentencing reform—we could pick any one of these topics—my suggestion is that rather than have a number of meetings with huge agendas full of topics, we get cursory information on one or two topics, get a variety of presentations from a variety of stakeholders, dig deep into those topics and look at the underlying facts. Then at the end of our Interim, we could provide some quality information, whether in the form of a BDR or a letter of recommendation, after we look at one or two important topics under the microscope rather than trying to tackle a wide variety of stuff with the limited time we have. Again, not a criticism; just an observation.

**Chair Hardesty:**
Of course. There are certain issues referred to us—marijuana, for example, juvenile justice and some others—which I think frankly are being dealt with by other organizations. My intent was to make a record with respect to those topics in front of the Commission and have you all say whether or not you are satisfied with the information we obtained on those subjects. We could then provide a small report on each topic and move on to a more substantive issue.

For example, on the topic of marijuana, we received a presentation on March 23, but the Legislature mandated some information from us. I do not know that we would be able to advance much more on that topic than what we have received, so we can summarize that and send it back to the Legislature.

One area we were mandated to address concerns issues with the parole system, which we will cover at the May 6 meeting. I will now open public comment.

**Ms. Brown:**
I see that John Witherow is in Las Vegas and for the record, I concur with what he is about to say. I spoke with the Director of NDOC who asked for suggestions. Looking at new hires or those wanting to transfer, I suggest paid housing for 3 years, after which they can transfer back or remain. If they are there an additional 3 years or longer, they will receive an additional 10 percent bonus in addition to their upgrade step with an

additional, from the time they start, 1 week additional paid vacation. The average State employee might get three weeks; they would get 4 weeks. After 3 years, they would get an additional 2 weeks paid vacation. Then the State would buy the homes and not lease them, because it is always going to be a problem. That way, once the State buys it, you are never going to have the expense of continuing to lease it. This is an ongoing situation that is going to be forever.

As for the DNA expungement, the State would say that they would remove it, but the person requesting the expungement would have to pay the federal level. I would like to know, are the State expungement and the federal expungements the same? That will answer the question, because you may have it at the State level but not the federal level. There might be. Somebody did pay but not everybody. That is why there might be more in the federal, the CODIS might be there but not in the State.

You were talking about the category B, C, D and E felonies. I have a concern. In the category A, you have a 5 years to life sentence, 10 years to life sentence and 20 years to life sentence. You have inmates with a 5 to life sentence who have been in there for 20 to 30 years. I am suggesting, and I think we could save a lot of money, that these are inmates who have programmed and been disciplinary-free. They have not been in trouble, yet they are being denied parole. They are not the same person they were when they were 17, 18, or 19 years old, but now they are in their 50s. I would like to see that if it is a life sentence with the possibility of parole, it stops at 20 years and they are out; they are on parole.

**Mr. Goetz:**
You were talking about overpopulation in the prisons in Nevada. I commented a couple sessions ago about maybe having the University of Nevada, Reno (UNR), since they have video conferencing, give sex offenders or prisoners treatment via videoconference. This way, the professors can watch the students and the students can learn while they are doing psychology to help the inmates or sex offenders get better treatment. When I was in prison, the sex offender treatment was useless. We need professional sex offender treatment in there. If we had professors and psychologists working out of UNR, they could be licensed by the State because most of the psychologists in the Nevada prisons are not even licensed.

I have been talking to Earl Nielson and Robert Hemenway. Earl Neilson has been approved by P&P to assess sex offenders before they go to court. Robert Hemenway is a psychologist licensed by the State who gives treatment to sex offenders. He is my psychologist. Earl Nielson is also a licensed psychologist in the State. I feel they could get UNR—because I talked to UNR and some of the professors are interested, two sessions ago they were—to do a study on risk assessment tools that give you a better assessment on sex offenders and whether they will recidivate.

I noticed that Chief Wood with P&P wants to train officers with EPICS. It sounds like she wants to go the right way and get better parole officers to work with sex offenders. I had three good parole officers and one good sergeant I could actually talk to and give my problems to and they would help me out. I also had two bad officers and one bad sergeant who did not help me at all.

They are saying they are going to use the ORAS tool for sex offenders, but I think they should also maybe use some other ones and maybe do that after 5 years; after they have been supervised for 5 years to lower their tier levels. I am Tier 2, and I know I have been taking other risk assessment tools with Earl Nielson and Robert Hemenway. They both agree I am a low risk but it still has not lowered my tier level. We should look into some assessment tools that actually lower sex offenders' tier level while they are on supervision.

They were talking about the computer records. They gave me the NRS 213.1075 which states that "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." This does not say why I cannot see my own computer records.

**John Witherow (President, NV-CURE):**
I am the president of NV-CURE (Citizens United for Rehabilitation of Errants) and the vice chair of the executive steering committee of International CURE. I came here today from my home in Oakhurst, California to testify regarding Item XI and the subcommittee on parole. I am 66 years old and I spent 40 years in prison; 26 years in Nevada. I am familiar with the Parole Board and their operations here. I would like to see the discretionary parole system eliminated. The Parole Board is the only agency in the State of Nevada with unfettered discretion. They can do whatever they want and the prisoner cannot challenge what they do. There is no right to parole; it is an act of grace. I cannot challenge a parole decision in a habeas corpus proceeding. There are no due process protections because there is no right to parole.

The Legislature has classified the Parole Board as a quasi-judicial proceeding, exempt from the open meeting law. I do not understand how the Parole Board is a quasi-judicial proceeding, since they are not adjudicating anything and there are no rights involved. The Parole Board is also required to comply with the Nevada Administrative Procedure Act, Chapter 233B of NRS, in making regulations. However, it is exempted from the contested case requirements of that statute. So a prisoner has no opportunity to challenge a Parole Board decision. As an example, in January 2001, I appeared before the Parole Board trying to get a parole. I was at Ely State Prison. I was advised by the commission in my parole hearing that they had received information that I was engaged

in terrorist activities. I asked where they got that information. They told me it was confidential. I told them I had never been involved in terrorist activities but they still would not tell me who accused me of that. During that same hearing, they told me I would kill two people as soon as I was released from prison. I told them I had never killed anybody and never planned to kill anybody. They still said it was confidential information. I spent the next 7 years fighting that. My recommendation is to eliminate the discretionary parole system and provide a prisoner access to all information considered by the Parole Board in considering him for parole.

**Patricia Ann Bascom:**
It is very important for Parole and Probation to be there to help a person who is on probation. I am on probation and I believe I am one of those people who was in prison but should not have been in prison. I do not believe I belonged there. There are a lot of people who do not belong there. I am a single mom and have always been able to take care of myself and my two daughters. Nobody helps us. Ever since this happened and I have been released from prison, I have not been able to take care of my family at all.

I have been harassed by probation like no other, and we need their help. We do not want to be harassed. We do not want to cause problems. It is hard for me as someone who has an education and has owned her own business; who has been a perfect person in society by helping and volunteering, to have to go through this and not be able to take care of my family. Then, I was planted with a restitution of almost $1 million, which I will never be able to pay in my life. I cannot get a job anywhere—for the life of me, not even at McDonald's.

I have been harassed by probation. I have a photo I want to show. If any citizen were to do this to an animal, you would be arrested and held liable for the injuries and treatment you have done to somebody. I am being forced to deal with the same probation officers when they have caused me this harm and my ankle today is still swollen, purple and green and this happened October 2, 2015. I was not able to walk for a month. I could not work. I cannot pay the medical bills. I cannot go to the doctor, and a probation officer supervisor did this to me.

**Senator Ford:**
The photos are of the ankle bracelet hurting her ankle.

**Ms. Basco:**
They tried to revoke me for something that was not really a revocation. This is the backlash I got for standing up for myself and not letting them do what they want. They did this to me in front of my 8-year-old daughter in our home and terrified her. They left me like that for more than 14 hours in pain. I had to go to an emergency room and they threatened me and told me if I cut it off I would be in more trouble. I have been on probation for more than 3 years and never had a problem. I had to go in front of a judge

who, in the hearing, changed it and told my officers that that was not a revocation and it would be a modification, so he changed it.

This happened a day after the hearing where I let the judge know what they were doing. This is the retaliation I got. I really need help from probation, not to be made worse or desperate. I need to be able to take care of my daughters. I was told I could not speak Spanish in the office; that they could not understand it, and that I was not allowed to. It has gone beyond crazy. We need help when we are in this position on probation, and not even knowing how I got in this position. I am not a threat. I am not violent. I have no record. I have never been arrested. I am a law student. I work for attorneys. I do not understand how this can happen in the United States of America.

**Robyn G. Covino:**
I run a reentry program in southern Nevada. As Mr. Witherow said, there is no recourse for the inmate if they are denied parole. I have a letter from the White House. I heard the gentleman talking about an increase in pay for the officials. In the whole State, for all the indigent inmates who are caused to stay behind bars once they are paroled—they are paroled but they cannot get out because they cannot afford it. For the indigent inmates, there is only $60,000 allotted. If you let 200 inmates out, they only get $21 if they are indigent when they are released.

To stop recidivism, programs like mine are in place to help when they cannot afford clothes, food, hygiene products, etc. I get them from point A to point B and so far, I have a 99 percent success rate. They are starting to use Casa Grande Transitional Housing Facility in Las Vegas to move the parolees there to help with the backlog. Why did it take so long? It has been empty most of the time since it opened and we have a backlog for years. According to the White House statement, it is causing the taxpayers $80 billion a year to keep inmates behind bars. In Nevada, it costs $40 million just to keep people who are paroled and cannot get out because they cannot afford it. My question is, what are we going to do about the indigent inmates who are paroled and cannot get out? They should have the opportunity to get to Casa Grande or we should build a place for these inmates to get a running start with a bed, identification and work, so they are not homeless.

We cannot do it if no one is going to make any effort to change the system. We are spending so much money keeping people who are already paroled behind bars still because they cannot afford to get out. A lot of the approved halfway houses that get indigent funding do not use it. They have to get some security deposit. You should look into it as a Commission, because people who are getting indigent funding for indigent inmates are not using their funding correctly. A lot of these indigents cannot get out because they will not take someone without a deposit. Many of these people do not have family. Ninety percent of our inmates come from a poverty level. How can we change this? How can we stop the parole backlog and move it forward?

**Chair Hardesty:**
I am not sure we have the answer for that today, but we appreciate your input.

**Ms. Covino:**
My letter from the White House says how programs like mine help and reduce recidivism. There are too many people stuck behind bars or not let go for ridiculous reasons when they should be paroled. They have done enough time. We waste too many tax dollars.

**Donald Hinton (Director, Spartacus Project):**
I am Director of the Spartacus Project here in Nevada, a prison and parole reform group. We do the same thing some of these other groups do; we provide employment for people. I go to the unions and get these guys who are just getting out of prison union jobs. I am currently working with the electricians union on the solar project.

I came here to talk about the parole, which I think is a disgraceful thing in this State. We should get rid of it.

The other thing I came to talk about was in the paper this morning. Our Attorney General is going to actually charge the Director of prisons and some of his guards for an inmate's death; shotgunned three times or twice in the face and chest, handcuffed and wearing only a pair of shorts. He is going to charge him for manslaughter. If that is not first degree murder, I do not know what is. It is another disgraceful thing for the State.

Also, I have three letters here from two inmates. One letter is from an inmate in the women's prison who is dying of cancer and cannot get any help. I have another letter, this from a man in Lovelock who lost his testicles to cancer—another misdiagnosis from the pretend doctors that the State hires. What is going on with my tax dollars? I became involved in activism in California with a man named Al Jarvis. We operated and started Proposition 13 because of the abuse of tax dollars in California. Today, I watched people come before this Commission whining and begging for more money. If they cannot live within their budgets, that is too bad, because after 2008, there are a lot of people who cannot live within their budgets because they do not have employment. I am not the one who put this country into recession, but I think a lot of our state legislators have, and Nevada is guilty of that to a large degree and I want to hear somebody stand up and deny it.

**Chair Hardesty:**
Seeing no more people wishing to make public comment in Las Vegas or Carson City, I adjourn this meeting at 3:13 p.m.

**Note:**
Twenty-four days after this meeting adjourned, the Advisory Commission received this correction from Ms. Butler regarding a slide in her presentation (page 13, Exhibit M):

> Hello, it's come to my attention that the attached slide in my presentation before the ACAJ on April 19, 2016 was incorrect in that it indicates that 74 DNA expungement requests have been rejected by the labs. To correct the record, these numbers reflect the expungement requests that the Central Repository has received and rejected, not the labs. To correct the slide: As of 4/7/16, Repository staff had received 121 expungement requests. 47 requests have been forwarded to the labs for a determination on whether or not to grant the request. 74 requests have been rejected by Repository staff before being forwarded to the labs because the forms were incomplete or had other errors. The labs will need to provide information separately about the number of requests they have received, granted and rejected. I request that this email be added to the meeting minutes to correct the record. Thank you.
>
> Julie Butler, Administrator, General Services Division,
> Department of Public Safety

RESPECTFULLY SUBMITTED:

_____
Linda Hiller, Interim Secretary

APPROVED BY:

_____
Chair James Hardesty

Date: _____

| Exhibit | Witness / Agency | Description |
|---|---|---|
| A | | Agenda |
| B | | Attendance Roster |
| C | Dee Williams | Submitted Documents |
| D | Tonja Brown | Submitted Documents |
| E | Wes Goetz | Submitted Document |
| F | Justice Michael C. Douglas | Overview of the Commission on Statewide Rules of Criminal Procedure |
| G | Natalie A. Wood | Requested Documents |
| H | Natalie A. Wood | Presentation: *Sex Offender Lifetime Supervision 2016* |
| I | Natalie A. Wood | Presentation: *Division Program Concepts* |
| J | Natalie A. Wood | Expenditure Analysis for Staffing the Courts in Southern Command (Biennium Costs) |
| K | Natalie A. Wood | Presentation: *Offender Assessment Overview* |
| L | Natalie A. Wood | Initial Agency Draft-Summary of Changes Proposed to NAC Chapter 213 |
| M | Natalie A. Wood | Proposed BDR |

| | | |
|---|---|---|
| N | Julie Butler | Presentation:<br>*Central Repository for Nevada Records of Criminal History* |
| O | Julie Butler | DNA Expungement Application Form |
| P | Nicolas C. Anthony | Potential Meeting Topics |