



**NEVADA LEGISLATURE
LEGISLATIVE COMMITTEE ON SENIOR CITIZENS,
VETERANS AND ADULTS WITH SPECIAL NEEDS**

(Nevada Revised Statutes 218E.750)

SUMMARY MINUTES AND ACTION REPORT

The second meeting of the Nevada Legislature's Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs was held on March 10, 2010, at 9 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, are available on the Nevada Legislature's website at: <http://www.leg.state.nv.us/interim/75th2009/committee/>. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblywoman Kathy McClain, Chair
Senator Dennis Nolan
Senator Joyce Woodhouse
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart

COMMITTEE MEMBER ABSENT:

Senator Shirley A. Breeden (excused)

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Amber J. Joiner, Senior Research Analyst, Research Division
Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division
Natalee M. Binkholder, Deputy Legislative Counsel, Legal Division
Ricka Benum, Senior Research Secretary, Research Division

OPENING REMARKS

Chair McClain brought the second meeting of the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs to order and outlined the topics to be discussed. She reminded the Committee that as a standing Committee, they are allotted 10 bill draft requests (BDRs) for the 2011 Session.

APPROVAL OF MINUTES OF THE JANUARY 20, 2010, MEETING

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WOODHOUSE MOVED TO APPROVE THE MINUTES OF THE JANUARY 20, 2010, MEETING HELD IN LAS VEGAS, NEVADA. THE MOTION WAS SECONDED BY SENATOR NOLAN AND PASSED UNANIMOUSLY.

PRESENTATIONS RELATING TO THE PROTECTION OF SENIOR CITIZENS AND ADULTS WITH SPECIAL NEEDS WHO HAVE BEEN APPOINTED A GUARDIAN

Presentation Relating to the Use of Guardianships in the Justice System

(As directed by Chair McClain, this agenda item was taken out of order.)

- James M. O'Reilly, Certified Elder Law Attorney, James M. O'Reilly, L.L.C., testified that the majority of his 35-year career has focused on working with cognitive and physically compromised persons. Mr. O'Reilly discussed three primary topics: (1) the impact of legislation passed during the 2009 Session; (2) impending challenges to the guardianship system that need to be addressed; and (3) methods to lessen the impact of these challenges to better serve communities and deliver efficient and effective services. Mr. O'Reilly submitted his prepared testimony ([Exhibit B](#)) and guardianship forms, currently used in Clark County, for the Committee's review ([Exhibit C-1](#)) and ([Exhibit C-2](#)).
- Chair McClain announced that Senator Breeden was monitoring the meeting via the Internet and could offer questions by electronic mail.

During discussions, Assemblywoman Spiegel suggested a possible solution to the potential costs of compliance and additional concerns with Assembly Bill 46 (Chapter 444, *Statutes Nevada 2009*). She proposed the statute to read "upon request an individual who had been transmitted could have a hearing." She noted that the cost of compliance would be less, achieve the same goal, and preserve the rights of the individual. Mr. O'Reilly responded that he liked the concept, but it was beyond his professional knowledge whether certain groups could be convinced that it was an acceptable alternative.

Presentations Relating to the Work of the Guardianship Steering Committee

(As directed by Chair McClain, this agenda item was taken out of order.)

- Kathleen Buchanan, Clark County Public Guardian, Public Guardian Department, Clark County, reported on the efforts of the Guardian Steering Committee and provided an overview of the duties of public guardians. She stated that a public guardian is appointed to serve as the legal authority on behalf of incapacitated adults in cases where the individual has compromised mental capacities brought on by Alzheimer's disease or other dementia-related conditions, and there is no family or friends to serve as the necessary legal authority. Ms. Buchanan noted that the public guardianship system is available to persons who have been abused, exploited, neglected, or are unable to respond to their own circumstances due to lack of mental capacity.

Ms. Buchanan said that the Clark and Washoe County Public Guardians recommended the adoption of legislation to provide for medical surrogate decision making, allowing the appropriate family member the ability to make medical decisions for the loved one without a guardianship. If necessary any financial matters of the estate could still be managed by a guardian. Ms. Buchanan provided written testimony ([Exhibit D](#)) on behalf of the Clark and Washoe County Public Guardians.

- Susan DeBoer, Washoe County Public Guardian, Washoe County, explained that the Office of the Public Guardian receives reports of exploited seniors or vulnerable persons from members of the public, possibly a neighbor, or from hospital reports. Ms. DeBoer suggested implementing laws that would allow guardians to inspect the financial and medical records of persons who allegedly have been exploited in order to gather information for the purpose of investigation. She pointed out that the current guardian system places undue burdens and financial barriers which prevent family members from serving as guardians for their loved ones. Ms. DeBoer noted that it is important to ensure safeguards without excluding other family members from stepping in. In addition, she recommend provisions be added to the statutes to protect against private guardians transferring wards to the public guardian system when there is a depletion of assets.

Ms. DeBoer reported that the Guardianship Steering Committee is chaired by Sally Ramm, Elder Rights Attorney, Aging and Disability Services Division (ADSD), Department of Health and Human Services (DHHS). The Steering Committee has appointed two subcommittees: (1) the Private Professional Guardian Subcommittee; and (2) the Due Process Subcommittee; both were formed to identify areas of concern within the guardianship community.

- Chair McClain asked for clarification on the cost difference between a private and public guardianship.

- Ms. DeBoer explained that the cost structure and the guardianship systems are different in northern and southern Nevada. The Washoe County Public Guardian's Office receives legal counsel from the Washoe County District Attorney's (DA) Office. She noted that the State of Nevada pays for guardianship and court fees of indigent persons and wards of the State. Ms. Buchanan clarified that the Clark County Public Guardian's Office utilizes private attorneys who provide pro bono services. She noted that 75 percent of the guardianship clients are Medicaid or county cases.
- Ms. Buchanan continued her testimony and discussed statutory changes that were implemented during the 2009 Legislative Session which hampered the public guardians' ability to effectively protect vulnerable persons. (Please refer to [Exhibit D](#).) She pointed out the fundamental difference between an attorney for the ward, who has the responsibility to follow the client's requests, and a Guardian Ad Litem, also usually an attorney, who has the responsibility to advocate in the best interest of the client. Ms. Buchanan stated there is a clear difference whether the attorney is being directed by an individual who cannot make decisions appropriately, or acting as an advocate for their best interest. She said she was not able to have this clarifying language included in statute last session. Examples of guardianship forms were submitted by Ms. Buchanan ([Exhibit E-1](#) and [Exhibit E-2](#).)
- Ernie Nielsen, Senior Law Project Attorney, Washoe County Senior Law Project, testified that he is often appointed as the attorney for the ward in guardianship cases. Mr. Nielsen stated he is a member of the Guardian Steering Committee, which is working to develop an effective long-term vision of the guardianship system and to arrive at a consensus with stakeholders—including attorneys, judges, private and public guardians, and consumers—to identify legislative issues for the 2011 Session. Mr. Nielsen encouraged the Committee to endorse the work of the Steering Committee and encourage participation in the efforts of the statewide group. Mr. Nielsen provided written testimony ([Exhibit F](#)).

He noted that it is important that the community realize that a ward in a guardianship case is involved in a process by which the person may potentially lose their civil rights. There must be assurance that the due process protections occur for these individuals. Mr. Nielsen offered a reminder that we all could be potential guardian clients at some point. He emphasized that the group is struggling with developing benchmarks that define circumstances when a Guardian Ad Litem should be appointed, rather than an attorney, and what the scope of the representation should encompass. Mr. Nielsen provided two nationwide guardianship survey results ([Exhibit G-1](#) and [Exhibit G-2](#)).

- Chair McClain inquired whether guardianship practices of other states have been reviewed, and whether they could be implemented in Nevada.

- Mr. Nielsen stated years ago an analysis of various state statutes was conducted, but there are no current resources to examine other states at this time.
- Chair McClain requested Mr. Nielsen to collaborate with Ms. Ramm (identified earlier) and the Steering Committee members to research information currently available from other states to develop suggested bill draft language by the June 2010 meeting.

Speaking to the issue of the transfer of protective services from Clark County to the State of Nevada, Chair McClain recalled Ms. Buchanan and asked what impact the closing of the Clark County Senior Protective Service offices would have on providing guardianship services to the persons in the most need. Ms. Buchanan indicated she has met with the State representatives and noted that more staff will be available to handle the workload. Also, they have been working through the transition phase by transferring services in increments, and she expects the transition will take place without problem.

Testimony From Experienced Guardians and Other Interested Persons

- Tim Tetz, Executive Director, Nevada's Office of Veterans' Services (NOVS), offered comments on guardianships as they relate to the veteran population. He noted that nationwide the need for long-term guardians drastically increased with the number of returning World War II veterans. Subsequently, *Nevada Revised Statutes* (NRS) 160.010 "the Uniform Veterans' Guardianship Act" was passed which specifically refers to veterans' funds. In the 1940s, the NOVS implemented its veteran guardianship program, and as late as 2006, the Nevada Office still oversaw 44 wards. Mr. Tetz stated that currently the Office oversees three wards as guardians. He noted that veterans' guardians and custodians follow the regulations of the Veterans' Affairs (VA), federal laws, and also state laws. The VA has allowable expenses and limitations, items that can and cannot be purchased. There are strict rules on the management of fees and the procedures are tightly managed. Mr. Tetz noted that there have been guardianship horror stories and emphasized that the courts perform necessary functions and the duty to oversee bad guardians.

Mr. Tetz stated the VA has implemented a pilot program to regionalize guardianship management and noted our region is now located in Salt Lake City, Utah. He brought forward the problems with Chapter 159 of NRS "Veterans' Guardianships" and Chapter 160 of NRS "Veterans' Guardianship (Uniform Act)." The courts require the NOVS to manage the funds that the veteran receives from United States Social Security Administration and other private assets using the guidelines stated in Chapter 159 of NRS, and manage VA funds according to the rules of Chapter 160 of NRS, which is cumbersome and inefficient. He commented that this system is an injustice to veterans and the guardians. Mr. Tetz submitted the following recommendations in written form after the meeting (referred to as [Exhibit S](#)):

1. Nevada does not have a skilled nursing facility to manage mentally incapacitated or demented veterans. Therefore, when they are sent out of state, select a guardian closest to the veteran in geographic location. If the veteran does not reside in Nevada, manage the guardianship where he does reside.
2. Allow veterans' guardianships to be addressed under one section of the statutes, not from the source of the funds. Therefore, if the person is a veteran, manage their guardianship under Chapter 160 of NRS.
3. Have Nevada guardianship laws reflect federal guardianship laws, especially where they pertain to veterans. The laws should include the number of guardianships allowed, methodology of annual accounting, assignment of guardians, transfer of guardianships, and allowable charges and administrative fees.
4. Make guardianship fees consistent in statute, do not cap some fees and not others, and include all fees that would be incurred by a guardian; and
5. Review the number of veteran wards that a guardian can serve. With today's technology there is no reason to limit the number as long as the guardian efficiently administers the guardianship in a manner for the betterment of the wards.

Chair McClain asked that Mr. Tetz submit his language for statutory recommendations in writing for the Committee to consider.

In response to a question from Assemblywoman Spiegel, Mr. Tetz stated that the NOVS does not receive federal funds to administer veteran guardianships. The guardianship program funds come from State General Fund appropriations and/or the management fee allowable under NRS. A brief discussion ensued regarding whether it is more cost efficient to have the county or the NOVS administer the veterans' guardianship. He clarified that the only time the VA will force the guardianship program is if the veteran is earning a considerable amount of money. He stated there are a significant number of wards who are considered "pensioners"; who only receive \$700 to \$900 per month pension; the VA considers them mentally incompetent to care for their own benefits and the guardianship involves very few transactions. He noted these wards are the neediest and poorest veterans who need the help, and there is no other acceptable structure. Further discussion revealed that in 2008 there were approximately 339,000 veterans in the State and possibly 700 veterans in a guardianship program.

- Lora Myles, Carson and Rural Elder Law Project, told the Committee she practices in the rural areas with elder care and the Retired Senior Volunteer Program (RSVP) and said she works extensively with public guardians in the outlying counties. She pointed out that in 2007, legislation was passed mandating that every Nevada county is required to have a public guardian. Currently, Mineral County is the only county without a public guardian.

Ms. Myles addressed the issue of the attorney representation notice to the ward in guardianship cases. She provided an explanation of the form used in the District Court of Nevada, First Judicial District, Carson City and Storey County. The Court has adopted a “Psychological Clinical Evaluation Form,” which may be filled out by a psychiatrist, physician, psychologist, or case worker. Ms. Myles testified that the Rural Elder Law Project agrees that A.B. 46 is a violation of the wards’ constitutional right, and is preparing amendments to address those concerns.

Regarding the “Certificate of Incapacity,” Ms. Myles pointed out the NRS currently contains an alternative to the doctors’ certification in temporary guardianship situations. Ms. Myles stated that letters or certification are acceptable from protective service agencies stating a temporary guardianship is necessary and that the ward is at risk of harm either financially, physically, or by another difficulty. According to Ms. Myles the Steering Committee will submit proposals for language changes regarding these court documents, recommendations to change the impact of A.B. 46, and to clarify in statute the duties of a Guardian Ad Litem.

- Shelly Register, Guardianship Services of Nevada, Reno, spoke as a private professional guardian, and outlined the variety of services that she provides ([Exhibit H](#)). Ms. Register stated that she works with numerous families and family members who want to care for their loved ones but need assistance working through the requirements of the court, may not live in close proximity, and may have family members or siblings who are not in agreement on the type of care that should be provided. The types and number of services requested of a private guardian are unlimited; the guardians assist in locating proper residential services and any necessary community services that the ward requires, since many are elderly and cannot care for themselves.

Ms. Register briefly mentioned a Washoe County case that involved a private professional guardian charged with theft, embezzlement, and exploitation of the elders she was to oversee. According to Ms. Register, licensure would not have avoided this misconduct, since the guardian charged had already met stringent requirements. Speaking to the concept of fingerprinting and identifications cards, she suggested these should not be limited to only private professional guardians, but laws should pertain to all guardians—public and private. She commented that there is more misconduct toward the elderly and vulnerable persons by caregivers, family members, insurance agents, and taxi drivers, than by private professional guardians. Ms. Register recommended that the investigative authority be increased for the ADSD, DHHS. In addition, she agreed with amending the needs assessment language that was enacted last session. She noted it is customary for a doctor to obtain information regarding the patient’s mental capacity and condition from family members and that most doctors do not monitor that type of patient information.

Ms. Register addressed the issue of transferring of guardianship and stated that the majority of private guardians do not transfer wards to the public guardianship system when the ward's funds are depleted. She explained that once she decides to take on a ward as their guardian, she ensures that the person's needs are met, even when they exhaust their funds. She noted that these type questions should be asked by the court upfront to ensure that the private guardian will serve regardless of the future financial status.

- Assemblyman Stewart requested clarification on whether private or public guardians are required to submit to a background check for criminal activity.
- Ms. Register responded that there is no requirement; however, when the guardian is appointed by the court, it is sworn that there is no criminal activity.
- Ms. Myles stated that public guardians do undergo a background check since they are employees of the individual counties; the cost for the county through the local sheriffs' departments is approximately \$15.
- Senator Nolan clarified that local law enforcement agencies can only provide a regional background check, which is limited to the local agencies they collaborate with. Therefore, it may not capture criminal records from other states, unless fingerprints are submitted for both a regional and a Federal Bureau of Investigation (FBI) background check. He noted that the repository for Nevada Records of Criminal History, Records and Technology Division, Department of Public Safety (DPS), was given the authority to maintain and account for records of persons who work for nonprofit entities associated with children and the elderly. Senator Nolan emphasized that if a person or an organization wants to ensure the identity of a person, they must submit fingerprints.
- Stanley S. Brokl, Adult Guardian and Management Services (AGMS) L.L.C., testified he provides inexpensive guardianship, custodial, and fiduciary services for disabled veterans and disadvantaged adults utilizing the most up-to-date technology. Mr. Brokl indicated that he achieves successful goals by implementing unique skills to provide the most economic service possible to his wards, while making available transparent financial records. He submitted his prepared comments and notes ([Exhibit I](#)), and informed the Committee that to be a custodian for the NOVS, a mandatory annual FBI background investigation and a credit check are required. Mr. Brokl added that he takes full advantage of the latest communications, computer software, and technologies to accomplish multiple tasks to protect each ward's assets. In addition, he utilizes a network of attorneys, bankers, clergy, physicians, and social workers who are willing to provide council and advice at a cost below customary guardianship fees and often at no charge.

Mr. Brokl commented on his opposition to the practice of guardians "piling on fees" and he cited examples. He stated there is a provision in Chapter 160 of NRS that refers

to extraneous charges and fee limitations; however, the fees differ from custodial to guardianship fees. He suggested these be made uniform.

Responding to a comment from Chair McClain, he indicated support for the addition of a statutory fee structure being included in the NRS. Mr. Brokl also suggested the following:

1. The rules for becoming a certified guardian should include the requirement for implementing successful accounting practices to preserve the estate of elderly or incapacitated persons;
 2. A system of checks and balances with stringent requirements should be implemented to protect the financial sturdiness of an estate through legislation; and
 3. Veteran custodial and guardianship laws and regulations should be managed under one section of the NRS.
- Herbert E. Randall, Ed.D., Vice President, Silver Haired Legislative Forum, Clark County Senatorial District No. 5, explained that the Forum is required to submit a report containing its recommendations for legislative action to the Legislative Commission and the Governor in each even-numbered year. He pointed out that Recommendation No. 5 of the Forum's 2006 Report was for the formation of a legislative study to review various components of Nevada's guardianship system. In Recommendation No. 10 of the Forum's 2008 Report, the Forum requested that research be conducted to enhance protections for compromised persons. Mr. Randall submitted his testimony as [Exhibit J](#).
 - Rajka Campagiorni, Citizens for Patient Dignity, Las Vegas, relayed her unpleasant experience with the public guardian system. Ms. Campagiorni viewed the system as "out of control." She indicated that public guardians do not follow the laws and ignore due process procedures, which result in the loss of individual rights. She requested that the guardianship system be investigated to provide justice for senior citizens.

PRESENTATIONS RELATING TO THE ABUSE, NEGLECT, ISOLATION, AND EXPLOITATION OF SENIOR CITIZENS AND ADULTS WITH SPECIAL NEEDS

Presentations Relating to the Procedure for Prosecuting Cases of Abuse, Neglect, Isolation, and Exploitation of Senior Citizens and Adults with Special Needs

(As directed by Chair McClain, this agenda item was taken out of order.)

- Conrad Hafen, Chief Deputy Attorney General, Bureau of Criminal Justice, Office of the Attorney General (AG), provided information on the Senior Protection Unit of the AG's office, which was established in 2007. Mr. Hafen noted that the Unit is

responsible for coordinating efforts of local prosecutors and law enforcement agencies throughout Nevada, and has developed procedures for gathering and maintaining reports of senior abuse and exploitation. He reported that representatives from the Senior Protection Unit meet regularly with law enforcement officers and district attorneys' offices for discussions related to elder abuse, both physical mistreatment and financial exploitation. Mr. Hafen reported that while local law enforcement agencies investigate these cases, the role of the local district attorneys' offices is to prosecute them.

In response to a comment from Chair McClain, Mr. Hafen indicated the AG's Office would benefit tremendously from supplementary funds to hire additional investigators and prosecutors.

Presentations Relating to Law Enforcement Procedures for Investigating the Abuse, Neglect, Isolation, and Exploitation of Senior Citizens and Adults with Special Needs

(As directed by Chair McClain, this agenda item was taken out of order.)

- Hiedi Campbell, Abuse/Neglect Specialist, Special Victims Section, Las Vegas Metropolitan Police Department (LVMPD), outlined the objectives and procedures developed by the LVMPD under the guide of the elder abuse statutes, and how the regulations impact the investigation process. Ms. Campbell used the aid of a Microsoft PowerPoint presentation ([Exhibit K](#)) to detail the instructional objectives implemented by the Special Victims Section, which include: (1) gaining knowledge and being well-versed in elder abuse laws; (2) a familiarity of the recent statistics involving crimes against elderly or vulnerable persons; (3) being familiar with cooperative agencies that provide victim resources and aid in the abuse investigation; and (4) developing a complete understanding of the statutory definition of elder abuse, vulnerable person and elder neglect, and to whom the laws apply. Ms. Campbell explained the difference between physical abuse, which is a measureable pain or injury, and mental anguish that is not measurable and, therefore, difficult to investigate and prosecute.
- Candice Barker, Abuse/Neglect Specialist, Special Victims Section, LVMPD, spoke on the issue of mandated reporters, which include medical professionals, hospital employees, social workers, and law enforcement personnel. A mandated reporter is required by law to report when there is reasonable cause to believe that abuse, neglect, or exploitation has occurred to a person 60 years of age or older, or to a vulnerable person. Ms. Barker stated that currently the clergy and attorneys are not mandated reporters for crimes against the elderly, only in child abuse cases. She recommended that clergy and attorneys be added as mandated reporters to the elder abuse statutes. She added that if a person makes a report in good faith, they could not be held liable in any civil or criminal action as a result of reporting. Ms. Barker concluded by outlining the composition of the Special Victims Unit and the procedures they follow for investigating elder abuse, neglect, and exploitation.

During general discussion, Chair McClain expressed an interest to involve the Special Victims Section, LVMPD, in the proposed multi-disciplinary teams (MDTs) she is formulating with the Elder Abuse Task Force. She noted that the expertise of the LVMPD could help increase the number of successful prosecutions of elder abuse. Ms. Campbell noted that under the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPPA), the only time the Special Victims Section investigators are allowed to obtain medical records is when the elderly person is deceased. Chair McClain commented that there are successful MDTs operating in California, and requested that staff research whether there may be exemptions in cases of abuse.

- Chandra Mason-Murdock, Elderly Abuse Investigator, Special Victims Unit, North Las Vegas Police Department (NLVPD), provided information on the duties and organization of the Special Victims Unit. In addition to elder abuse cases, as the only civilian investigator in the Unit, Ms. Mason-Murdock also is a child abuse investigator. She stated in 2009, there were 67 elder abuse or neglect cases; 12 of those were for physical abuse or neglect of the elderly and 55 of the cases involved exploitation, primarily financial in nature.

Ms. Mason-Murdock explained that many of the elderly are placed in group or nursing homes and most have reported threats made against them. They are coerced or forced to give up their rights and decision-making abilities in regard to their own finances. She also noted that many relatives or caregivers encourage the seniors to sign away the control of bank accounts, pensions, or Social Security benefits, which makes financial exploitation the largest number of cases for the NLVPD. Ms. Mason-Murdock stated that:

1. Investigators complete and maintain all pertinent documents to prosecute these cases;
2. Keep records of items such as bank statements and copies of checks written on the elderly person's account by others;
3. Take numerous photographs of the elderly person and the home where they reside;
4. Obtain as much information as possible; and
5. Certify medication refills and possible abuse.

Ms. Mason-Murdock submitted her prepared testimony ([Exhibit L](#)) and offered the following recommendations:

1. Implement additional licensing accountability for persons who operate group homes;
2. Develop guidelines to protect the asset incomes of the elderly; and

3. Increase penalties of unlicensed residential group homes especially in homes where medication is dispensed.

There was a brief discussion pertaining to nonlicensed group homes, the lack of penalties, deficient or no training in the care of elder persons, and the repeat violations of opening other unlicensed group homes.

PRESENTATIONS RELATING TO THE ABUSE, NEGLECT, ISOLATION, AND EXPLOITATION OF SENIOR CITIZENS AND ADULTS WITH SPECIAL NEEDS

Presentations Relating to the Procedure for Prosecuting Cases of Abuse, Neglect, Isolation, and Exploitation of Senior Citizens and Adults with Special Needs

(As directed by Chair McClain, this agenda item was taken out of order.)

- Karl Hall, Chief Deputy DA, Washoe County, provided an overview of the process of elder abuse cases handled by the DA's office. Mr. Hall said most reports come into the office from Washoe County, Reno or Sparks law enforcement agencies, and typically a detective or investigator is assigned from that agency, unless the abuse is blatantly evident and then arrests are usually made immediately. He reported that oftentimes the victim tells the investigators that they are fine, like their living conditions, and have given the abuser access to their finances. This may occur when the elder person has unrecognized mental deficiencies, or is in need of further supervision.

Mr. Hall explained that most senior and elderly persons who reside in group homes are very needy, require extensive supervision, and rely on the caregivers to provide all their daily needs. The elderly person becomes attached to these individuals and caregivers, and they are easily led astray and exploited. He briefed the members on the procedures followed by the DA's office from the onset of the investigation, through the process of issuing a warrant, to the preliminary hearing.

During discussion, Chair McClain inquired on the frequency of plea bargaining elder abuse cases to lesser charges, and requested suggestions from Mr. Hall on ways to strengthen elder abuse laws. Mr. Hall recommended the addition of vulnerable persons to the language of NRS 228.270 "Powers: Investigation and prosecution of alleged crimes; organization or sponsorship of multidisciplinary teams." Additionally, Mr. Hall requested review of the portion of NRS which directs that if a law enforcement agency obtains banking information without a lawful order, such as a subpoena or search warrant, the information may not be used. He noted that old language is contradictory to the recent language which was added that requires banks to report elder exploitation. He added this would help to expedite obtaining confidential bank records. Mr. Hall agreed to provide additional information to staff on the specific statute in question.

- Assemblywoman Spiegel commented on the challenges incurred by the HIPPA regulations, and inquired whether subpoena powers supersede those regulations.
- Mr. Hall responded that it is often necessary to serve the medical provider with a search warrant if the subpoena is not sufficient.

Update on the Cases of Abuse, Neglect, Isolation, and Exploitation Reported to the Central Repository for Nevada Records of Criminal History

- Patrick J. Conmay, Chief, Records and Technology Division, DPS, addressed the issue of the records maintained by the Central Repository, for Nevada Records of Criminal History, DPS. Mr. Conmay provided his testimony with the aid of a Microsoft PowerPoint presentation ([Exhibit M](#)), and explained that the Central Repository is to be a complete, systematic record of crimes against older persons and said they are required to report annually to the Legislature. Mr. Conmay reported that there were 2,667 reported crimes against older persons in 2008 and 2,025 reports in 2009. He explained the statistical data is evaluated by age, gender, race, ethnicity, offenders by race, most common crimes and occurrence times, and the relationship to the offender. Mr. Conmay noted that the accuracy might not be completely trustworthy, since people in different groups report crimes differently. Referring to Page 11 of [Exhibit M](#), he pointed out that there were a significant number of State law enforcement agencies that did not report.

Mr. Conmay noted that the statutes currently do not require the State's law enforcement agencies to submit reports to the Central Repository, and there is no consequence for agencies that do not submit data. It does however, cause inherent problems with the accuracy of the data. He emphasized that since he is new to the position and makes his determinations based on the numbers, he is hesitant to be critical in the early stages of reviewing the data. He stated that the requirements may need to be reviewed in the future.

Chair McClain and Mr. Conmay discussed NRS 179A.450 "Creation; contents; submission of report to Legislature; confidentiality of data."

- Assemblyman Stewart inquired whether the decrease in the number of crimes from 2008 to 2009 could be considered improvement or ineffective reporting.
- Mr. Conmay replied that he relates it to the fact that some agencies have not submitted information.
- Chair McClain commented that following review of A.B. 461 (Chapter 437, *Statutes of Nevada 2009*) the language should have read "shall" rather than "may" and will need to be changed during the 2011 Session.

- Senator Woodhouse requested that Mr. Conmay provide suggestions to adjusting the reporting categories to assemble the most substantive data from the reporting process and to identify the most accurate problem areas pertaining to older persons.
- Eric G. Jorgenson, Chief Deputy District Attorney, Clark County, explained that currently there is no senior exploitation investigator in the DA's office. Mr. Jorgenson stated that cases of elder exploitation are investigated in the same manner as other cases, unless it is financially complicated, then it is assigned to the fraud unit; the cases of serious elder abuse, involving death, are examined by the Special Victims Unit. Mr. Jorgenson stated that he has not yet seen the MDTs put into practice, but supported the concept, citing that as a prosecutor the team would be beneficial for successful prosecution. He suggested language clarifying whether a MDT is empanelled for each individual case, or whether it is a continual team working on an ongoing basis. He believes the team would be more effective if it were ongoing and already established. Referring to Section 6, subsection 3 of A.B. 461, Mr. Jorgenson commented on a potential problem with the confidentiality language. He noted that in many cases he is required by law to provide information to the defense.
- Chair McClain clarified that language was added to offer direction to the MDTs in the formulation of an elder abuse case. She views it as the MDT setting the groundwork of where in the system each case should be handled and effectively moving forward so the victim has resolution in a timelier manner.

Mr. Jorgenson indicated his preference would be to have the statutes pertaining to elderly persons separated from those of a vulnerable person. He added that to prove exploitation of a vulnerable person it is more likely that medical experts would be necessary.

Update on the Progress of the Transfer of Protective Services From Clark County to the State of Nevada

- Nancy L. McLane, Director, Clark County Social Service (CCSS), Clark County, testified that the CCSS formed the first Elder Protective Services in Nevada, available from a federal grant approximately 30 years ago. Since that time, the service demand has increased and Elder Protective Services (EPS) has functioned statewide, including in Clark County. Ms. McLane outlined the historical account of the necessity to transfer protective services to the State, which is detailed in her prepared testimony ([Exhibit N](#)).
- Carol Sala, Administrator, ADSD, DHHS, provided a report on the overall transition and an outline of the sequence of upcoming efforts. Ms. Sala submitted her prepared testimony ([Exhibit O](#)). She stated that to ensure a smooth transition, in August 2009 the ADSD staff drafted a proposal ([Exhibit P](#)) based on the assumption that the Division would be taking on all of the EPS. She noted that the projected dates for

accomplishing each of these steps were outlined in the plan. (Please refer to [Exhibit P](#) for the specific timeline.)

Ms. Sala credited Kay Panelli, Chief, Elder Rights Unit, ADSD, DHHS, for providing periodic status reports on the activities related to the proposal outline and submitted the latest status report ([Exhibit Q](#)). Continuing, Ms. Sala said that the transition team consisting of Clark County and ADSD staff continues to meet every three weeks to review progress and logistics of the plan as well as outlining future needs. To aid in the success of the transition, Ms. Sala explained that a formal service delivery model was developed. She stated the EPS enlisted the help of a national leader in EPS best practices, Dr. Holly Ramsey-Klawnsnik, Canton, Massachusetts, and said her involvement has been critical to moving forward with the restructuring of current practices and necessary to best serve the vulnerable population. Ms. Sala emphasized that even with the shifting of certain positions into the EPS, the Agency will be grossly understaffed. In addition, she addressed the gradual transition plan and the referral schedule for cases assigned to the ADSD.

Concluding, Ms. Sala summarized the work that remains to be done to finalize the transition. The ADSD identified additional staffing needs in order to fully manage the EPS activities in accordance with the proposed service delivery model, and to bring the caseloads to a manageable number. She noted she has been working with the fiscal staff to prepare cost estimates for additional staff and the necessary contracted services. She stated the costs will impact the budget for Fiscal Year 2011 and will require the approval of the Interim Finance Committee (IFC).

- Assemblyman Stewart inquired about the total amount the ADSD will require for the additional staff.
- Ms. Sala estimated the amount to be just under \$1 million, and commented that the ADSD will make the request at the June IFC meeting. She noted the aspects that have not yet been finalized, which include: (1) competency evaluations which require a request for proposal; (2) transportation requirements; and (3) the continuance of some of the homemaker services.
- Assemblywoman Spiegel commented that the Sage Commission (Executive Order Establishing the Spending and Government Efficiency Commission) suggested State agencies seek out and apply for grant opportunities or private funds that may be available for additional resources. Ms. Sala responded that the ADSD looks for grant funding on an ongoing basis. The Division does not have grant writers, but the staff does its best to apply for every grant available.
- Senator Woodhouse relayed a request from Senator Breeden, who was participating via the Internet. Senator Breeden asked that Ms. Sala submit a flow chart of the ADSD identifying the different elder programs and the supervisory staff assigned and indicate

which are vacant. In addition, she requested a summary of services and a summary of outreach efforts. Ms. Sala agreed to forward the items to staff for distribution to the Committee.

Presentation Relating to the Work of Nevada's Elder Abuse Task Force

- Sheri Cane "Sugar" Vogel, Project Administrator, Senior Citizens Law Project, City of Las Vegas, testified that the task force was formed statewide in 2007 out of concern regarding the increase of elder abuse. She stated she also serves as the Program Administrator for the Senior Citizens Law Project, which provides free legal services to people age 60 and older. The primary goal of the Task Force is to assess and improve the protection of senior citizens who are being abused. The first objective of the Task Force was to raise public awareness that elder abuse is a crime. Ms. Vogel stated that she is confident that an adequate job is being done on a statewide basis to identify the victims of senior abuse. With the efforts of the mandatory reporters, these crimes are being reported. She encouraged additional efforts focus on gathering statistics and following through with prosecuting the cases of elder abuse.

Ms. Vogel stated the two current goals of the Task Force will be to establish MDTs in Clark County and to implement special units of elder abuse prosecutors. Ms. Vogel noted that the scenario of randomly assigned prosecutors may not facilitate the most efficient prosecution of elder abuse cases

- Chair McClain commented that California has model MDT programs which involve medical and dental teams that work alongside law enforcement and are able to identify certain and specific types of abuse.

Testimony From Other Persons with Knowledge Relating to the Prevention of the Abuse, Neglect, Isolation, and Exploitation of Senior Citizens and Adults with Special Needs

- Denise Comastro, Registered Nurse, Geriatric Care Manager, and National Certified Guardian, Senior Guidance, Las Vegas, discussed her volunteer work in the community to help exploited seniors citizens. Ms. Comastro testified that even with the careful safeguarding of evidence to prove exploitation, when there is no documentation of mental deficiency at the time of the crime, these cases are not pursued by the AG's office. She wanted to make the Committee aware that protocols and guideline procedures need to be established within the AG's Office.
- Gary Brodt, concerned citizen, Las Vegas, addressed problems within the private guardian community. He suggested implementing the requirement that every person requesting to become a private guardian undergo an FBI background check and require them to be bonded and insured. Mr. Brodt suggested fees and procedures be implemented similar to the structure of Nevada's State Contractors' Board (NRS 624.040); therefore, if a complaint arises, there is a fund to draw from.

- Kathleen Browning, Citizens for Patient Dignity, Las Vegas, commented on the amount of fraud and financial abuse associated with Medicaid and Medicare. Ms. Browning suggested that resolution of those abuses could help solve the budget crisis. She added that persons who own or operate nursing homes should be held responsible for elder abuse or mistreatment that occurs in their facility. Concluding, Ms. Browning submitted a poem ([Exhibit R](#)) pertaining to plight of nursing home residents.
- Grace Virzi, a retired nurse, Las Vegas, offered comments pertaining to instances of mistreatment occurring in group and nursing homes. Ms. Virzi testified on the mishandling of senior dietary needs, medication abuses, and overcrowding in residential and unlicensed neighborhood facilities. She indicated that many of the residents are afraid to complain about the misconduct and transgressions that occur at the hands of staff. She recommended that a program be developed and modeled after the Court Appointed Special Advocates (CASA) so volunteers could visit nursing home patients to provide some type of safety or welfare check.

PUBLIC COMMENT

- Rita R. Kindley, a private citizen, Las Vegas, relayed the difficulty she and her ailing husband encountered in several Las Vegas hospitals and nursing homes due to medical neglect and mistreatment, which eventually led to her husband's passing. Mrs. Kindley also conveyed inappropriate situations that occurred involving other patients and difficulties with staff. She requested that the Committee take action to require nursing and care facilities to be more humane.
- Chair McClain commented that she is optimistic that standards and regulations be will be strengthened and if the standards are not adhered to there would be strict consequences, much the same as the gaming regulations.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 3:14 p.m.

Respectfully submitted,

Ricka Benum
Senior Research Secretary

Amber J. Joiner
Senior Research Analyst

APPROVED BY:

Assemblywoman Kathy McClain, Chair

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda” provided by Amber J. Joiner, Senior Research Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit B](#) is the testimony of James M. O’Reilly, Certified Elder Law Attorney, James M. O’Reilly, L.L.C., Las Vegas, dated March 10, 2010.

[Exhibit C-1](#) is an “Admonishment of Rights for Proposed Adult Ward” form submitted by James M. O’Reilly, Certified Elder Law Attorney, James M. O’Reilly, L.L.C.

[Exhibit C-2](#) is a “Certificate of Incapacity and Regarding the Need for Guardianship” form submitted by James M. O’Reilly, Certified Elder Law Attorney, James M. O’Reilly, L.L.C.

[Exhibit D](#) is the written testimony of Susan DeBoer, Washoe County Public Guardian, Washoe County, and Kathleen Buchanan, Clark County Public Guardian, Public Guardian Department, Clark County.

[Exhibit E-1](#) is an “Admonishment of Rights for Proposed Adult Ward” form provided by Kathleen Buchanan, Clark County Public Guardian, Public Guardian Department, Clark County.

[Exhibit E-2](#) is a “Certificate of Incapacity and Regarding the Need for Guardianship” submitted by Kathleen Buchanan, Clark County Public Guardian, Public Guardian Department, Clark County.

[Exhibit F](#) is the prepared testimony of Ernest Nielsen, Washoe County Senior Law Project, Reno, dated March 10, 2010.

[Exhibit G-1](#) is a survey titled “Monitoring Following Guardianship Proceedings (as of statutory revisions December 31, 2008),” prepared by the American Bar Association Commission on Law and Aging and Disability Services Division, DHHS, and Sally Balch Hurme (May 2009), submitted by Ernest Nielsen, Washoe County Senior Law Project, Reno.

[Exhibit G-2](#) is a survey titled “Representation and Investigation in Guardianship Proceedings (as of statutory revisions December 31, 2008),” prepared by the American Bar Association Commission on Law and Aging and Disability Services Division, DHHS, and Sally Balch Hurme (May 2009), submitted by Ernest Nielsen, Washoe County Senior Law Project, Reno.

[Exhibit H](#) is the prepared testimony of Shelly Register, Guardianship Services of Nevada, Reno.

[Exhibit I](#) is the written comments of Stanley S. Brokl, Adult Guardian and Management Services (AGMS) L.L.C., Carson City.

[Exhibit J](#) is the prepared testimony of Herbert E. Randall, Vice President, Silver Haired Legislative Forum, Clark Senatorial District No. 5, Las Vegas, dated March 10, 2010.

[Exhibit K](#) is a Microsoft PowerPoint presentation titled “Abuse, Neglect, and Financial Exploitation of Elder Persons and Vulnerable Persons Training” prepared by Hiedi Campbell, Abuse/Neglect Specialist, Special Victims Section, Las Vegas Metropolitan Police Department (LVMPD), and Candice Barker, Abuse/Neglect Specialist, Special Victims Section, LVMPD, Las Vegas.

[Exhibit L](#) is talking points submitted by Chandra Mason-Murdock, Elderly Abuse Investigator, Special Victims Unit, North Las Vegas Police Department, North Las Vegas.

[Exhibit M](#) is a Microsoft PowerPoint presentation title “Crimes Against Older Persons” dated March 10, 2010, prepared by Patrick J. Conmay, Chief, Records and Technology Division, Department of Public Safety, Carson City.

[Exhibit N](#) is the prepared testimony of Nancy L. McLane, Director, Clark County Social Service, Clark County, dated March 10, 2010.

[Exhibit O](#) is the written testimony of Carol Sala, Administrator, Aging and Disability Services Division (ADSD), Department of Health and Human Services (DHHS), titled “EPS Transition Presentation,” dated March 10, 2010.

[Exhibit P](#) is a proposal titled “Clark County Transition” dated August 31, 2009, submitted by Carol Sala, Administrator, ADSD, DHHS.

[Exhibit Q](#) is a document titled “Clark County Transition Status Report” dated March 5, 2010, submitted by Carol Sala, Administrator, ADSD, DHHS.

[Exhibit R](#) is poem titled “Nursing Home” composed by Raynette Eitel, Las Vegas, submitted by Kathleen Browning, Citizens for Patient Dignity, Las Vegas.

[Exhibit S](#) is the written testimony of Tim Tetz, Executive Director, Nevada’s Office of Veterans’ Services, dated March 10, 2010.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.