

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session
March 19, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:07 a.m. on Tuesday, March 19, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jason Frierson, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Lesley E. Cohen
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Wesley Duncan
Assemblyman Ira Hansen
Assemblyman Andrew Martin
Assemblywoman Ellen B. Spiegel
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

Assemblywoman Michele Fiore (excused)

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Karyn Werner, Committee Secretary
Gariety Pruitt, Committee Assistant

OTHERS PRESENT:

Valerie Wiener, Chair, Legislative Committee on Child Welfare and Juvenile Justice
Susan Roske, Chief Deputy Public Defender, Juvenile Division, Clark County
Rebecca Gasca, representing Campaign for Youth Justice
Vanessa Spinazola, Legislative & Advocacy Director, American Civil Liberties Union of Nevada
Regan Comis, representing M + R Strategic Services
Steve Yeager, Office of the Public Defender, Clark County
Steve McBride, Deputy Administrator, Juvenile Services, Division of Child and Family Services, Department of Health and Human Services
John T. Jones, Jr., representing the Nevada District Attorneys' Association
Amber L. Howell, Administrator, Division of Child and Family Services, Department of Health and Human Services
Scott Shick, Chief Juvenile Probation Officer, Juvenile Probation & Detention, Douglas County
Frank Cervantes, Division Director, Department of Juvenile Services, Washoe County
Mac Venzon, Commander, Support Division, Reno Police Department
Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office
Chuck Callaway, representing Las Vegas Metropolitan Police Department

Chairman Frierson:

[Roll was taken. Committee protocol and rules were explained.]

I see Senator Wiener in Las Vegas and she will be presenting Assembly Bill 202, so I will open the hearing.

Assembly Bill 202: Revises various provisions relating to juveniles charged as adults for committing certain crimes. (BDR 5-64)

Valerie Wiener, Chair, Legislative Committee on Child Welfare and Juvenile Justice:

The Legislative Committee on Child Welfare and Juvenile Justice had an allocation of ten measures, and A.B. 202 is one of them. This particular committee is charged with examining the juvenile justice system in our state every two years. The many topics that we discussed focused on reforming juvenile prosecution and incarceration. The Committee received testimony on recent cases decided by the United States Supreme Court relating to the sentencing of juvenile offenders. The two cases discussed, *Roper v. Simmons* [543 U.S. 551, 569-570, 125 S. Ct. 1183, 161 L.Ed.2d 1 (2005)] and *Graham v. Florida* [130 S. Ct. 2011 (2010)], cited scientific research on the human brain that found brain development continued well past adolescence. The court found that it was unconstitutional and cruel and unusual punishment to impose the death penalty or life in prison without the possibility of parole for nonhomicide juvenile offenders. Testimony indicated that, as a result of these cases, many states are considering revision to their juvenile justice laws governing the incarceration, prosecution, and sentencing of juveniles as adults.

Susan Roske of the Clark County Public Defender's Office recommended that Nevada consider legislation to allow nonhomicide juvenile offenders who have been sentenced to a term of more than ten years in prison to petition for parole under certain circumstances. The Committee also received recommendations to draft legislation intended to provide for appropriate facilities for juvenile detention from Esther Brown of the Embracing Project and Rebecca Gasca, then representing the American Civil Liberties Union (ACLU). After discussing the recommendations submitted during previous testimony and in writing, the Committee recommended the provisions that appear before you today in A.B. 202.

What I would like to do is give you an overview of what the changes are in this legislation, and then I would like to bring Susan Roske to the table to answer any specific questions because she lives with this day by day and she was the requester of the bill. I will go ahead with the summary.

Assembly Bill 202 makes several changes to statutes relating to juveniles charged as adults. Section 1 specifies that murder and attempted murder are excluded from jurisdiction of the juvenile court only if the offense was committed by a child who was 16 years of age or older when the offense occurred. Under current law, a child 8 years or older who is charged with these crimes is excluded from the juvenile court and must be tried as an adult.

Section 1 also removes the requirement that offenses or attempted offenses involving the use or threatened use of a firearm committed by certain children

16 years of age or older are excluded from juvenile court jurisdiction. Again, under the current statute, a child who commits an offense using a firearm is automatically excluded from juvenile court. Finally, section 1 removes the requirement that certain felonies resulting in death or substantial bodily harm to the victim which involve school property or school-related activities are excluded from the jurisdiction of the juvenile court.

Section 2 allows a child who is certified for criminal proceedings as an adult to petition the juvenile court for temporary placement in a juvenile detention facility during the pendency of the proceeding.

Section 3 provides that a child sentenced to a term of imprisonment in the state prison must be housed in a juvenile detention facility until he or she reaches the age of 18 years, unless the court determines the child presents a danger to other juveniles.

Section 4 makes certain juvenile offenders, who are sentenced to terms of imprisonment as adults, eligible for parole after a certain number of years. The new parole eligibility provisions would apply only to a juvenile convicted of a nonhomicide crime and require the offender to meet several requirements that are outlined in this section.

I know there are many people who have powerful testimonies to bring to your Committee this morning. I have been having conversations via email and other ways with many of those voices that you will hear. What we are talking about here is what is often referred to as "blended sentencing." It has been a conversation for many years, since before 1997. I know it is complex and much of it is substantial reform. Bringing this measure before your Committee today is a significant starting point. What I would like to offer you is that, as we move forward this morning, I am open, available, and eager to work with all parties to have the conversations necessary to create the best possible policy for Nevada. The voices need to be heard and I am not sure we will resolve all of it this morning, so I am willing to continue to work beyond today to ensure the process continues in the best interest of our children, our communities, and our state.

Chairman Frierson:

You have always been willing to work with stakeholders, and I know many conversations have taken place already about this measure. I appreciate all of your work.

Before we move on, are there any questions from the Committee for Senator Wiener? [There were none.]

Susan Roske, Chief Deputy Public Defender, Juvenile Division, Clark County:

I submitted written testimony last week ([Exhibit C](#)). Have you received the testimony? I would be happy to read it.

Much of what I said in the written testimony reiterates what Senator Wiener has said. The courts are recognizing what science has told us over the last 15 years: the human brain is still developing well into the person's early 20s. It explains some of the adolescent behavior that we see—risky impulsive behavior—because the executive function of the human brain is still in the process of developing. Back in the 1990s many states were changing their laws to be more punitive toward juvenile offenders fearing a super-predatory juvenile, which never really occurred. In fact, studies have shown that violent criminal activity by teenagers has actually decreased since the 1990s at the same time states and jurisdictions were increasing their penalties for juveniles. Laws were being changed to include more children in the adult system. The United States Supreme Court, in reflecting on the scientific evidence in the social sciences about the adolescent, stated in several opinions in the last few years that the juvenile offender is less culpable than adult offenders. They are more susceptible to peer pressure. They have less control over their environment. For this reason, *Roper v. Simmons* said that it would be misguided to treat a juvenile as an adult.

What I would like to point out, and I have pointed out in my written testimony, is there are numerous studies that show putting children in adult facilities is extremely harmful. The fact is that these children are still developing; for them to mature into adulthood in an adult prison is extremely damaging. Studies have shown that the suicide rate of juveniles in adult facilities is seven to eight times higher than in juvenile detention centers. Studies have also shown that close to 10 percent of youth in adult facilities report being sexually assaulted, or having experienced attempted sexual assault, where in juvenile facilities it is about 1 percent. The children are 50 percent more likely to report being attacked by staff in an adult facility than being attacked by weapons in a juvenile facility. These studies clearly show that it is not healthy for children to be in adult facilities.

What this legislation does is bring back to juvenile court jurisdiction some of the crimes that are now directly filed in the adult system. Present law allows for the state to petition the juvenile court to transfer felony cases to the adult system at the discretion of the juvenile court. Even though we are saying to bring these offenses back to the juvenile system, the state can still petition the juvenile court to send them to the adult system in certain circumstances. This would allow for a judicial decision on transfer of an individual case rather than a legislative decision on all cases. Present law provides that any child who

commits the crime of murder, or attempted murder, will be prosecuted in the adult system. This means that, theoretically, if an eight- or nine-year-old is charged with murder, that child would immediately be put in the county jail facility and charged as an adult. There is no way that child could be charged in juvenile court. This change in the law recognizes that kids are different and they need to be treated differently. That child would be prosecuted in the juvenile system unless the state petitioned the court to transfer the case of a child 14 years of age or older to the adult system. Again, this would allow a judicial decision on an individual basis rather than a legislative decision on all cases. I think it is very important to recognize that the children in our state need to have healthy growing environments to get them through their childhood.

Section 2 will allow children who are certified to stand trial as an adult to petition to stay in the juvenile court during the pendency of their criminal case. Present law allows children who are directly filed into the adult system to petition, but fails to allow the other group of juveniles—those who have been certified to stand trial—to petition to stay in the juvenile facility. Again, this is at the discretion of the juvenile court judge; it is not mandatory.

Section 3 allows a child who has been sentenced to prison to be held in a juvenile facility rather than an adult facility. Juvenile facilities are more equipped to provide for age-appropriate programming and education than the state prison. It is preferred that children be housed with other children rather than in the adult criminal system.

Chairman Frierson:

Along the lines of housing, you indicated that it is safer to house those children in a facility other than an adult jail or prison. Could you address the issue of housing children who are charged with these types of crimes with children who are typically in the juvenile facility? I recognize that is another challenge.

Susan Roske:

Presently, in Clark County, when children are arrested, even for murder, they are housed in our juvenile facility until the decision is made to charge them with murder, or it is determined to be a direct file because of a prior felony conviction. They are housed with juvenile delinquents in our facility. I cannot speak to any problems in keeping them separate, because I am not aware of any.

I know there will be discussion during this session about the reopening of Summit View Youth Correctional Center in Clark County. Only part of it is going to be opened for juvenile delinquents. The facility would be able to

contract with other jurisdictions, including the adult prison system, to have some of those beds in that facility available for other juvenile offenders. That would be an appropriate placement for these children who have been sentenced to prison.

A very important aspect of this bill is the provision allowing eligibility of parole to youthful offenders. This proposes that children who meet a certain criteria, such as completing an education program, not being in segregation or a major discipline for two years prior to reaching the age of 25, and not being identified as a danger or a gang member in prison, would be eligible for parole upon reaching the age of 25. This gives hope and motivation to kids who receive lengthy sentences that they will be eligible for parole at the age of 25 if they meet the criteria. Kids who are sentenced to 30 or 40 years of cumulative time in prison have no hope for the future. There is no hope for the future and no motivation to do anything positive in prison for a 16-year-old looking at a 60-year sentence. This would make them eligible for parole and gives them hope for their future. It is not mandatory parole; it is eligibility.

These are very important legislative changes for the children in our state to help them rehabilitate and grow into mature, healthy adults. I urge this Committee to approve this bill.

Chairman Frierson:

Are there any questions? I see none. I am now going to come up to Carson City and invite anyone testifying in support to come forward.

Rebecca Gasca, representing Campaign for Youth Justice:

I am here on behalf of the Campaign for Youth Justice, a national organization working to reduce the number of youth prosecuted in adult court, and to promote more effective approaches in the juvenile justice system as an alternative. I am going to provide a bit of background and facts, in addition to some public opinion research, and review some studies for your benefit ([Exhibit D](#)).

I would like to point out that one of the most important aspects of the juvenile justice system is that it was created specifically for youth in order to rehabilitate and reform. When we look at our laws right now, we are creating a gap for a huge section of the population that does not get to enjoy the benefits of the juvenile justice system. I want to reiterate the points that were made by Susan and Senator Wiener that this provides an option. None of this is mandatory. It would essentially give discretion to the judge to say that the juvenile justice system is actually the more appropriate place for these youths.

What is interesting is that, contrary to popular perceptions, the overwhelming majority of youth who are incarcerated are not there for violent crimes, and that includes kids who are charged in the adult system. Often, they are remanded back to the juvenile system. One of the important aspects of this bill is the section that would allow youth in pretrial to petition to be housed in a juvenile facility while they are waiting their determination. We think that is an appropriate measure in this bill.

Generally, an overwhelming body of research over the last 15 years has shown that placing kids in the adult system is not an effective means of treating children. In fact, the Center for Disease Control and Prevention (CDC) Task Force on Community Preventive Services examined every study on transfer policies that was in a published journal or had been conducted by a government agency. They found some very interesting results, particularly that there was insufficient evidence to support the "deterrence theory," which you often heard in the mid-1990s when these crime-related bills were overwhelmingly passing in legislatures around the country. The widening use of policies that prosecute youths as adults puts youth directly in danger. That has been recognized nationally by a variety of bodies as well. The task force of the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) released a research bulletin and the findings mirrored those in the CDC report. All of this is detailed in my written testimony, so I am not going to go into detail.

One of the most important factors is the higher recidivism rates when youth are put in with adults; their likelihood to recommit a crime is increased. Holding everything else equal, like the type of crime charged, when we are looking at the same type of individuals, some in the adult system and some in the juvenile system, those kids who stay in the juvenile system are less likely to recommit in the future. What that means is that there will be fewer victims in the future. Everyone here can agree that that should be a clear goal of advancing state policy with respect to the juvenile justice system.

We can all conclude that kids who are housed with adults learn adult-like techniques and tactics. We certainly see that played out. Those who are prosecuted as adults in the criminal justice system should only be chronic repeat offenders. What this bill does is allow a judge to have some discretion. It allows the judge to say that there should be an exception, and this should be the exception and not the rule. Right now the rule is the kids go straight to the adult court in certain circumstances.

Additional work has been done by the National Conference of State Legislators. I asked that it be uploaded to the Nevada Electronic Legislative Information

System (NELIS) so you can take a look at it ([Exhibit E](#)). Finally, the Campaign for Youth Justice released its own report in April 2011 detailing the state trends in the legislatures around the country ([Exhibit F](#)). Since that report was released, four additional states—Arizona, Ohio, Oregon, and Texas—all passed legislation that is similar to this. Altogether, 30 individual pieces of legislation have become law in 17 different states. Last year Colorado passed a law that bars district attorneys from charging juveniles as adults for many low- and mid-level felonies. It is very similar to this bill.

I want to close by sharing some national polling. You are elected officials and you have responsibilities to your constituents. It is important for you to know that national polling shows overwhelming support for treatment of juveniles in the juvenile justice system. In fact, the public strongly favors individual determinations, which is what this bill allows to happen on a case-by-case basis by juvenile court judges in the juvenile justice system over the automatic prosecution in adult criminal court. That is at a 76 percent approval level.

Assemblyman Wheeler:

With all of these studies that you are quoting, and I understand some of them, I wonder if there have been any studies on the victims themselves. What consequences would there be to turning these young criminals loose at the age of 25? What do the victims of these crimes think of this bill? Have you heard anything on that?

Rebecca Gasca:

I have not, but I would be happy to look into it. I know there are several juvenile justice administrators here, and a representative of the Parole Board; they may have information on that. To the point of victims, what I noted earlier is when we keep kids in the juvenile justice system rather than in the adult system they are less likely to reoffend in the future, which means there will be fewer victims in the future. That has been detailed in these studies.

Assemblyman Wheeler:

Part of our duty here is to watch out for the victims as well; I think that is our main duty. I would really like to find out what it is that the victims of violent crimes think about this. I do not think they care if the perpetrator is 16 or 66, especially for rape and the assaults that we have seen from gangs. Our duty is to make sure what we do is right for the victim, not as much right for the criminal. I understand your studies, but I want to see what the victims say.

Rebecca Gasca:

I think we can all agree that that is an important part of your work here. There is a variety of groups for victims of crimes that exist primarily for reconciliation.

From conversations on the reconciliation side of the victims community, I can tell you that 89 percent of those in victim groups do support the opportunities for rehabilitation that are offered in the juvenile justice system, because it provides counseling, education, treatment, restitution, and other opportunities.

Assemblyman Hansen:

The portions that you are having deleted from the bill are very serious offenses: firearms, threatening kids, felonies in school yards, and such things. Right now, those types of acts go to an adult court. How frequently are those cases remanded to a juvenile court by the adult court judge in Nevada? This bill makes it mandatory that all of these acts go directly to juvenile court. Why would we not let them go to the adult court and let the district attorneys and public defenders get together and decide which court to send him to? I have a real problem with the sections of the bill that are being removed from the adult-court portion. These are serious acts. How often does an adult-court judge send these types of cases back to a juvenile court?

Rebecca Gasca:

It is my understanding that that happens incredibly infrequently. I would like to point out that this bill does not in any way prevent these charges from being filed, or a child to be charged as an adult. What this does is to send it to the juvenile justice system first, and then the district attorney can still say that the youth belongs in the adult court. That is where it would go. It would be up to the judge to determine that. It does not in any way prohibit the state from charging or attempting to charge a child as an adult in these circumstances.

Assemblyman Hansen:

Right now, is there provision that a juvenile who goes to an adult court has an option to have his case remanded to a juvenile court by his attorney? If this is rarely done, there must be some reason.

Rebecca Gasca:

I would like to ask the public defender, Susan Roske, to reply to that. I am not an attorney and she would be more qualified to answer that question.

Chairman Frierson:

I was going to ask you to please answer the first question about how frequently certified cases are sent back down to juvenile court.

Susan Roske:

The way the statute reads is that those children charged with murder or attempted murder, violent sexual assault with a prior felony over the age of 16, use of a firearm in commission of a crime when they are over 16 with a prior

felony adjudication, and the one about the school can never, never be filed in juvenile court. There is absolutely no discretion in juvenile court. They go to the adult court and stay there. What this does is to bring this back a little bit and allow these cases to be filed in the juvenile court. If it is so serious that the state feels strongly that they need to be in the adult system, they can petition to transfer the case to the adult system. The juvenile judge would then make that determination. It is not done because it cannot be done the way the statute presently reads. That is why we need to correct the statutes and make these changes.

Rebecca Gasca:

One of the proponents of the bill was unable to make it today and he will be following up with written testimony; that would be Richard Boulware from the National Association for the Advancement of Colored People. I will point out that there is a disproportionate impact on racial and ethnic minorities in the juvenile justice system. Public opinion supports reducing those impacts, and Richard will be able to elaborate a bit more in his written testimony.

Finally, the last statistic that I would like to share is that the public rejects the placement of youths in adult jails and prisons at a fairly high rate, 69 percent. There is an overwhelming amount of research and studies available for you. There are several national organizations that have taken a position in support of legislation like this, including the National Association of Counties, the Council of Juvenile Correctional Administrators, and the National Partnership for Juvenile Services. All of them have strong written policies favoring the placement of youth in juvenile and not adult facilities and keeping youth in the juvenile court system rather than prosecuting them as adults.

Assemblyman Duncan:

Would you please explain for the Committee the legal standards that the prosecutor would have to meet if a case was first filed in juvenile court, and then the prosecutor wanted to have it moved to an adult court?

Susan Roske:

The way our law presently reads is that the child is charged with an offense that would be a felony in the adult court, and the child is 14 or older at the time of the commission of the offense, the state can petition the court to transfer the case. The state must first show there is probable cause to believe the child committed the alleged offense. Then the prosecution must show by clear and convincing evidence that public safety requires that the child be sent to the adult system. This is done at a hearing before the juvenile judge through the presentation of written documents and argument of counsel. The defense has the opportunity to present argument of why they would be more amenable to

treatment in the juvenile system. The bottom line is whether public safety requires by clear and convincing evidence that the child should be transferred to the adult system.

There is also provision in *Nevada Revised Statutes* 62B.390 that provides for presumptive transfer of certain offenses. If the child is 16 or 17 at the time of an offense with use of a firearm or a violent sexual assault, it is presumed that case will be transferred to the adult system and that the juvenile has the burden of showing by clear and convincing evidence that he has certain conditions that can be more appropriately treated in the juvenile system. Those are the legal burdens that the parties must show at a transfer hearing.

Assemblyman Duncan:

In terms of the infrastructure and caseload of the juvenile system, how much of this would add to the burden of the caseload? Do the juvenile justice courts have the infrastructure to support the added cases? As a practitioner, do you think cases that are brought to juvenile court will be difficult to get out of court, or will create a caseload burden on the juvenile courts?

Susan Roske:

I cannot answer to the exact numbers. I believe the number of Clark County direct files last year was definitely less than 100. I am not sure of the numbers. We are not talking about a huge number of cases, and I do not think it would add to the burden of the juvenile system to accommodate these numbers. It would certainly alleviate the numbers in the adult system. The adult system is much slower through the prosecution. For example, last year there was a 13-year-old who was charged with murder and was in the county jail for about six months before he petitioned to be housed in the juvenile system. Because of the way they were treating the child—he was in solitary confinement for his protection—it had a detrimental effect on this young boy. If he were in the juvenile system, the prosecution would have lasted two or three months, where in the adult system it lasted for years. I think it would alleviate a huge burden on the adult system and would be a minor problem for the juvenile system.

Assemblywoman Cohen:

Are there housing facilities in place in the juvenile system to house these more dangerous offenders so the less dangerous offenders are safe from them?

Susan Roske:

I can only speak for Clark County, but as I indicated earlier, we are presently holding these children in our juvenile detention facility until the district attorney determines what they will officially be charged with. Once the district attorney makes the determination of what the child will be charged with, he is

transferred to the adult system. They are presently being housed with other juveniles. Through our Juvenile Detention Alternative Initiative (JDAI), we have closed some of our cottages in our juvenile detention facility. There is the infrastructure to provide housing for children who are charged in the adult system to be placed in the juvenile system during the pendency of their criminal case. As I mentioned earlier, the state is now looking at opening the Summit View facility, which is a very secure juvenile facility here in Clark County that was closed due to the financial conditions in the state. That would be very adequate to house those children who were sentenced as adults until they reach the age of 18.

Assemblyman Hansen:

Earlier in your testimony you mentioned that there has been a decrease in crimes even though there has been an increase in penalties. I think that is a positive thing. In fact, the reason the Legislature has tried to add additional penalties is to try to discourage the rate of crime. Are you suggesting that this drop in crime has no relationship to our increase in the amount of penalties and the active prosecution of these types of cases?

Susan Roske:

What the studies showed is the crime rate was going down while the state was increasing the penalties. It was going down before the change in laws took place; that is my understanding of the studies. Ms. Gasca could speak more knowledgably about the studies, but it is my understanding that there is no correlation.

Rebecca Gasca:

That is my understanding also from the review of the studies. There was no direct correlation identified by anyone who has reviewed state laws and the decreasing crime rate. That decreasing crime rate holds true across the criminal justice system, not just in the juvenile justice system. The deterrence effect that you are referring to was found by the CDC not to exist, and there is no deterrence for juveniles to prevent them from committing crimes like this.

Assemblyman Hansen:

That is hard for me to accept. You see a substantial decline in crime at the same time that you see an increase in the amount of prosecution and the expanded penalties. It will be interesting to see what the other testimonies are. In my mind, there is a correlation. We have a substantial increase in our prison population and, since we have been doing that, we have seen a substantial decline in the amount of criminal activity on the streets in general, not just juveniles. It is hard for me to accept the idea.

Rebecca Gasca:

I am happy to follow up with additional information, because there are many studies out there that deal directly with the non-correlation issue. In the state of Nevada, there have been several reforms because we recognized that our prison population was going up at an incredible rate. Over the last three legislative sessions, we have no increase in crime and no negative effect of that practice. Certainly, there are other people here who are more experienced in that. There have been interim committee meetings of the Advisory Commission on the Administration of Justice and they have been dealing directly with that. I am happy to provide the reports for you so that you do not have to find them. It is hard to wrap your head around it because that is a natural conclusion that we make.

Chairman Frierson:

I am sure we will have others offer testimony along those lines, as well as regarding how we can address juveniles in the system while simultaneously protecting the public. I think we are treating some juveniles much more harshly for doing things that many of us did when we were juveniles.

Vanessa Spinazola, Legislative & Advocacy Director, American Civil Liberties Union of Nevada:

The American Civil Liberties Union of Nevada (ACLU) is in strong support of A.B. 202 because of liberty interests. Depriving someone of their liberties during imprisonment is one of the government's harshest punishments, particularly when it comes to kids who are often not finished growing up, or they grew up too fast due to circumstances beyond their control. A lot of these children are victims themselves and that is why they end up in the juvenile justice system in the first place.

To reiterate what Ms. Gasca said, the 2007 CDC statistic indicated that kids who are tried as adults are 34 percent more likely to reoffend. To address the correlation issue, my understanding from reading a study is that it is the same people who are reoffending again, and again, and again. That is why we see it go down. We see the same people, the 34 percent, cycling in and out of the juvenile justice system and the adult justice system. Basically, we are increasing sentences in crimes across the board, so more lower-level offenders are being put in the criminal justice system.

We are in support of A.B. 202 because it takes steps toward using the criminal justice system to rehabilitate kids instead of locking them away and increasing the chances that they will reoffend. I want to note the correlation between this bill and a couple of other bills that are passing through this session. Senate Bill 33 has to do with the Prison Rate Elimination Act (PREA).

The Nevada Department of Corrections (NDOC) has to come in compliance with PREA by May. What we basically do now is put the kids in the adult system in solitary confinement to protect their interests and to protect them from rape. I would think that the NDOC would support a bill like this because it would help them come into PREA compliance. If you do not need to have those kids put in solitary confinement, you can put them in the juvenile facility and it would be off your table.

I also wanted to flag Senate Bill 107, which is Senator Segerblom's bill about solitary confinement itself. I want to note section 4 has to do with some of the things that kids could not have done before. It is section 4, subsection 2(c)(2) which deals with being housed in disciplinary segregation. We are in strong support of the solitary confinement bill and hoping to eliminate disciplinary segregation.

Assemblyman Duncan:

You said that the juveniles who are prosecuted in juvenile court have a lower recidivism rate than those who are prosecuted in adult court. Do we have any studies on recidivism rates where, all things being equal, two juveniles have committed violent acts in two different states, but one was prosecuted in the juvenile court and the other was prosecuted in the adult court? I feel there are just some people who have a penchant toward violent crime, or is it a product of the system that they are being prosecuted in?

Rebecca Gasca:

That is exactly what the CDC did in their study. They have everything else equal, including the types of crimes and the circumstances of the juvenile as close as humanly possible. The only difference in their study was whether the child was in the juvenile system versus the adult system. I think the end result was around 34 percent. The juveniles who were in the adult system were 34 percent more likely to reoffend than those in the juvenile system.

Assemblyman Duncan:

What is going on in the juvenile system versus the adult system? I would like you to spell it out.

Rebecca Gasca:

The difference is, in the juvenile system, juveniles have access to education, rehabilitation, counseling, group programming, and all sorts of options that do not exist in the adult facility. Additionally, those youth who are in the adult system are often housed in solitary confinement. There have been many studies that show the detrimental effect of housing anyone 23 hours a day by themselves, often not even seeing the light of day for weeks on end.

Those types of mental effects are astounding. I would like to point out that the kids who are in the criminal justice system, two-thirds of males and three-quarters of females in the system, meet the criteria for one or more psychiatric disorders. They are often multi diagnosed and have been victims themselves. There is a female facility in the state of California where 100 percent of the females who are incarcerated there have all been victims of sexual violence or abuse. They are a very unique population of kids who deserve unique approaches because of their background issues. Some conditions cannot be addressed in the adult system; that is what the juvenile system provides. That is also why they are less likely to offend and why you see more successful rehabilitation when the kids are in the juvenile system.

Regan Comis, representing M + R Strategic Services:

M + R, with the McArthur Foundation, manages the campaign to reform juvenile justice in various states. I am here to voice our support of A.B. 202, specifically section 1. By increasing the age of direct filing in Nevada, we would be continuing the hard and necessary work of reforming juvenile justice in this state. In 2009 Assembly Bill No. 237 of the 75th Session was passed increasing the age of presumptive certification cases involving firearms and sexual assault from 14 to 16 years of age, yet current law states that children as young as the age of 8 are to be directly charged as adults for murder or attempted murder. By increasing the age, we would be recognizing the large body of research showing that prosecuting youth as adults makes it less likely that they will be rehabilitated and become productive members of society. By not expanding the jurisdiction of the juvenile courts, youth who are traditionally capable of benefiting from the treatment and rehabilitation of the juvenile justice system are instead sent directly into the adult system where they are more likely to be harmed and to reoffend once released.

Chairman Frierson:

Are there any questions? I see none. Is there anyone else in Carson City to testify in support?

Steve Yeager, Office of the Public Defender, Clark County:

It should be fairly obvious from Ms. Roske's testimony, but I wanted to make sure the record is clear that the Clark County Public Defender's Office is in support of the bill.

Chairman Frierson:

Are there any questions for Mr. Yeager? I see none. I am going to now go back down to Las Vegas in case there is anyone else who would like to testify in support of A.B. 202. [There was no one.] Coming back to Carson City, I will now invite those signed in to testify in opposition to A.B. 202 to come forward.

Steve McBride, Deputy Administrator, Juvenile Services, Division of Child and Family Services, Department of Health and Human Services:

We are not opposed to the concept of blended sentencing and working with its population. The concerns that we have are based upon our current structure, programmatically and security-wise, for addressing this very unique and challenging population. The state's juvenile correctional facilities are designed for currently indeterminate sentences, whereas the youth who come to our facilities work their treatment plan to earn their parole release and transition back into the community. By taking a population that is currently deemed to be the most challenging to public safety and a risk to themselves who might be housed for a period of years in these facilities, comingling these two populations poses some significant challenges to both program and structure, and security.

Youth who have received the determinate sentencing would need to basically be housed until their 18th birthday and transition to the NDOC, where the other youth in the facility are working toward a six- to nine-month average length of stay. This could be a very challenging situation where we have those who have nothing to lose with those who have everything to lose, and is something that requires a lot more assessment, examination, and study before we are prepared to address this type of population.

Chairman Frierson:

Are there any questions?

Assemblyman Carrillo:

How do you protect kids in juvenile detention centers from other violent offenders?

Steve McBride:

I cannot speak to the regional detention centers, but in the state youth correctional centers we have a classification process and try to program them for supervision and structure that would respond to any incidences that might pose a risk to other offenders.

John T. Jones, Jr., representing the Nevada District Attorneys' Association:

I would like to piggyback on that question. I think it is important to note that the two facilities right now that the Division of Child and Family Services (DCFS) operates are in Caliente and Elko. I do not know if many members of the Committee have had an opportunity to tour those facilities, but they are what we call "staff secure," because there are no bars or fences. We like to call it the "boarding school." In other words, it is dormitory-style living. They have programs there like culinary, wood shop, textile, and arts programs; and counseling. They really are designed for the lower-level offenders that we

typically see in the juvenile system. It is the position of the Nevada District Attorneys' Association that right now these facilities are not designed to house the most serious offenders. Now, DCFS has put out a proposal to open the Summit View facility, but we are still in the beginning stages of that. At this time it is the position of the Nevada District Attorneys' Association that these facilities are not designed for those types of offenders.

Chairman Frierson:

Before we go on are there any more questions?

Assemblywoman Spiegel:

You are talking about the facilities and the capabilities they have. We heard earlier that there are fewer than 100 children who would potentially be affected by this. I am wondering if you know the capacity of Summit View or the other facilities, and if you have any means of assessing what it would require to have a facility be brought up to the level that would be required?

**Amber L. Howell, Administrator, Division of Child and Family Services,
Department of Health and Human Services:**

If I may, I would like to give my testimony which answers that question. This is a very difficult position. I feel like I am having an identity crisis because the policy behind this is a really good one, but I have a fiscal and time problem. I want to give you an overview of what has been happening for the last two years and the work of the Supreme Court Commission on Statewide Juvenile Justice Reform.

The Supreme Court Commission has been working for the past two years to reform the juvenile justice system, both from a policy standpoint and fiscally. The commission is chaired by Justice Nancy Saitta and Justice Jim Hardesty. The commission was formed to determine what steps needed to be taken to improve the juvenile justice system. There are several bills that have come before this Committee since the legislative session began that will start this process.

In addition to the statutory changes, the commission also recommended three specific fiscal recommendations that DCFS has within their budget. One is to downsize Nevada Youth Training Center (NYTC) from a capacity of 110 beds to 60 beds. The second is to reopen the Summit View Youth Correctional Center through a private vendor to operate a maximum of 50 beds. The facility is capable of housing 96 beds. Those are the two things that have been done so far, and while I understand this is not a money committee, I think it is important to mention what the redesign looks like as far as funding goes. Throughout our participation in the Supreme Court Commission, it was

determined statewide that there was not a need for more than 50 beds at Summit View, while keeping Caliente at the level of 140 beds and still having the county camps in the community placements.

The DCFS built their budget to accommodate this need. The adult-certified population was never determined to be a population we needed to expect to build for. We have made significant progress in the last two years and have submitted a budget to start the process of the reform. While we appreciate the need to take a look at this population and to analyze, research, and make some decisions about how Nevada should respond to and care for them, we do not have that structure today. We are very concerned about our current staff's ability to respond to this population, the unidentified training needs that it would require, including our staff not being certified peace officers, and the physical plant of the facility and the safety of the youth that are currently in our facility.

So often we implement laws and then agencies have to catch up without thorough planning and preparation. We do not believe that this should be one of those times. In our discussions with the NDOC, we have learned that this population is extremely challenging, even to them, and they are designed to house these difficult youth. In the last two years, we have made significant progress—more in the last two years than in several prior years—related to fiscal and policy decisions, we would like to continue that process. Whether we decide to build, open, close, remodel, or whatever we decide to do for this population, I think it is worth some time and analysis to get there. Everyone can agree that we all wish for youth to be in an environment that fosters their development, rehabilitates them, and provides them with the skills to become better individuals, but we must balance these wants with the safety of youth currently residing in our correctional centers. We respectfully request that the Committee allow the first phase of the reform measures to go through what the Supreme Court Commission has put forward before making this population the responsibility of the state.

Chairman Frierson:

Are there any questions? I see none.

John Jones:

I would like to start off by saying that the Nevada District Attorneys' Association is also participating in the Supreme Court Commission, and we appreciate the work that is being done by that commission under the leadership of Justice Saitta and Justice Hardesty.

While we do not necessarily agree with everything that the commission is doing, we are having very constructive dialogues at these meetings, and we are

redesigning what the juvenile justice system looks like, or is going to look like in the state of Nevada. This includes what we call "deep-end reform": trying to develop our system so there are fewer high-level offenders in this state, bringing some of our facilities closer to home, so we do not have a Las Vegas child being sent to Elko where the parent is unable to interact with that child, and vice versa that the system cannot interact with that parent. We are also trying to develop systems where we intervene earlier and smarter with respect to these kids.

In many respects, what the Supreme Court Commission is doing is very positive and we echo what Ms. Howell indicates, and that is to let the Commission continue to do its work.

I want to continue by saying the rule in Nevada is not that kids go straight to adult court. There are very few instances where a child's first contact with the system is in adult court. Generally, the exception is murder or attempted murder, or a Columbine-type situation. Those are the only two situations in Nevada where a kid will end up directly in the adult court. I want to say that statistics show the kids who remain in the juvenile system tend to recidivate less, and the kids we send to adult court tend to recidivate more. This shows the system is doing its job picking which kids deserve to be in the adult system.

I want to briefly talk about the Youthful Offenders Program, which is a program run by the NDOC. It is not solitary confinement where kids never see the light of day. It is a program for kids starting at 18 where they can learn a trade. They go to school. If you have an opportunity to visit this program, take that opportunity. It is a great program in terms of what is available to the persons involved with that program, the skills and trades that they can learn, and the education they can get. Kids are not locked away in a dungeon in the state of Nevada when they are sent to the adult system, and I want to dispel that myth right here and now.

We are not talking about a large group of kids, but we are talking about a very serious type of offender. In Las Vegas in 2012, we had 24 direct files, 8 for attempted murder. Of the 8 kids, one 14-year-old walked up to a victim and stabbed him in the stomach. We had five 16-year-olds and two 17-year-olds who were alleged to have committed attempted murder. We had three juveniles last year in Clark County accused of committing murder. One of those juveniles called a place where people go to buy cars for cash. When the person who was going to buy the car showed up, the juvenile shot and killed him and took the money and checks that he had. We have two 17-year-olds who are charged with murder. That is 11 kids who were sent to the adult system for murder or attempted murder.

We had 13 kids who were direct filed based on the use or threatened use of a firearm. Of those 13 kids, I want to point out that all of them had prior contact with the juvenile justice system.

Assemblywoman Diaz:

Where are the children currently who you were talking about?

John Jones:

I do not have that information on me, but I will provide it after the hearing. They are at various stages. I believe some have already pled and others are still pending their disposition.

Four of the 13 kids had prior commitments to the DCFS alone. In other words, they spent time in either Caliente or Elko. Three of them had been to Spring Mountain Youth Camp, and for those of you who do not know, Spring Mountain Youth Camp is a facility that is run by the Clark County Department of Juvenile Justice Services. It is a facility that is very similar to the state facilities. It is a boarding-school dormitory. It is not fenced and there are no bars. They have programs such as forestry. Seven of these kids had either been to DCFS or Spring Mountain Youth Camp. We had three additional kids who had been to both DCFS and Spring Mountain Youth Camp. These kids had already had what I would call extensive contact with the juvenile justice system, yet they still went out and committed an offense that involved the use or the threatened use of a firearm. What more can our system do for these kids? In fact, I would argue that these are not the type of kids we want around the other low-level offenders that we have in the juvenile justice system.

The 24 direct files are part of the bigger pool. The Clark County Department of Juvenile Justice Services averages around 20,000 referrals a year. That includes everything from truancy to curfew to traffic offenses, all the way up to offenses involving firearms. About 6,400 ended up in court, and of those, 24 were direct filed. We are talking about an extremely small number, but extremely serious offenders.

This is a quote given by the Nevada Supreme Court in a case called *In the Matter of Seven Minors* [99 Nev. 427 (1983)]. It is basically the preeminent decision when it comes to certification, but it deals with transfer in general. It states:

Transfer has played an important role in juvenile court jurisprudence since its earliest days and has acted as a safety valve through which offenders who were within the statutory age of juvenile court jurisdiction could in appropriate circumstances be

held accountable for their criminal acts by referral to the adult criminal justice system.

"Safety valve." Our job in the juvenile justice system is to do what is in the best interest of the child, but also, our interest to the public is paramount. In these cases we are appropriately sending some of these kids to the adult system when they have either committed an extremely serious act or have exhausted the options of the juvenile system.

Assemblywoman Diaz:

Is our system perfect right now? Is there a need for change? Is there no room for improvement?

John Jones:

That is not what I am arguing. In fact as I said in the beginning, we, the Nevada District Attorneys' Association, are working with the Supreme Court Commission on Juvenile Justice Reform. We are not saying that it is perfect. We are also not saying that we should take these serious offenders and put them in a juvenile justice system that, quite frankly, is not able to properly handle them.

Assemblywoman Diaz:

Based on testimony that we received today, we know that the brains of our youth have not matured, and they are not able to make the wisest of choices and sometimes get caught up in situations where they are around the wrong crowd; then they are criminals. I believe we should not lock them up and throw them away. I think there is a way we can work with the youth.

John Jones:

We are not talking about putting kids in jail and throwing away the key, but we are also not talking about kids who happen upon the juvenile justice system for their first time. We have kids who have had appearances in juvenile probation. They have been to Spring Mountain Youth Camp. They have been to the DCFS. They have been in two different correctional facilities, yet they are still going out and using weapons against our innocent citizens. Those are the types of kids that we are talking about with this bill. We are not talking about lower-level offenders who are in the system for the first time.

Assemblyman Hansen:

I want to go over your numbers very quickly. You said that, in Clark County, there are 20,000 cases that were referred and, of those, 6,400 actually went to trial. Of that 6,400 only 24 kids fit into the categories which you are trying to eliminate: serious firearm violations, previous criminal history, felony physical

harm or assault and battery, felony endangerment of students, reckless disregard, and intent to harm others. Only 24 out of 6,400 fit these categories.

John Jones:

That is correct, but it is not 6,400 went to trial. It was 6,400 that ended up in court for one reason or another, and that includes pleas and trials.

Assemblyman Hansen:

Is it your opinion that there is no reasonable justification to eliminate all of the categories that I just mentioned from being placed in the adult courts?

John Jones:

That is exactly what I am arguing at this point. The Nevada District Attorneys' Association is willing and able to engage in a conversation with everyone about the potential for blended sentencing in the state of Nevada. This will potentially, in the future, be a piece of that. One of the other things that we have to look at in terms of blended sentencing is extended jurisdiction. Right now, juvenile court jurisdiction ends at 21 years of age, period and end of story. If we keep a person in the juvenile justice system, at 21 we are done with them; we have to be. Then there are situations where kids need intervention longer than 21 and that is something we looked at.

There are numerous conversations that we need to have if we are going to go down the road of blended sentencing. Not all of those are addressed in this bill.

Assemblywoman Dondero Loop:

I am struggling with this because you just said that, at 21 years old, we are done with them. There is the ability to seek certification and the ability to rehabilitate during that time, which can be very short. There is a small percentage of these kids, by your own admission, that you cannot tell me where they are, which is also troublesome. If this is such a passion, it seems to me that you would know where at least one of these kids is. I am struggling with the fact that we would not try to rehabilitate these kids prior to them turning 21, so when they are 21 we do not just wash our hands of them. There are a lot of programs, so please give me more information.

John Jones:

I am not saying we would like to be done with them at 21. What I am saying is by statute we have to be. We have no jurisdiction once the child hits 21 years of age. That is by statute. It is not like we would kick him to the curb and say we want nothing more to do with the child. We legally have no authority over that child once he hits 21.

With the exception of the murder and attempted murder cases, every other juvenile who was direct filed had at least one prior contact with the juvenile justice system. In other words, they were provided the services that you just mentioned, but for some reason they still engaged in conduct involving a firearm. It is not that we do not provide services for these kids—we do—but for one reason or another they refuse to conform their behavior.

Assemblywoman Dondero Loop:

There are people in this body and on this Committee who have shared some very personal stories about situations in their own lives, or their children's, that could have gone the other way. Any of those situations could have turned out deadly for one reason or another. I am suggesting that any of those people could have been thrown away, but they are all viable people in our society. I would like you to think about that for a while. I understand 21 years old is by statute, but that lends even more reason for us to help those individuals in our society who could be a productive person as opposed to being thrown away.

Assemblyman Martin:

Is the way this bill is written your objection? I am looking at section 1, subsection 3, paragraph (c). This section removes a lot of offenses that would normally be included in the juvenile system. The bill says that the juvenile court does not have jurisdiction over a person in the following instances, and then takes out firearm offenses. If you were prosecuting, you would have to opt them back in to the juvenile court rather than opting them out. This makes it harder for them to be tried as adults; there were a lot more exclusions. [Chairman Frierson left the room. Acting Chairwoman Dondero Loop assumed the chair.]

John Jones:

I think that is fair. As Ms. Roske indicated in her testimony, we would still have the ability in certain circumstances to pursue what is called "certification" of the child. That is where a judicial determination is made that the child belongs in the adult system. That is different from a direct file. There is a lengthy process to go through for certifications, including a doctors' evaluation, psychiatrist's evaluation, and other things of that nature. The reason we are opposed to this is that these kids have always had prior contact with the juvenile system, with the exception of murder and attempt murder.

Acting Chairwoman Dondero Loop:

Are there any additional questions from the Committee? I see none. Is there anyone opposed in Las Vegas? I see no one. Is there opposition in Carson City? [Chairman Frierson reassumed the chair.]

**Scott Shick, Chief Juvenile Probation Officer, Juvenile Probation & Detention,
Douglas County:**

I have heard the testimony today and stand in opposition to the bill based on the nature of the kids who go the distance in the juvenile justice system. I am sure this Committee understands that we go the distance with them on a daily basis. As they progress through probation and residential treatment facilities, they are constantly evaluated for mental health issues, academically, their personality, and psychologically. There are extenuating circumstances when we get a child that could be certified as an adult. We have tried to mitigate everything in their lives to keep them on track and get them back into the community, but that has not worked. Unfortunately, we have to recognize that.

I have been in this field for 27 years, so I have had a lot of experience. I have participated in the certification of juveniles and everything is taken into consideration, including brain development. When the day is done, they lack a sense of conscience about other people and things around them. There is a lot of anger and bitterness. As a juvenile service director, you, the district attorney, school officials, and everyone involved in the child's life have to make that serious decision to certify. The decision is made on behalf of the community, and is part of our responsibilities to our communities and our state. It would be a mistake to mix that child with juveniles who have not gone that far yet, when we have not exhausted our resources. That is why I stand in opposition to allowing those kids to be involved in the juvenile aspect of our justice system in general.

There are other parts of the bill that I could get on board with, but that is my primary concern. Considering all of the things that we are trying to accomplish with the juvenile justice reform measures, we would like to get that platform established then build off of it. We would like to support the adult system by developing these young adults who may end up in that system. We would certainly be willing to advise and help construct programming to better help these certified individuals to step back into the community.

Assemblywoman Spiegel:

In your testimony, you have been speaking about children who have been through the system at least once, and sometimes multiple times. Do first-time offenders who were in the wrong place at the wrong time end up being certified? Based on your testimony, it sounds like you would not even make an exception for one of those kids who just by circumstance might have gotten into something he had not intended to get into. Please speak to that.

Scott Shick:

I can cite a case in Douglas County that happened in the last five years where a young man, 15 years old, was charged with murder as an adult and went immediately to jail. It was discovered that his involvement in the matter was not as severe as first-degree murder. He pled down to manslaughter. Through judicial discretion, he was then moved to the juvenile detention facility and was treated in the juvenile justice system, which is the spirit of blended sentencing, but it took a judge to make that decision. His dialogue with me was to say to give that kid half a chance to get things right in his life. He is currently doing very, very well in Douglas County. We are holding off on him until he gets his high school diploma. He is working and being compliant. That is the type of case that is workable in judicial discretion. Let it take its course. That is why we have state statute for presumptive and discretionary certification. Those laws work and everything else that falls underneath. We can make decisions on an individualized case-by-case basis. That is what we do in juvenile justice.

Chairman Frierson:

Once he gets his diploma, is he still going to prison?

Scott Shick:

No. It is tandem supervision with adult parole.

Chairman Frierson:

So he got probation?

Scott Shick:

Yes. That was held in abeyance. He sees both juvenile and adult probation officers. He is working in conjunction with both of them and their requirements, which are very similar because we did not want to duplicate things and confuse him. He has been absolutely compliant for 3 1/2 years.

Chairman Frierson:

With that example, how frequently does that really happen? Does it make it easier because he is on probation than if he was incarcerated?

Scott Shick:

The fact that he is on probation makes it easy. He did go to a residential treatment program for nine months, a juvenile Rite of Passage, and he completed that. Then he was on probation. A child who is in the prison system would be more difficult to manage in that respect.

Chairman Frierson:

Are there any questions? I see none.

Frank Cervantes, Division Director, Department of Juvenile Services, Washoe County:

I would like to note our opposition to the bill as written. There are some elements of the bill that I would like to cover. I agree wholeheartedly with the DCFS representation on section 3.

In section 2, there is currently no provision for a child or a child's attorney to petition the court when he has been certified by discretionary certification to be held in the juvenile facility. They can, however, petition the court if they have been automatically certified to be held pending criminal proceedings. I think that part of the bill makes sense and I wanted to put that on the record. As far as section 1 is concerned, we are opposed to that part of the bill as written, but I think there is room to work on it.

Mac Venzon, Commander, Support Division, Reno Police Department:

I currently command the gang unit, the Investigations Bureau, and the Administrative Services Bureau.

With regard to section 1, we as the Reno Police Department oppose it, but think there is room for some change. The proposed change would potentially treat a shooting committed by a 15-year-old gang member as a delinquent act. The accused shooter would not be certified necessarily as an adult, and the case would be handled entirely by the juvenile justice system, which has limitations on punishment. The juvenile justice system is viewed as soft on crime among gang members who often trivialize provisions. If this law were to pass as written, gang members under the age of 16 may be more often elected to be the trigger man in attacks on rival gang members based on the minimized consequences. These attacks usually play out in public and would potentially put the community at risk as the shooter has very little regard for stray bullets. A similar analogy could be applied to violent sexual assaults such as gang rape committed by offenders 15 years old and younger. I hoped to give you a perspective of "boots on the ground" in dealing with gang members in our community, and invite any questions you may have.

Chairman Frierson:

Under Nevada law and in most states, an individual might not be the trigger man in a felony murder but could be charged as the trigger person. He may get caught up in the felony murder. The conversation over the last several months has been that we would love to do it if we had the resources and programming to do it right, but today it sounds like we are saying under no circumstances is a minor charged with these offenses appropriate for juvenile treatment. I thought there was a gray area if there was money and resources to do it right. I want to get your feelings about the felony murder circumstances where there is a

minor with several 18-year-olds who commit a robbery and a murder. Because it is a felony murder and the minor is with them, is there ever any room for that minor to be in the juvenile justice system? I do not know if we eliminated some of the discretion that is involved on the front-end. Maybe that minor could be eligible under the discretion of the district attorney to not be charged under the felony murder rule in the first place. I want to make sure the Committee is clear about some of the options that are on the front-end of some of these offenses. I was curious about your example of the trigger man, what about the felony murder rule if the person is not the actual person who pulled the trigger?

Mac Venzon:

I will leave the felony murder rule up to the prosecutors to explain since I am not as well versed on that as I probably could be. Certainly discretion should be involved somewhere in the relationship of the example you cited with the group of 18-year-olds and a 15-year-old who may or may not be the trigger man, but is somehow lumped into this. Some of the testimony that we heard today would provide that, yes, we should leave in place some discretion for cases such as that. However, pushing the 15-year-old in any case over to the juvenile system may not be the best course of action.

Scott Shick:

To go back to that case, it was first degree murder, and it was immediately filed. There was a 15-year-old boy and another boy that, based on his disposition, did adult jail time based on his involvement in the situation, which was a physical assault that ended the next day with the victim dying of a ruptured spleen. The boy was pulling his father out of a fight, was hit by the victim, and struck back. Discretion took place at the court level. To me, it worked. It was not the most perfect system; our system is not perfect. That is why we have good dialogue and work with our district attorneys, public defenders, Senators, and Assemblymen to get this right on behalf of kids who deserve a chance; and to ensure public safety when it comes down to the ones who lack consideration or conscience.

Chairman Frierson:

Mr. Jones, if you could address the discretion aspect please. In going through the question and saying it out loud, it dawned on me that some of this can be, and is, handled on the front-end with the charging decision. I wanted to ensure I was accurate.

John Jones:

That is correct. It is the charging decision of the district attorney that determines whether it is a direct file or if it would remain in the juvenile system. For example, there are situations where you have a codefendant who was the

one who actually committed the murder, but other crimes were committed, like a robbery. We would have discretion in that case to only charge the robbery, which would leave him in the juvenile system, whereas the murder would trigger him into the adult system.

Chairman Frierson:

Some of that discretion is on the front-end regardless of the fact pattern. If the state decided not to charge it that way, that would significantly impact the direction that the case would go.

John Jones:

That is correct. I do not mean to say that the Nevada District Attorneys' Association is not willing to participate in reform of the juvenile justice system. What we are saying is that this bill is not the vehicle, and not at this time while we are in the middle of the Supreme Court Commission changes. We should let them play out before we begin to address some of these other issues.

Chairman Frierson:

That is consistent with conversations that have taken place over the last several months.

Steve McBride:

I concur with Mr. Jones. I am not a lawyer, but he put it very eloquently. We need to visit what happens with these certified individuals and to give them every opportunity to get things right, but on another day. Let us table this and move forward with the other things that are before us.

Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office:

I was not going to come up and testify, although I did sign in opposed. I want to express our opposition to A.B. 202 and clear up some things that were said in this hearing.

We support this discussion and appropriate treatment of juveniles at the Washoe County Sheriff's Office. It is not our desire to house juveniles in our adult detention facility. Some proponents of this bill provided a number of compelling and ambitious solutions regarding juveniles and some assertions regarding custody. Unfortunately, some of those assertions are blatantly misleading. Juveniles in adult detention facilities are, in fact, treated differently than adult inmates in that, per NRS, they are housed separate from adults. This is not "solitary confinement" for 23 hours a day with no light as was erroneously submitted for the record earlier. They are well-fed, well-clothed, provided one-on-one education, access to programs, access to visiting, access to medical care, access to television, access to newspapers, access to religious

services, et cetera, just like other inmates in our care and custody. We provide for a safe and secure custody environment for all inmates.

A murderer in the juvenile system comes in with a great status among other juveniles—a big fish in a small pond—which creates, as you heard earlier, a management issue for that juvenile. However, this same murderer in an adult facility is just another inmate housed in a safe and secure manner according to the laws already in statute. We fully support the spirit and intent of this bill, but oppose many of the provisions and mechanical issues in it as already discussed by other opponents. We are willing to work with the interested parties on this bill to work out those issues.

Chuck Callaway, representing Las Vegas Metropolitan Police Department:

We are in opposition to the bill for the reasons stated earlier by Mr. Jones and the various other folks who provided testimony. I did not sign in to testify; however, I do know that we have 15 juveniles currently in Clark County Detention Center certified as adults. I know Mr. Jones provided testimony that there were 24, but he was not sure where they were. I know where 15 are, but I do not know where the other 9 are.

Chairman Frierson:

Of those, do you know whether they are isolated from the general population or if there is even the ability to do that?

Chuck Callaway:

Typically, we do not isolate them from the general population unless there is a specific need; for instance, if they are the victim of a crime or they are potentially dangerous to other inmates. I do not know how many of those 15 may be in isolation, but I can find out and let the Committee know.

Chairman Frierson:

Are there any questions for Mr. Callaway? I see none. Is there anyone else to testify in opposition? Anyone in Las Vegas? I see no one. Coming back to Carson City, is there anyone here to testify in the neutral? In Las Vegas? I see no one. We will stay in Las Vegas. Senator Wiener, if you have any closing remarks before we close the hearing, please come forward.

Valerie Wiener:

As has happened in the past sitting before your Committee, I am humbled by the level of engagement and interest and willingness to ask the difficult questions.

As I said in my opening remarks, I know there are voices coming from many different perspectives and levels of experience. The anecdotes and the statistics that you heard today render many different thoughts for us to process. Again, I offer myself to the Committee as someone to facilitate the conversation that should continue beyond the time we have shared today. It looks like there is a long list of people with whom we will start having that conversation. With the permission of the Chair and the Committee, I am willing to go forward and have those conversations.

Chairman Frierson:

I am not sure to what extent it came out, but I do believe there is some overlap between some of what the Supreme Court Commission on Statewide Juvenile Justice Reform and the interim Legislative Committee on Child Welfare and Juvenile Justice are doing. There is some overlap of things that could happen at this point that the stakeholders were comfortable with, so I would certainly welcome your meeting with those folks and presenting something to the Committee that reflects progress and teamwork toward this end. I think this is the start of a long discussion.

I will close the hearing on Assembly Bill 202. I will open it up for any public comment if there is any here or in Las Vegas. I see no one requesting to speak.

Please mark Ms. Fiore absent excused since she is not feeling well today and we hope she feels better.

With that, we will adjourn the meeting [at 9:53 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 19, 2013

Time of Meeting: 8:07 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 202	C	Susan Roske	Written testimony
A.B. 202	D	Rebecca Gasca	Testimony of Campaign for Youth Justice
A.B. 202	E	Rebecca Gasca	Trends in Juvenile Justice
A.B. 202	F	Rebecca Gasca	State Trends