

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

**Eightieth Session
February 11, 2019**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 9:01 a.m. on Monday, February 11, 2019, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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 www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman Steve Yeager, Chairman
Assemblywoman Lesley E. Cohen, Vice Chairwoman
Assemblywoman Shea Backus
Assemblyman Skip Daly
Assemblyman Chris Edwards
Assemblyman Ozzie Fumo
Assemblywoman Alexis Hansen
Assemblywoman Lisa Krasner
Assemblywoman Brittney Miller
Assemblywoman Rochelle T. Nguyen
Assemblywoman Sarah Peters
Assemblyman Tom Roberts
Assemblywoman Jill Tolles
Assemblywoman Selena Torres
Assemblyman Howard Watts

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Linda Whimple, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Natalie Wood, Chief, Division of Parole and Probation, Department of Public Safety
Stephanie O'Rourke, Deputy Chief, Division of Parole and Probation, Department of Public Safety
Anne K. Carpenter, Deputy Chief, Southern Command, Division of Parole and Probation, Department of Public Safety
Nicole Rosales, Sergeant, Southern Command, Division of Parole and Probation, Department of Public Safety
Tom Lawson, Captain, Northern Command, Division of Parole and Probation, Department of Public Safety
Holly Welborn, Policy Director, American Civil Liberties Union of Nevada
Megan Ortiz, Extern, American Civil Liberties Union of Nevada
John J. Piro, Deputy Public Defender, Clark County Public Defender's Office
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
Christopher P. DeRicco, Chairman, State Board of Parole Commissioners

Chairman Yeager:

[Meeting called to order.] We have three items on the agenda today. The first one is a presentation from the Division of Parole and Probation, and then we are going to hear two bills that are also going to be presented by Parole and Probation. We will take the presentation first, and then go to the bills.

Committee members, you should have a 3- or 4-page handout from the University of Nevada, Las Vegas (UNLV) about the day reporting center (DRC). I want to let the members know that this document is not uploaded on the Nevada Electronic Legislative Information System (NELIS) because it is copyrighted. You will have to follow along with the paper copy in front of you and just keep in mind that it will not be put up on NELIS because we have legal restrictions about what can be put up there in terms of copyright.

Chief Wood, I want to welcome you to the Committee. We had a chance to work together quite a bit in the interim, and I appreciate your hard work on the interim committees and welcome you and your staff here this morning.

Natalie Wood, Chief, Division of Parole and Probation, Department of Public Safety:

To my left, I have my Deputy Chief, Anne Carpenter. Anne is responsible for all operations in Southern Command Las Vegas, which is our largest operation in the state. To my right,

I have Stephanie O'Rourke, who is my Deputy Chief over Northern Command, which includes our rural offices. She has Carson City, Reno, Winnemucca, Elko, Ely, Pahrump, and headquarters. I will provide the overview of the Division of Parole and Probation ([Exhibit C](#)) and then I will introduce new staff who will present the two Assembly bills.

Page 2 ([Exhibit C](#)) notes the Division's mission, vision statement, and the statutory authority on which the Division operates. The Division is accountable for community supervision of parolees, probationers, lifetime sex offenders, sex offenders, and conditionally released inmates. Additionally, we transfer out and accept individuals on supervision from across the country and the Federal Interstate Compact agreement.

The Division has four major command areas [page 3]: headquarters in Carson City; Northern Command Urban, which covers the Reno area; Northern Command Rural, which covers Carson City, Elko, Ely, Fallon, Pahrump, and Winnemucca; and Southern Command, which covers Las Vegas [page 3]. Page 4 describes the many programs the Division is currently accountable for, from pre-sentence investigations (PSI) and pardon investigations to offender supervision and oversight. We are going to discuss these in more detail on the forthcoming slides, so I do not want you to think I am skipping over some of these slides. If you have any questions, I will be glad to answer them.

The Division was fortunate enough to receive some funding from the legislative initiatives that were received at the last session [page 5]. These are the heavy hitters for the Division. The DRC provides at-risk offenders with rehabilitative services as an alternative to incarceration. The DRC was designed to assist individuals who were self-sabotaging their supervision rather than for violent repeat offenders. It is a great benefit to the Division, offender, and the community overall to have an alternative to incarceration available and greatly contributes to the successful reentry and reinvestment in a supervised individual's life. Services in the DRC include general GED preparation, job search assistance, substance abuse prevention, anger management, parenting, employment preparation, domestic violence prevention, and moral recognition treatment, which is basically recognizing how your behavior impacts another individual.

We opened both of our day reporting centers in an incredibly short period of time after the end of the last legislative session. The Las Vegas office opened in October 2017, and our Reno office opened in February 2018. Our Las Vegas office serves about 200 individuals, and our Reno office serves about 50 individuals. The DRC is run by a contractor service through private vendors due to the complexity of the services offered. The Nevada DRCs are contracted through the State of Nevada through Sentinel Offender Services. The DRCs have collaborated with community partners throughout the state, such as the Department of Health and Human Services. They assist with the state-funded medical and food stamps. Truckee Meadows Community College assists with job placement, education, and trade programs to assist many of the individuals who are on supervision. The Las Vegas DRC, through Sentinel, has collaborated with the Hard Rock Hotel to receive donations, such as linen and personal hygiene items, which we can hand out to individuals, not just the ones who got out of the Department of Corrections (NDOC) on parole, but individuals generally who are in

need of personal hygiene items and clothing. Additionally, the Las Vegas DRC has a clothing donation center to assist participants dress for success and prepare for job interviews.

The Reno DRC, through Sentinel, has a bicycle program, pedaling for positive change, in which bikes are donated to Sentinel to provide transportation to those individuals who would otherwise have none. Other community resources that the DRC has is the Division of Welfare and Supportive Services, Department of Health and Human Services; Assist Us; Food Bank of Northern Nevada; Ridge House; Northern Nevada Hopes; My Journey Home; Northern Nevada Literacy Council; and LYFE Recovery Services. All of these programs assist and collaborate with the DRC. Sentinel is a good-of-the-state contract. It is currently under the request-for-proposal process with the originating state.

To give you some statistical information with regard to the DRC, we were asked to track certain information from the last session. We had a total of roughly 641 individuals who have gone through the DRC at various stages of participation. We have graduated 114, or 18 percent of those individuals, and have discharged about 72, or 12 percent. Unfortunately, we have 89 individuals who needed to be revoked out of the program and 116 who absconded. As you can see, the success speaks for itself. It is important to remember that even though people have graduated from the DRC, they may currently still be on supervision with the Division, because some of the supervision is from three to five years, whereas the average length of participation in the DRC ranges from 100 to 117 days.

We worked on the Statistical Analysis Center grant in partnership with UNLV and they provided the research in brief. This was significant in that it provided the Legislature with an independent and unbiased statistical analysis of the DRC and its effectiveness. Please note that the actual UNLV February 2019 Center for Crime and Justice Policy's Research In Brief provided to you today is part of the Division's presentation and should answer any statistical information questions you may have.

Some of the key takeaways from this Research In Brief is that the DRC participants were less likely to be revoked and more likely to be successfully discharged following probation and parole than the control group. Additionally, DRC graduates were significantly more likely to be employed and have a stable residence. Day reporting center participants were significantly less likely to abscond and tended to have a lower proportion of new charges or technical violations than the control group and repeat positive drug tests, which reduced over time, which is what you want.

In conclusion, the general goals of the DRC are to reduce recidivism among at-risk parolees and probationers and serve as an alternative to incarceration. The results in the Research In Brief suggest that the DRCs can achieve these objectives. To give you some fiscal attachment to this program, for the roughly \$1.3 million investment last session, the Division estimates a savings of roughly \$3.8 million for participation in the DRC versus incarceration in NDOC. This is particularly for the state overall.

Chairman Yeager:

Are there any questions about the content that we have heard so far, including the day reporting centers?

Assemblywoman Miller:

You mentioned the savings in dollars for recidivism. Would you talk about the actual percentages in people where the recidivism rate has been reduced?

Natalie Wood:

The DRC is an alternative to incarceration. If we did not have the DRC in our tool belts, then an individual would be sitting in county jail pending revocation for approximately two to three weeks before he or she sees a judge or before he or she goes before the State Board of Parole Commissioners (Parole Board). You have some local savings on top of the state savings. Obviously, if the person were to be revoked and had to serve his or her underlying term of sentence, you have a savings there. With regard to the statistics that I provided—which you can see in the Research In Brief—we have assisted 641 individuals in the DRC. When you look at how many we have graduated and how many have been discharged, there is your success. That is what you are looking at percentage-wise.

Out of the 641 who participated, we graduated 114, or 18 percent, and we discharged 72, or 12 percent.

Assemblywoman Miller:

Of those who have successfully graduated and been discharged—you were saying this program began in October?

Natalie Wood:

Yes. We have two centers—one down south and one up north. The one down south started in October, and the one up north started in February.

Assemblywoman Miller:

I appreciate that this is quite a short time to measure success or recidivism. It could also be a good indicator if someone has actually committed again in such a short window. Do you have those numbers on where we are with people who have recommitted, or of those who have successfully graduated and have not recommitted?

Natalie Wood:

We have not tracked that yet. You can imagine that things do not exactly move at lightning pace overall. Sometimes in state government, unfortunately, we have programs that opened very quickly, so we have not had an opportunity to track it. Our current database that we are working in—the Offender Tracking Information System (OTIS)—does not have that capability. We were hoping that "super OTIS" would. As we go on, we will probably have to hand count those until the system is up and running. That is a very good question and something we need to track.

Assemblywoman Cohen:

I have a question about the Northern Command Rural. That is a huge piece of the state—all the way from Elko and Winnemucca down to Pahrump. What are the challenges that you are facing having to deal with such a big piece of the state?

Stephanie O'Rourke, Deputy Chief, Division of Parole and Probation, Department of Public Safety:

The challenge that we have in the Rural Command is that these are hard-to-staff places at times. Not a lot of people want to live in Ely or the east rural offices. The other challenges that we have are travel—there is a lot of travel. The resources are really a problem. There are a lot of mental health facilities that we can refer people to in the urban areas such as Reno, Carson City, and Las Vegas. But in the rural areas, it is very challenging. I would say those are the biggest problems we have.

Assemblywoman Cohen:

Has there been any consideration to move Pahrump into the Southern Command, just for logistics?

Stephanie O'Rourke:

Pahrump has gone back and forth between Las Vegas and the Urban Command. The last time it was transferred to the Rural Command was before I was in this position. I believe it had to do with some judges who had concerns with Pahrump being under Las Vegas. That was before I was in this position.

The biggest concern we have with Pahrump—other than the judges' concerns—is that it really is a rural community. With the judicial district, it serves the Tonopah area and Nye County. We like to keep all of that together with the same judges under the same command.

Assemblywoman Hansen:

Would you clarify the difference between a restitution center and a day reporting center?

Natalie Wood:

The restitution center is under the span and control of the NDOC. The Day Reporting Center is designed as an intermediate sanction—like an extra tool in your tool belt—to send someone to a one-stop shop that can assist and focus on model recognition treatment, substance abuse treatment, help them attain their occupational licenses, their GED, and help them with job searches. You are really focusing on them as an individual. They do not necessarily have to pay restitution. People may be in there for a crime that does not require restitution reimbursement.

Assemblywoman Peters:

Do you currently have the opportunity to leverage some of the telemedicine facilities that are being proposed? If so, do you have the infrastructure to handle that within your existing facilities, or is that a limitation?

Stephanie O'Rourke:

Are you talking telemedicine for the mental health counseling?

Assemblywoman Peters:

Yes.

Stephanie O'Rourke:

I do not know how to answer that question. I know there was a problem in Tonopah because the hospital closed down and they had to travel to Bishop, California, to get services. I have not had any communication with my staff or even the facilities that offer those services.

As far as our infrastructure, I do not know how that works. I was under the impression that the facilities which would facilitate those services would have a building and the infrastructure for it. It would be great for our rural areas to have that kind of service, especially for counseling.

Assemblywoman Miller:

Do you have the ability at this point to start working with individuals pre-release to help facilitate all of the services to get those in order before they are released?

Natalie Wood:

The next portion of this presentation talks about our embedded specialists. From that perspective, yes, we do. I know that NDOC caseworkers are working on some of the things that are necessary for release, such as their driver's license, birth certificate, and the establishment of medications. I will go over some of what my embedded specialists work on, but there is definitely a collaboration, and it is moving forward and enhancing some of the services and the street readiness some of these individuals need when they have spent a significant amount of time behind bars.

Chairman Yeager:

Would you let the Committee know how Parole and Probation currently defines recidivism and how you look at it in terms of Assemblywoman Miller's question? My recollection is that there is some kind of time period that we look at with regard to recidivism. If you would help us through that, I think it will help the Committee as we decide down the road how to define recidivism collectively in the justice system.

Natalie Wood:

There are different definitions of recidivism in every agency as to how they track it as a performance measure. Parole and Probation's expanded definition—which includes probation and those sent to jail—is the number of people who are convicted of a new gross misdemeanor or felony in the state of Nevada within three years after termination from any case in which that person was supervised by the Division of Parole and Probation. With that definition, enough time has not gone by where we can go back per our own definition and track it. The state's definition of recidivism is "the proportion of offenders who return at least once to a correctional facility within NDOC within 36 months of parole or discharge." So it

does not capture that group of probationers. In regard to the NDOC, yes, by our own definition, we would have to have probably three years transpire to fit into our own definition.

Chairman Yeager:

For the NDOC's recidivism definition, it requires that the offender actually be in the NDOC first, get released, and if he or she returns within three years, that would be someone who recidivated. But in your world, you might have someone who is on probation but never was in the NDOC, but if he or she reoffends within three years—for instance, for Parole and Probation—that would count as recidivism, but not for NDOC because he or she has not initially been to prison. Do I have it right?

Natalie Wood:

That is very correct, yes.

Chairman Yeager:

Are there further questions at this point in the presentation? [There were none.] Please continue with the presentation, and whenever you think it is convenient to stop for questions, just let me know.

Natalie Wood:

Parole and Probation has taken over full responsibility for reentry and parole planning per *Nevada Revised Statutes* (NRS) Chapter 213. To give a historical perspective, 10 or 15 years ago, NDOC took over some of those reentry planning objectives from Parole and Probation due to budget cuts. Obviously, the caseworkers did the best they could, but it was not necessarily within their wheelhouse and, per NRS, the Division owned it. During the last session, we realized that we needed to step up as a Division and provide better reentry services for some of those individuals who would be granted parole and ready for the street.

The Division works collaboratively with NDOC to enable a timely release, reduce prison overcrowding, and expedite the transition to the community supervision. We have nine embedded specialists who are specifically tasked with the following responsibilities: (1) they meet with a large number of inmates daily; (2) they formulate the plans with the inmates via telephonic communication with outside families, sponsors, and programs; (3) they initiate program funding and application processes; and (4) they email a list of parole plans and addresses for multiple inmates daily to our headquarters office for investigation and processing.

To give you some numbers on this, in 2017 the embedded specialists—we only started off with seven of them—contacted 316 inmates. In 2018 we contacted 11,921 inmates. As you can see, progress is definitely being made, and it is tremendous. This helps immensely with our release planning; meaning if it were not for these embedded specialists, the parole eligibility date (PED) list would pretty much explode. We are going to go into some detail on the PED list because I know it is a hot topic and it is critical that I articulate how this works and what this PED list is.

The PED list is a parole eligibility date list. I have attached a status report for you ([Exhibit D](#)). The PED list currently lists roughly 375 inmates, but the Division only has control over about 88 of those individuals. Sixty-nine are pending an investigation with my officers out in the field across the state, and they have a certain amount of time—between five and ten days—to expedite that investigation and return it to our headquarters for a viable plan. Nineteen submitted nonviable plans and are being revisited to come up with a plan B and plan C for their release. The original plan could have been denied for a variety of reasons: family did not want to have the subject reside there, or sex offender placement had certain restrictions that would not work. Sometimes, unfortunately, we have inmates who request to reside with the victim for various reasons and that is not appropriate. It is important to note that the Division has no influence on a number of inmates on this PED list and are unable to expedite.

Some people refuse to sign their parole documents per NRS. They have to be able to agree to the terms and conditions of their parole. So we are working with them. For this reason, the PED list will never actually go away completely. You can have people there with immigration holds, people refusing to sign their parole agreements. When people say, My gosh, you have 375 individuals who cannot be released from the prison, that is not quite accurate. You have to delve into the reasons. I broke the reasons down for you by percentage and the areas in which the Division has control over. At the top of the page ([Exhibit D](#)), you will see the grants received from the Parole Board every month and releases processed. These may or may not be on the PED list. Then it shows the grants that we are working on at any given time, and you can see the fluctuation.

Also please note that, due to earned credit for time served during the PSI process, violations, serving time in local jurisdictions, et cetera, some inmates have so much credit for time served that when they enter the gates at the NDOC, they have enough credit that they are eligible for parole and thus make the PED list automatically. As such, it takes time to process them internally by NDOC, schedule them for a hearing before the Parole Board, and for the Division to process their parole plan. This is not negligence on any part of the system or any specific agency. It is a reality of the operational challenges that we have when an individual violates and they have accrued such a massive amount of credit. They may automatically be on the PED list when they hit gates as they are coming into the prison.

The Nevada Department of Corrections and the Division of Parole and Probation (the Division) are strategic partners in the ongoing improvement of expedition of inmate release to parole. Parole and Probation headquarters staff meet regularly with NDOC's Offender Management Division to discuss and resolve issues and challenges confronting programs and combined initiatives.

It begs the question, How do you know if your embedded specialists are making any difference? Since embedding our specialists, the following impacts have occurred: The total parole grants received have seen a 7 percent increase and inmates submitting a nonviable release plan have decreased by 59 percent. This is directly related to our specialists working on viable release plans from the start. Inmates who are refusing to parole have decreased by

6 percent. Our specialists are returning to these individuals and working with them on plans rather than just moving on because they have initially denied that they wanted to parole. The reason people refuse to parole sometimes is because they would rather flatten out their time, meaning serve the remainder of their time and not report to a parole officer. We are going back and revisiting those individuals to see if they have changed their minds.

Investigations pending parole have increased by 71 percent. This shows that we are developing and working on more plans than we were previously. Finally, inmates pending parole who have a release date set have seen a 172 percent increase because our specialists worked with the inmates on establishing release plans. As you can see, our specialists are definitely having an impact.

Assemblyman Edwards:

Did I hear correctly that the parolee can actually deny himself parole because he wants to stay where he is at and not report to a parole officer?

Natalie Wood:

That is absolutely 100 percent correct. It is NRS 213.1218 that the parolees have to agree to the terms and conditions of their parole. Therefore, if they refuse to sign it, they are refusing to comply with the terms and conditions of their parole and therefore they are going to flatten out their time in custody.

Assemblyman Edwards:

So that increases the cost to the taxpayer to keep them in prison rather than get them out on parole, correct?

Natalie Wood:

That is absolutely correct. We have been working with that group of individuals and, just from the previous statistics I showed you, we have dropped that significantly.

Assemblyman Edwards:

Do we need to change the law to say, If you have been given parole, you have to go?

Natalie Wood:

That is a policy decision. There are arguments on both sides. You change the law to say that you are going to force someone who refuses to sign his or her parole agreements, and then you have an individual in the community who did not want to be there. Or you keep the law as it is and they have already told you that they are not going to comply with the terms and conditions. It truly is a double-edged sword.

Assemblywoman Torres:

Has there been any type of research to see why parolees are choosing to stay in prison?

Natalie Wood:

What is being made known to me is that they do not want the oversight of the supervising parole officer. That is the largest reason. If you have a couple of months left on your sentence and you are in a work program, you can serve out the remainder of your time, get good-time credit behind bars, and work in a fire camp as opposed to going out on the street. I think there is a lot of nervousness with it. They do not know what to expect. They are going to meet with a parole officer who may or may not tell them they need to do certain things that they simply do not want to do.

Assemblywoman Tolles:

Do we have any way of tracking their success rates, or doing a comparison between those who choose that path that you just laid out where they stay in and serve out their term and do not pursue the parole route versus those who do pursue the parole route? I would think that would be a nice transition for them to hopefully get the support they need to be successful when they leave.

Natalie Wood:

It is obviously more beneficial if the individual comes out and can transition into the community and get the assistance from the Division. We can offer them services, make referrals, and assist them with job placements and residence. To make them successful in the community is ideally what we want. We do not track the data of those who do not flatten out their time. It is not to say that we could not; it is just not a major performance measure for the Division. It is a great point. It could tell you whether or not the law needs to be changed.

Chairman Yeager:

Are there any questions? [There were none.]

Natalie Wood:

State-funded house arrest [page 5, ([Exhibit C](#))] provides funding to support house arrest as an alternative to incarceration for violations when an offender cannot afford monitoring fees. In fiscal year (FY) 2018, reports indicate the Division placed roughly 428 offenders on state-funded residential confinement. As of January 3, 2019, the Division has logged 461 participants statewide. That is 889 individuals for whom, if not for state-funded house arrest, we would have no other alternative but to seek a revocation. Whether they were revoked or not, that is 889 individuals the Division was able to assist, which is what we should be doing. The projected savings on that is just over \$2 million from incarceration versus state-funded house arrest. That is tremendously successful. We have been able to help a vast amount of probationers and parolees for a small investment up front, so there is a gain, a large investment, for the state.

Indigent funding provides for transitional housing, funding for indigent inmates who are scheduled to release on parole. We allocate about \$500 per offender, but it is important to note that this money does not go to the offender. It goes to the state-approved vendors who have agreed to house offenders, such as halfway houses, transitional living facilities, and other independent live-in providers. It allows the Division to place an offender who has just

been granted parole into a residence for approximately 10 to 12 days in lieu of going homeless or into a much more unstable environment. The stability is critical for the inmate who paroled and has nowhere to go. It is essential to reentry and for establishing a successful intake with the Division. There are parameters to the program. While ideally you would like to house a parolee for a month in a stable environment, there is a fiscal cost to it. This was viewed as a pilot program last session, and we were fortunate to receive the amount of money that we did. So there is indigent funding in some of the processes. The parameters include: they cannot have more than three prison terms regardless of the location; they cannot have a history of absconded or escaped within the last five years; and obviously no holds or detainers, wants, or warrants. We only offer it to the indigent inmate one time.

Those are just some of the initial parameters we set up when we started this program. It is not to say that they cannot evolve and change, but those are some of the initial parameters. As of January 2019, there were 378 individuals funded and set for release under the Indigent Funds Housing Assistance Program. That was with \$150,000 and an additional \$1,600 in a work program. In comparison, 336 offenders were funded and set for release under the indigent funding in FY 18. The average payment assistance for transitional housing is \$500 and supervised individuals are placed into residential housing within the community. Again, these vendors are registered with the State Purchasing Division. Again, that is 718 individuals we have assisted with reentry who may have very well ended up at some point on the PED list. So when we talk about the PED list, you can see how it is all fitting in, from the NDOC to the state-funded house arrest to indigent funding. All of these individuals, if we did not have these programs, would at some point either end up in custody or on the PED list.

The cost savings to the state is huge. The rough estimate is \$8.3 million over the biennium for an initial investment of roughly \$300,000, give or take.

Assemblyman Fumo:

You said that the state-funded house arrest was only for those individuals who could not afford it. The other ones are the probationers who pay for it themselves; is that correct?

Natalie Wood:

Yes, that is correct.

Assemblyman Fumo:

Did the 428 include only the ones who were state-funded, or did that include the total amount?

Natalie Wood:

It is state-funded house arrest; it is not self pay.

Chairman Yeager:

Are there any questions? [There were none.]

Natalie Wood:

The implementation of the Ohio Risk Assessment System (ORAS) is a means to predict risk and classify the offender supervision level and place them in the appropriate supervision part. Last session, we needed a better risk assessment tool for our offenders, and we did not want to over-supervise the lower-risk offenders and under-supervise the higher-risk offenders. We wanted to focus on the high-risk and not so much on the low-risk, but we needed an effective tool to do that. It was not that our old tool was ineffective; it was just that time moves on, there is progress down the road, and there are better tools out there. So we went with ORAS, which, when you adopt it as a state, which we did last session, it adopts the first letter of that state, so it is Nevada Risk Assessment System (NRAS).

In February 2018, Enterprise Information Technology Services helped the Division develop an NRAS module that was compatible with the OTIS. Statewide we have 378 staff members who are trained in NRAS and all staff are trained in NRAS on all intake reassessments within the NRAS, and to date we have assessed over 10,000 offenders. It is ongoing. Obviously, you get more and more offenders in and more and more offenders out, but roughly we have touched around 10,000, and that fluctuates daily.

There are two platforms to NRAS. The first is case management and assessing the person's risk on a supervision level, so there is a case management side. The second one is a PSI assessment tool, which is being designed to complement the case management side. That tool is in development with the University of Cincinnati at this current time.

Assemblywoman Hansen:

Who are the parties or the stakeholders who were involved in compiling which risk assessment to use?

Natalie Wood:

A few years ago some of our captains went out and did research on the national standards that many states were using with regard to risk assessment. They came back, after quite a bit of research, and found that the University of Cincinnati was the leader in risk assessment. Also, the American Parole and Probation Association had done quite a bit of presentations on the ORAS tool. There are many states that are actually using it, and that is how we initially came about it, but it was pretty much a staff study.

Assemblywoman Hansen:

But the state—the agencies and your parole agency—was very involved in the risk assessment? Did law enforcement or public defenders have any say in the risk assessment? I am curious as to what we are covering as far as risk assessment, such as those boots on the ground who are dealing with offenders.

Natalie Wood:

The Division supervises parolees, probationers, and inmates, so primarily the boots on the ground who are going to actually use this tool are the Division and my employees themselves. With regard to the outside stakeholders, no, not necessarily, because this was a

risk assessment tool in-house that the Division was going to use to replace our Wisconsin module that we needed to move on from. The subject matter experts with the Division were involved in the risk assessment. We just needed a better case management tool and a PSI tool.

Chairman Yeager:

Are there any other questions on the risk assessment? [There were none.]

Natalie Wood:

Effective Practices in Community Supervision (EPICS) is a behavioral-based interviewing technique that is designed to develop an officer's relationship and problem-solving skills. This was one of the initiatives the Division was funded for at the last session. It teaches officers how to apply the principles of effective intervention and core correctional practices specifically to community supervision practices. Officers are taught to increase interactions with high-risk offenders, stay focused on criminogenic needs especially through a behavioral link, and use a social-learning, cognitive-behavior approach with their interactions. The training is basically three months on-site and a five-month follow-up coaching. Fidelity and oversight of EPICS implementation is overseen not only by the command, but by the University of Cincinnati through its recorded coaching sessions and feedback.

Effective Practices in Community Supervision is designed to be used when needed by the officer. It is another tool in their tool belt. It is also designed to be used in certain circumstances; let us say there is an alcohol problem during a home contact. We may want to do EPICS with that offender. It is not like we say, This is a good time to implement EPICS. You do it subconsciously. You focus on the fact that the person used alcohol, they know it is a violation of their parole, they know they could lose their housing, lose custody of their children, but you do not want to crush an ant with a hammer, so you start talking about not necessarily the fact that they used the alcohol, but instead say, Tell me about what led up to you making the decision to do that. So you are focusing more on the event and not necessarily the sanctions that are going to come. You want to ultimately turn the behavior around. I believe the name EPICS speaks for itself.

I believe one relatable way to view this training is an example of raising a child. Do you actively engage them and discuss right from wrong and why the child made certain decisions that brought about negative results, or do you show indifference and hope they grow out of it? You engage in hopes to correct the behavior and ultimately, by doing so, you reduce victimization and recidivism. Effective Practices in Community Supervision goes hand-in-hand with the Division's mission and overall vision and supports our risk assessment tool. It complements our risk assessment tool. Is it successful? I would say absolutely 100 percent it is successful. If you help one person, then that is one less crime and one less victim. As of January, a total of 74 staff members have been trained in EPICS, and the University of Cincinnati itself found an increase in offender retention and compliance rates and reduced recidivism rates among officers who implemented EPICS training. There are multiple references on the Internet that support this statement.

Page 6 ([Exhibit C](#)) provides an overview of the Division's staffing and vacancies. Our Carson City academy started January 14, 2019, and has 10 cadets in it so far. The Las Vegas academy started in February 2019. The Department of Public Safety testified recently that despite applications significantly increasing, we have lost approximately 40 percent to retirement and 27 percent to better-paying jobs, so a total of 67 percent if you look at those numbers. In 2018, we as a department hired 106 sworn applicants, but lost 111.

Page 7 discusses the Division's staffing enhancements from 2017. We were extremely fortunate last session to receive the funding that we did. Non-sworn caseload changes were based primarily off of JFA Institute's projections and a PSI staffing study received from the National Council on Crime and Delinquency. In the last session, a study adjusted the PSI completion ratios for our specialists, so they dropped from about 18 to 1 to 13 to 1 and 16 to 1 comparatively, both north and south. As a result of that, we received more PSI positions so our writers were not being burned out. The Division has done a remarkable job filling these vacancies across the board despite the attrition rates I have previously mentioned. We had 83 positions that we were funded for last session. We have done a fantastic job in filling those. Prior to last session, we had the equivalent if not a higher vacancy rate than currently, and we received an additional 83 positions. This shows you how aggressive the Department's recruitment has been over the last biennium.

We have also released the majority of our critical fills. If you were here last session, the Division was just one division that had to hire past retirees as critical fills that came in to assist with some of the absolutely critical functions to support the Division due to some of the attrition rates that we had at the time.

Page 8 provides you with a snapshot of the Division's supervision caseloads. As you can see, it is roughly a 70/30 percent split between Probation and Parole. That is quite normal. The Division supervises approximately 21,000 offenders statewide. Per NRS Chapter 176, Parole and Probation is statutorily required to use contract services of an independent contractor. The caseload projections are based on actual caseload data provided by the vendor. Any agency that is run on a caseload has to have someone come in and run projections to see what the staffing vacancies you are going to need down the road. That is basically what James Frank Austin, or JFA, does. Please remember that an offender may have more than one instance of active parole or probation that they may be serving a term of supervision on.

A new supervision module rolled out in October 2017. I touched on this briefly earlier. The supervision module is in line with best practices and national standards in that we have to focus less on the low-risk offenders and more on the high-risk offenders. As you can see from the slide, our supervision pods are low, medium, high, et cetera. Case numbers in those units tend to fluctuate and we are in a period of transition. We have vacancies and are also training a significant amount of new officers. We are not quite where we want to be, but we are moving in that direction. Obviously vacancies, when you have a caseload, if you have someone vacate the caseload, we have to compensate for it and we adjust. We anticipate that with adequate staffing, this transition will go very well. It is important to note that contacts have been designed to the appropriate supervision level, so when you see 150 to 1, do not

panic. There are different contact guidelines and there are different reporting requirements for those caseloads.

Regarding our intensive supervision caseload, we supervise roughly 30 to 1 along with our mental health and veterans. Our sex offenders are 25 to 1 outside lifetime, and then our mixed, rural, or Spanish supervision is at 75 to 1. Then it [page 8, ([Exhibit C](#))] talks about our civilian staffing, which is our fugitive apprehension unit and state compact in pre-release units. Both the low-risk and the medium-risk supervision units, to give you an example, were created to supervise offenders who have acted responsibly, have demonstrated consistency, have remained compliant with their community supervision requirements for a continued period of time, and have required less oversight than obviously the higher-risk offenders. Both low-risk and medium-risk units supervise and hold offenders accountable in a manner that allows the Division to maximize our resources from a command and operational sense.

To give you an example, with our lowest, we might have a monthly report every three months, a personal home contact every 12 months with that offender, but we may pick 20 individuals off of our caseload to see if there are any compliance issues; whereas with our maximum supervision, we might have a monthly report every month, a personal home contact every four months, and then we will focus on 20 individuals on that caseload to see if there are any compliance issues. They can move between the supervision pods based off their longevity in the pod and how well they have been doing. They can move up and down if they are having a compliance issue or are doing extremely well and they have stabilized more. That is where the risk assessment tool comes in, so we can effectively assess them at the appropriate level.

That is the Division oversight. I am happy to field some questions and so will my deputy chiefs. Other than that, I am going to introduce different staff to come up and discuss Assembly Bill 8 and Assembly Bill 69.

Chairman Yeager:

We talked a little bit last session about this idea of honorable discharge versus dishonorable discharge versus general discharge. Would you fill in the Committee as to what the Division's practice is in terms of what kind of discharges there are? I would also like your thoughts on whether Nevada is in line with the rest of the country. I have a recollection that last session we said that it seemed like most of the states were going to more of a general discharge, and I wanted to ask if that was still the case. I am not asking for your opinion on what we should do, but just trying to get a lay of the land for the Committee.

Natalie Wood:

The trend is to go with the general discharge. That is the basic trend. Initially, when you had an honorable discharge or dishonorable discharge, it was meant so that it was more of a negotiation tool. If you came back around, you recidivated, and you picked up a new charge, you came back into the system; then they would look to see whether you received an honorable or dishonorable discharge to determine whether probation was going to be

recommended or not. The trend is now more to a general discharge, because there are some judges who look at it and some judges who do not. As a Division, we look at it as a general discharge but, as you can imagine, there are some political concerns on both sides of the fence with that because it is a bargaining tool.

Anne K. Carpenter, Deputy Chief, Southern Command, Division of Parole and Probation, Department of Public Safety:

At our Criminal Justice Coordinating Council in Las Vegas, we have talked about this with the defense counsel, with district attorneys, and with us. The trend is with the general discharge; however, in that small group there were a lot of concerns from the district attorneys and defense counsel. I think there needs to be a little more discussion about it.

Chairman Yeager:

I am not suggesting that we change it. In the context that there may be additional bills related to record sealing—honorable versus dishonorable is always an issue—if we have to get into that issue, we can get into it later in the session. I am not aware of any legislation that is seeking to change it, but it is always good to know what is happening. If you get to a point in that coordinating council when there seems to be a consensus reached, either in yours or a similar coordinating council in the rest of the state, please let me know. I think it would be helpful for the Legislature in making some additional determinations about how best to proceed.

Assemblyman Roberts:

Based on your caseload, do you have the ability to move those positions around throughout the state? If your caseloads get out of whack in the south, are you able to move some of those vacant positions from the north to the south to adjust for it?

Natalie Wood:

We try not to. We can move the core position control numbers (PCN). We could move them, but you are robbing Peter to pay Paul. Not only that, but we are so spread out across the state. We have, over the years, taken vacant PCNs from Las Vegas and repurposed them throughout the state, but when we backfilled those positions and hired individuals, we have gone back and repurposed those back to Las Vegas. Those PCNs are stacked at a ratio in order to maintain operations within that region. We can do it, but we try to avoid it if possible.

Chairman Yeager:

Are there any questions? [There were none.] Thank you for the presentation. Do you have a preference in terms of which order we should take the bills?

Natalie Wood:

I would prefer to take Assembly Bill 8 first since it is just a housekeeping bill.

Chairman Yeager:

I will open the hearing on Assembly Bill 8.

Assembly Bill 8: Revises provisions governing the levels of supervision for probationers and parolees. (BDR 16-346)

**Nicole Rosales, Sergeant, Southern Command, Division of Parole and Probation,
Department of Public Safety:**

Assembly Bill 8 was authored to update the current verbiage on our *Nevada Revised Statutes* (NRS) regarding our supervision levels and our assessments within the Division of Parole and Probation (the Division) ([Exhibit E](#)). This change will allow the Division to assess our offender population based on our current evidence-based practices utilizing not just the Nevada Risk Assessment System (NRAS), but any future assessment tools. Each of our probationers and parolees is assessed using the NRAS. The results determine their supervision level [page 3]. Their supervision level will also translate into how often we see that person. The more intensive the supervision, the more often we are going to see them in the office, the more often we are going to see them at home, the more frequent drug tests, the more programming we are going to try to get them into. The supervision levels help with decision-making for the types of programs that we are going to offer.

The Division recognized that we had an antiquated assessment tool, the Wisconsin module mentioned earlier. The previous tool was designed in the 1970s and it has been in use for decades; however, Wisconsin does not even use the Wisconsin module anymore. Although the tool had been validated as required, the measures had not changed with the times. The Division researched some options and we came upon the Ohio Risk Assessment System (ORAS). We adopted the ORAS, which is now Nevada Risk Assessment System (NRAS). As the NRS is presently written, the Division is required to conduct reassessments every six months. That every-six-months mark is based on the Wisconsin module that we are not using any longer.

The new assessment tool that was developed by the University of Cincinnati was proven effective, and it has been adopted by a number of states. The recommendation by the University of Cincinnati is that we review our offenders' supervision levels at least annually or if there are any significant changes to two of the domains. Now I can get into what domains are if you have a question, but if there are more than two changes to any of our risk domains, it would trigger a reassessment. That can come within 30 days, 90 days, 6 months, or a year of their instance of beginning probation or parole. Fidelity and adherence to the design of the tool will ultimately maintain our integrity with the use of NRAS.

The proposed update will allow the Division to tailor our current risk assessment frequency to the needs of the tool itself as well as the fact that in the coming months and years, we are working with the University of Cincinnati to validate this tool toward our specific population. Based on that validation, we may come up with a better frequency of need for assessment or a lower frequency of need. It is going to be based on the risk and needs of our offender population.

Chairman Yeager:

So NRAS is the instrument that Parole and Probation uses internally to decide which level of supervision the offenders should be on while they are on probation or parole; is that correct?

Nicole Rosales:

Yes, that is correct.

Chairman Yeager:

Chief Wood and I have had some conversations about the different instruments, and I think when we get to some of the recommendations from Justice Reinvestment—there was some interplay there. I want to make sure the Committee knows that. This is not something that would require you to go back to the court; we are not talking about adding or subtracting conditions. This is just in terms of how often the offender is going to be checking in or at what level they are going to be supervised.

Natalie Wood, Chief, Division of Parole and Probation, Department of Public Safety:

Exactly. It is a guide to say which supervision pod we put you in and, obviously, there is a peer-side component to this too. That is exactly what it is.

Assemblyman Daly:

If I heard the testimony correctly, there is some structure to it; it is not a matter of at least once a year and then, if something happens, that triggers their reassessment within a certain period of time. Where is the plan written down?

Nicole Rosales:

That will be written into our standing order and internal directives as to the frequency for our reassessments. It will be based on the offenders themselves, where they are placed, and the kinds of supervision caseloads that those officers are monitoring. In our higher-risk caseloads, those officers will be required to review the supervision levels every 90 days. Essentially, every time that we meet with someone in our office, at home, or in court, we are reviewing their supervision levels. We are constantly reviewing whether or not we have them accurately placed in the correct units. We will set our own internal directives to dictate that it has to be done at a minimum of every year or if there are more than two changes in their domains.

Assemblyman Daly:

We want to try to make sure people are being treated fairly with both the public safety and all this stuff on why we want to get the right people under the right amount of supervision, so hopefully we can get them out of the system and not have them repeat offend. It is not in regulation anywhere on what the Nevada Risk Assessment System is going to do. Would you talk about there needing to be a validation somewhere, either from the Cincinnati study or somewhere, to say that these are the protocols, so you cannot just change it and say, Hey, we are going to do this. I am trying to make sure there is not a chance for the human element of disparate treatment between people and what happens as much as possible. So there is a regiment, it is safeguarded, and it is validated. I just wanted to make sure that is the case.

Nicole Rosales:

Yes. Within the next year, through the validation piece with the University of Cincinnati, they are not only going to be examining our offender populations and how we have assessed them, but how accurately our officers are accessing them. That will be done with the University of Cincinnati. They will be providing that assurance that not only are we assessing our offenders, but we are also assessing them in the right manner. That will come basically every year and then every two years in between each validation study that they will do with us.

Assemblyman Fumo:

What is the average caseload per parole and probation officer in Nevada?

Natalie Wood:

It varies. If you go back to page 8 ([Exhibit C](#)), it will give you the average. It changes daily, but we show you what we ultimately want to get to: 150 to 1 in low risk; 80 to 1 in medium risk; 60 to 1 in high risk; and then it will give you the rough average of where we are.

Assemblywoman Torres:

I am taking a look at the NRAS and I noticed there are some things that are obviously unchangeable. So under Static Factors, if they committed a crime under the age of 18, they are getting a point. If they are single, they get a point. If they were employed at the time of arrest—there are a lot of factors here. Are there any ways for an individual to get it so those points are no longer affecting them?

Nicole Rosales:

There are dynamic factors and then there are the static factors, which is the criminal history. Some of the static factors, such as education, obviously we can work to help them improve those scores. The static factors, meaning their criminal history, is the only thing that we are not going to be able to change at that point. We have seen the introduction of the programming with education, our substance abuse programs, and our day reporting centers. Those scores for the static risk factors, such as the criminal history, start to play less and less of a role. The scores start lowering for the substance abuse and the education, and the real changes, as far as the domains that are different that we have not really examined previously, are peer associates and then their own criminal perceptions and attitudes. That is really what we are trying to target here—their perceptions and attitudes, which is where ethics come into play. The static factors do not play as much of a role. They may play a role in their placement initially, but as we are reassessing them, those other dynamic factors are going to determine if they move from a higher-risk to a low-risk unit.

Chairman Yeager:

Are there any questions? [There were none.] Is there anyone in Carson City or Las Vegas who would like to testify in support of A.B. 8? [There was no one.] Is there anyone in opposition to A.B. 8 in Carson City or Las Vegas? [There was no one.] Is there anyone in the neutral position on A.B. 8? [There was no one.]

Anne K. Carpenter, Deputy Chief, Southern Command, Division of Parole and Probation, Department of Public Safety:

The *Nevada Administrative Code* (NAC) specifically states exactly what you were asking. It is codified in the NAC and I can get that for you.

Chairman Yeager:

I will close the hearing on A.B. 8, and open the hearing on Assembly Bill 69.

Assembly Bill 69: Revises provisions governing residential confinement of violators of parole. (BDR 16-347)

Tom Lawson, Captain, Northern Command, Division of Parole and Probation, Department of Public Safety:

The purpose of Assembly Bill 69 is to grant the Division of Parole and Probation (the Division) authority to place a parolee on residential confinement in certain circumstances I will discuss in lieu of placement in incarceration pending an inquiry hearing and a possible hearing before the State Board of Parole Commissioners (Parole Board) that may lead to revocation. The goal is to give us an intermediate swift and certain sanction in our tool belt to prevent us from having to place an offender in incarceration for a violation that would not justify revocation. The point is that when we place them in incarceration temporarily, we have jeopardized their employment. We have jeopardized their ability to support their family, potentially losing their residence, potentially placing their children into foster care or placement to other family members, and it ultimately destabilizes their recovery. It is really counterproductive to what we are trying to do with their rehabilitation.

On page 2 (Exhibit F) similar authority already exists under *Nevada Revised Statutes* (NRS) 213.151, and this grants the Division the ability to place an offender on residential confinement as we are progressing toward a Parole Board hearing and potentially revocation. It talks about the inquiry hearing, and that is an internal probable cause hearing to ensure that we have grounds to push the matter to the Parole Board for hearing. We want to mirror that language and grant us the authority to provide and place someone in residential confinement when we are not pushing toward the revocation hearing before the Parole Board.

Section 1 of A.B. 69 talks about a modification to NRS 213.151, and it makes a reference to what is discussed in section 2, which is NRS 213.15105. *Nevada Revised Statutes* 213.15105 codifies the authority to place the offender on residential confinement. If you are following along in the actual bill draft, it is section 2, subsection 1(b), and it starts on page 3, line 1. It mirrors language that already exists in statute.

Section 3 of the bill modifies NRS 213.152. Subsection 7, on page 4, line 17 of the bill draft, is new language that discusses action by the Parole Board upon receipt of certain documents. In the process, how this would operationally flow is that we have offenders who commit a violation—not a serious offense, not domestic violence, not a driving under the influence, not a violent offense, but a technical violation or something—we would not seek to place them or revoke them and return them to custody. We would approach the violator, explain the

situation to him or her, and under existing statute, before an offender can be placed on residential confinement, he or she must agree to the residential confinement, and that would be part of the discussion. In this process, the offenders would be given the ability to discuss the modification of their parole agreement and this waiver process with counsel of their choice, and if they were to agree to waive an appearance before the Parole Board, admit to the violation, and agree to residential confinement and sign that they understand they are waiving this and that it would change their parole status. We would forward that waived agreement to the Parole Board and place them on residential confinement pending the Parole Board's review of it.

The bill, as written currently starting on page 4, line 17, is that the Parole Board shall modify the conditions of parole upon receipt of those documents. After this was written, we had some internal discussion, and respectfully submit that the panel considered amending that line to read "The Board may modify." We feel that the Parole Board's authority in terms of a check and balance and review of Division action is very important and should be maintained in this regard. By changing that one word from "shall" to "may," it provides the Parole Board the ability to judge whether we have appropriately applied the residential confinement to this offender's unique circumstance. Operationally how that would work out is that we have had a number of discussions with Commissioner DeRicco and the Parole Board regarding this.

Upon receipt of the documents that are listed in the bill, the Parole Board can take one of four actions. The first is to approve the modification as proposed and as the offender has waived. The second is that the Parole Board may request a hearing and that the offender be brought before the Parole Board in a noncustodial situation. The third is that the Parole Board feels the offender should be taken into custody. They will issue a warrant and will schedule a custody hearing and appearance. The fourth is that the Parole Board—assuming that the language will change—will be able to deny the request for residential confinement and say that we do not have grounds to place them on residential confinement. So to change that one word "shall" to "may" continues the Parole Board's authority and grants it the authority to review our action, and we respectfully submit that that power of the Parole Board be retained.

We have had a number of discussions regarding the bill with some of our community supervision stakeholders. When I spoke with Sally de Soto from the Office of the State Public Defender, she said she was not sure if she would be here today. I do not know if she is in the gallery, but if she is not here, she has authorized me to say that the Office of the State Public Defender has no opposition to this bill.

We have also spoken to the Clark County Public Defender's Office, the Washoe County Public Defender's Office, and I know their representatives are here today so I will not comment on their behalf. I have spoken with Holly Welborn from the American Civil Liberties Union of Nevada (ACLU) and Chairman DeRicco from the Parole Board.

Chairman Yeager:

It certainly sounds like you have done your homework. I certainly appreciate that on behalf of the Committee. It is always important to reach out to interested parties beforehand, and it sounds like that is what happened here.

Assemblyman Fumo:

I really like this bill. My concern with it is giving up constitutional rights. As far back as 1215 when the *Magna Carta* was drafted, Clause 39 says you do not lose life, liberty, or property without due process. James Madison in the 1700s put it into the Fifth Amendment of the *United States Constitution*. I worry about individuals waiving their right to a hearing just so they can be placed on house arrest.

Would you consider the person having an opportunity to discuss the violation with his or her attorney? If not, would you consider placing them on house arrest? I believe that currently you have 45 days to have your hearing. Maybe once they are on house arrest, extend that time to 90 days or 120 days to have that hearing so they can discuss it with their attorney and make an informed and intelligent decision before they are waiving that right.

Tom Lawson:

Yes, we have considered that. This process was drafted in consultation with the Office of the Attorney General representing the Parole Board as well as our counsel for the Attorney General's Office. That was some of the discussion we had with the public defender's offices and the ACLU to ensure that the offender did have an opportunity to seek counsel prior to accepting the waiver.

If I am the officer and you are the offender, and I talk to you about a violation, it is not a "sign here, sign now or you have to go to jail." These are the offenses we have observed, this is our plan of how we would like to address those in a swift and certain fashion. You do have the right to—it is spelled out in the waiver form itself. It has been approved by the Attorney General's Office and also provided to our community partners and the public defender's offices for their review. You have the right to counsel and, as an offender, you ask to exercise your right to counsel, and we have an obligation to grant you a reasonable amount of time to seek counsel for that. I would say that a month is unreasonable in terms of swift and certain sanctions. We have to be aware that certain offenders may try to drag this timeline out and delay the process to prevent one action or the other. But a reasonable amount of time of a few days, possibly a week given circumstances, because we know that the offenders do not set the attorneys' schedules. We have to be reasonable in our granting of a timeline for them to seek counsel. That was specifically part of our discussion last week with the public defenders as to how we would operationalize it.

Assemblyman Fumo:

To be clear, they are not going to be remanded and have to seek counsel in custody; they will remain on probation or parole for that time given that five-day opportunity to seek counsel at liberty.

Tom Lawson:

Yes.

Assemblyman Roberts:

I think you are doing a really good job of thinking of how to control your population better and give you the flexibility to do it. I know your aim is to reduce revocations or at least have some flexibility. Do you have an idea of how many revocations you might be able to not have to revoke based on your current caseload?

Tom Lawson:

This program ties directly into some of the statistics that have already been provided with the day reporting centers. Residential confinement may be used as the first sanction; it may be used as the third sanction. It just depends on the unique situation of the offender and what would be the most effective intermediate sanction to correct the behavior—hopefully the first time—to prevent further offenses. Do we have specific numbers? No, but if we look at some of the numbers that have been provided in terms of residential confinement—we have some statistics for fiscal year (FY) 2018 for our parole violations.

The total violations were 661. Of those, 140 were absconded, so this would not be applicable to them. There were 308 new charges and some of those may be applicable to them. If it was a violent offense, absolutely not; we would not seek residential confinement. Domestic battery, et cetera, would not apply. Technical violations would be our primary pool of participants. We are looking at 213 in FY 2018. Of those 213, how many were referred for revocation now—I do not have it, but we can certainly look into it if you need the answer to that question. That is our pool of applicants. If we are looking at a residential confinement cost, we would like the people to self-fund it. If they are not, then we are looking at an average between \$8 and \$18 per day in terms of cost for residential confinement versus the cost of over \$60 per day for NDOC incarceration. Beyond stabilizing the offender's environment and preventing unnecessary incarceration, the program also contributes significant savings to the state.

Assemblyman Roberts:

Your answer was completely sufficient; you do not need any follow-up.

Stephanie O'Rourke, Deputy Chief, Division of Parole and Probation, Department of Public Safety:

With this bill we are proposing, I want to make sure it is clear that if someone is placed on house arrest and he or she agrees or admits to this violation, it will not be used against him or her in the future.

Assemblywoman Hansen:

When you were talking about EPICS [Effective Practices in Community Supervision] earlier and thinking about the offender paying for the daily rate—\$12, \$15, \$16, whatever it might be—do we find the offender taking responsibility and having some "skin in the game" as part of the parole process to be effective, thinking about right and wrong, taking responsibility,

essentially a sort of restitution? I know there is some concern over the offender paying for it, but do we find that to be a help to them in a character way?

Natalie Wood, Chief, Division of Parole and Probation, Department of Public Safety:

When someone self-pays for house arrest, he or she has the ability to pay, whether it is through his or her family or themselves. When we did not have state-funded house arrests, those individuals were not afforded the opportunity of an intermediate sanction. We were seeking revocation at that point because we could not place them on residential confinement or house arrest. I think it is a valuable tool. I think it is a necessary tool. I think it is a huge cost savings to the state. It is important to ratchet up the supervision level for the offenders so they know they are being sanctioned, they know it is happening quickly and swiftly, and they have an opportunity to turn their lives around or correct their behavior, because the next step is incarceration.

Assemblywoman Hansen:

When the cost factor for the offender comes up, if they cannot afford it, then where is that cost picked up?

Natalie Wood:

Prior to state-funded, if the offenders could not afford residential confinement, they did not have that opportunity. If they could not afford house arrest, either from themselves or through the family, we could not offer it to them because of the private company, Sentinel Offender Services, obviously—they have to pay to be on house arrest. We recognized it and came in last session to say, We have a huge population we are not serving and we are doing them a disservice if we do not offer them state-funded. So we placed the cost of state-funded house arrest in our budget. As it turns out, it has saved the state a massive amount of money.

Assemblyman Daly:

When I first read the bill, I had similar concerns regarding some of the due process. I think changing the "shall" to "may" might make it a little better and I will reevaluate it. I assume the problem we are trying to fix with this bill is to not have to tell the person in violation, Here is the deal, either you can go back to jail, or we will take you into custody. If someone comes in, someone has to go out, because they are at capacity. It reads to me like, If you do not want to go to jail, you have to sign the waiver. Here is the choice. This is the deal.

I am looking at section 3, subsection 7, paragraph (b) where it says, "The agreement of a parolee to a term of residential confinement pursuant to subsection 5." Who is setting the term? I know it cannot be longer than the time they already have to serve. If they say, You have to be on residential confinement for 30 days, is someone else going to say, No, I want to make it 18 months for you? How is all of that set? I have concerns over the due process and people putting into this Hobson's choice where they do not really have one. Your form says that they can consult with the attorney, but then you are saying they do not have a lot of time, and then you are saying that the Parole Board is going to review this anyway. So what is the rush? I am trying to figure out what the problem is. I think everyone has a right to due process and that is just the American way.

Tom Lawson:

In regard to the term of the length of the residential confinement, the way the form says is specifically not to exceed 180 days or the maximum amount of time remaining on their term of supervision. We cannot place them on residential confinement beyond when they expire their supervision.

Your concern regarding the timeline of speaking with the attorney and the potential that it is presented may not give the person the option in a truly due process. I think that is addressed by the Parole Board's review of the action with the change to subsection 7. Even if we place this person on house arrest, residential confinement, the Parole Board reviews it, and the way Chairman DeRicco has explained it to us, this initial review would not be by the full panel. It would be individually, and when they get to the point where the majority of the commissioners have voted on it individually one way or the other, either to approve it or to request a hearing, then that is the action taken. The due process is retained by affording them the right to consult with their counsel before deciding to accept this, and the Parole Board retains the authority to review it and ask for them to be brought forward to justify their actions in either a noncustodial or a custodial situation.

The average time is about 30, up to 90, days on house arrest. The goal is not to place them on indefinite residential confinement. This is an intermediate sanction to address a specific violation of their terms of parole. We address that violation, and if we do not see continued violation or the path of self-sabotage in their rehabilitation, then we remove them from the residential confinement. As the Chief testified, when we oversupervise individuals who should be a low-level supervision, we can actually do more harm than good. Best practice in community supervision is not to over-supervise those who do not need the additional attention.

Assemblyman Daly:

I think where it might be useful is if you could get us that form. I would like to take a look at it and see what is in it so we can make sure all of the things we are trying to do are there. I appreciate that you do not want to oversupervise people, but you do not want to undersupervise them either. There is a public safety element in all of this and there is balance you have to make.

I am assuming the form has been in place or approved under the ex-attorney general in the state, or the current one?

Tom Lawson:

It has been approved through our staff that has carried forward from ex-Attorney General Laxalt to Attorney General Aaron Ford's administration. That has been consistent. In the beginning of January 2019, the form was reviewed by the entire Parole Board and accepted at its public meeting; I believe it was January 8, 2019. We will send the form over to the Committee for review.

Chairman Yeager:

Are there any questions? [There were none.] Are the day reporting centers (DRC) currently just for probationers, or is that something that is available for parolees as well?

Natalie Wood:

They are for both parolees and probationers.

Chairman Yeager:

I assume that this bill we are talking about is essentially a less severe sanction than the day reporting center. You would have the option of referring a noncompliant parolee to the day reporting center if you had room. Where in the hierarchy would this fit, or is this case-dependent?

Natalie Wood:

It is case-dependent. You can refer someone to the DRC and realize they are still having some compliance issues despite the oversight. You can use residential confinement to ratchet it up again. You could impose residential confinement while they are actively participating in the DRC; you could impose residential confinement before they participate in the DRC. It is interchangeable.

Tom Lawson:

To continue on with that answer, this bill applies only to parolees. The Parole Board does not have jurisdiction over probationers and any requests to add residential confinement on a probation would have to be approved by the court of jurisdiction.

Chairman Yeager:

Are there any questions? [There were none.] Is there anyone who would like to testify in support of A.B. 69?

Holly Welborn, Policy Director, American Civil Liberties Union of Nevada:

I would like to introduce Megan Ortiz, Boyd School of Law legal extern. She is going to present the remarks on behalf of the American Civil Liberties Union of Nevada (ACLU).

Megan Ortiz, Extern, American Civil Liberties Union of Nevada:

The ACLU has spoken with the Division of Parole and Probation (the Division) about this bill as was just cited by the Division. We support efforts to provide alternatives to incarceration. There was a Crime and Justice Institute presentation from the interim in October that cited 15 percent growth in probation for incarcerated persons, which is about 1,600 people in a growing population for being incarcerated for those violating probation, and about 2,350 total for parole and probation violations. An intermediate sanction before moving a person from their daily lives could affect their child care, their employment, their ability to take care of oneself and their family is something that we think is always preferred before incarceration and obviously leads to reduction in prison rates and saves on significant tax dollars for everyone's pocket. We will caution that we favor as much mobility as possible, and we prefer that the Division of Parole and Probation default to drop-in centers

before the heftier sanction of house arrest. We appreciate the Division for speaking with us, as they have also said, and we support this bill.

Chairman Yeager:

Thank you for your testimony, Ms. Ortiz, and it is fitting that you are here today on what I believe is Boyd Law School Day at the Legislature. I assume some of your classmates and colleagues are roaming the halls as well.

Megan Ortiz:

That would be correct. We will all be on the Assembly floor in just about 20 minutes.

John J. Piro, Deputy Public Defender, Clark County Public Defender's Office:

We are testifying in support of this bill. We spoke with Captain Lawson about our concerns and he addressed them. We think this is a good intermediate step before putting someone back in the prison waiting for a parole or probation hearing.

As I mentioned in the presentation Friday, the only thing we would ask of the Division is to do some data-tracking on how many times they use this intermediate sanction over the next biennium, such as the success rate versus the failure rate, how many times the Parole Board agreed with the decision, or wound up revoking someone that the Division felt should be placed on house arrest. I think those would be good data measures to track.

I would like to thank Deputy Chief Anne Carpenter for working with us during the interim on some of these solutions.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office:

We agree with these statements that were provided by the ACLU as well as Mr. Piro. We are hopeful that this will provide our clients with the ability to maintain their lives, employment, and housing while still working with the Division to ensure they are safe and stable in the community. We agree and support.

Chairman Yeager:

Are there questions for any of the people who testified in support?

Assemblyman Fumo:

I was reviewing the bill and did not see where a parolee would have five days or a certain time period to consult with his or her attorney prior to signing off on this. Are you satisfied with the language as written, or would you like to see something in the law? My fear is that when Parole and Probation gets someone and says, "We think you violated the terms," it is going to be a situation of "sign here or go to Clark County Detention Center," or "sign here and go to Washoe County," rather than explaining to that person that in the law you have a certain amount of time before we are going to do this so you can address these concerns with your attorney before you lose that important liberty right.

John Piro:

We addressed those concerns with Captain Lawson. That was my concern as well. Basically, you will be put in a Hobson's choice: You sign this for house arrest or you are going to go back right now. He assured us that would not happen. Obviously, putting that in the statute would make it a better law, but I would not let it hold it up. I would like to see some data-tracking on it.

Assemblyman Roberts:

Under the current process, they can revoke them with no questions asked and no attorney; correct?

John Piro:

Yes.

Chairman Yeager:

Are there any questions? [There were none.] Is there anyone else in support of A.B. 69? [There was no one.] Is there anyone in opposition to A.B. 69? [There was no one.] Is there anyone in the neutral position?

Christopher P. DeRicco, Chairman, State Board of Parole Commissioners:

I want the Committee to know that we believe the wording changes indicated with regard to changing the term "shall" to "may" is a good thing and everything that was represented by the Division of Parole and Probation was accurate with regard to this. I want to make sure the Committee knows it. We had discussions about courts—certainly on probation cases—authorizing and imposing terms of the conditions of supervision and probation cases, and that authorizing that change to the word "may" would also give that same authorization to the Parole Board, which imposes those conditions as well.

Chairman Yeager:

Are there any questions? [There were none.] Is there anyone else in the neutral position? [There was no one.] Are there any concluding comments from our presenters?

Natalie Wood:

Thank you for the opportunity to present. I will ensure that the Committee gets a copy of the waiver and if there are additional questions from it after you receive the copy, please send it my way and we will respond to them and make sure your questions are answered.

Chairman Yeager:

I will close the hearing on A.B. 69. [([Exhibit G](#)) was submitted but not discussed and will become part of the record.]

Is there any public comment in Las Vegas? [There was none.] Is there any public comment in Carson City? [There was none.] There is a joint meeting of the Senate Judiciary Committee and Assembly Judiciary Committee tomorrow at 8 a.m. located in Room 1214. This meeting is adjourned [at 10:48 a.m.].

RESPECTFULLY SUBMITTED:

Linda Whimple
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a copy of a PowerPoint presentation titled "Department of Public Safety Overview 2019," presented by Natalie Wood, Chief, Division of Parole and Probation, Department of Public Safety.

[Exhibit D](#) is a document titled "Re-Entry Status Update 2/5/19," presented by Natalie Wood, Chief, Division of Parole and Probation, Department of Public Safety.

[Exhibit E](#) is a copy of a PowerPoint presentation titled "[Assembly Bill 8](#): Supervision Level Assessments," presented by Nicole Rosales, Sergeant, Southern Command, Division of Parole and Probation, Department of Public Safety.

[Exhibit F](#) is a copy of a PowerPoint presentation titled "Nevada Department of Public Safety, Division of Parole & Probation," presented by Tom Lawson, Captain, Northern Command, Division of Parole and Probation, Department of Public Safety, regarding [Assembly Bill 69](#).

[Exhibit G](#) is a letter dated February 11, 2019, to Chairman Yeager and members of the Assembly Committee on Judiciary, written and submitted by Natalie Wood, Chief, Division of Parole and Probation, Department of Public Safety, regarding [Assembly Bill 69](#).