

Minutes of the ADVISORY COMMITTEE on NEVADA CRIMINAL JUSTICE INFORMATION SYSTEM (NCJIS) MEETING

January 11, 2012

The NCJIS Advisory Committee was called to order at 8:41 AM on Wednesday, January 11, 2012. Chief Pat Conmay presided in Room 2135 of the Legislative Building, Carson City, Nevada and via videoconference in Room 4412E of the Grant Sawyer Building, Las Vegas, Nevada.

ADVISORY BOARD MEMBERS PRESENT:

Chief Patrick Conmay, Department of Public Safety Records and Technology
Nevada State Senator Valerie Wiener
Nevada State Assemblyman Steven Brooks (arrived at 9:14 AM)
James Cox, Director, Department of Corrections
James Earl, Executive Director Technological Crimes Advisory Board, Attorney General's Office
Scott Sosebee, Deputy Director for IT, Administrative Office of the Courts
John Helzer Assistant District Attorney for Washoe County
Undersheriff Robert Quick, Lander County Sheriff's Office
Teresa Zellhoefer, Deputy Chief, Gaming Control Board

STAFF MEMBERS PRESENT:

Mindy McKay, Department of Public Safety, Records and Technology Division
Deborah Crews, Department of Public Safety, Records and Technology Division

OTHERS PRESENT:

Dianne Draper, Department of Public Safety, Records Bureau
Diane McCord, Department of Public Safety, Records Bureau
Ron Unger, Sheriff, Lander County
John McCormick, Administrative Office of the Courts
Laura Snyder, Administrative Office of the Courts
Pam DelPorto, Nevada Department of Corrections-Inspector General
Julie Butler, Department of Public Safety, Records Bureau
Patti Kelly, Washoe County Sheriff's Office
Debi Campbell, Washoe County Sheriff's Office
Teresa Wiley, Sparks Police Department

Agenda Item A – Call to Order-Verification of Quorum.

Chief Patrick Conmay:

The first item on the agenda is the call to order and the verification of the quorum. Ms. Crews.

A roll call of the Advisory Board verified the presence of a quorum.

Chief Conmay:

I will ask for public comment at the beginning of each topic. No one from northern Nevada or southern Nevada came forward to address the Board.

Agenda Item B – Discussion and approval of minutes from the last Board Meeting.

No comments or corrections were addressed. Chief Conmay entertained a motion to accept the minutes from the October 6, 2011 meeting.

Motion to approve the minutes was made by Mr. Earl and seconded by Mr. Helzer.

The motion to approve the minutes was approved unanimously.

Agenda Item C – MTG Protection Order Study Presentation by Laura Snyder, Administrative Office of the Courts (Exhibit A)

No public comment was made.

Ms. Laura Snyder, Administrative Office of the Courts (AOC):

Ms. Snyder presented an historical overview of the Brady Act, which enacted the National Criminal Instant Background Check System (NICS) standard. She noted that the State was able to procure funding to conduct a study to identify what the current status was and come up with recommendations. Project objectives were focused on all types of protection orders issued in the State of Nevada instead of just addressing just Domestic Violence protection orders. The study assessed the current environment regarding protection orders, surveyed a subset of Nevada courts, Advocates, law enforcement agencies and their business practices, and identified areas for improvement. The current state of the Department of Public Safety's protection order system capabilities was evaluated and determined the need to identify the underlying reasons for incomplete and/or unavailable NICS records where courts are the originator of the information, typically where protection orders begin. Business and system recommendations need to be provided to improve processes, practices and the system from tactical and strategic prospective and not just one jurisdiction. AOC was able to secure a \$151,000 grant for the study. We contracted with MTG Management Consultants for the protection order assessment and site visits. The AOC IT Grant Manager attended the site visits. Data gathering and assessment included 31 Nevada organizations. In addition, representatives in Connecticut and Florida were interviewed regarding their protection order processes and systems. AOC and Department of Public Safety staff met to discuss the results of MTG's assessment, which contained 54 findings. The key findings of the MTG protection order assessment were:

- * Non-Domestic Violence protection order applicants receive minimal assistance when beginning the process.
- * Law enforcement has a reduced ability to serve and enforce protection orders due to ambiguity in the language of the orders.
- * Untimely processing which minimizes the ability to enforce.
- * Non-domestic violence protection orders provide limited protection for the protected party; there is not a centralized system that allows the information to be shared outside the issuing jurisdiction.
- * Lack of service results in a lack of protection for non-domestic violence orders.
- * There is inequity in violation penalties between the different types of protection orders.
- * Nevada protection orders are not entered into the FBI's National Crime Information Center database (NCIC) therefore:
 - * Order is not known outside of the State of Nevada, so it's not enforceable outside the state
 - * Unable to search by protected party to confirm

"A Glitch in the System"

A real case scenario was shared specific to a case in Reno. A protected party obtained an emergency protection order after a domestic battery arrest. A Temporary Protection Order temporary protection order (TPO) hearing occurred and the order was extended for one year. The TPO was served while the adverse party was in custody. The extension was not data entered into the system. This prevented a valid arrest being made when the adverse party violated one of the conditions by appearing at the applicant's residence. The harassment continued and three days later the protected party was placed in a safe house. Once the glitch was discovered, it was fixed and a valid arrest was able to be made. In the investigation it was found that the adverse party had made over 50 threatening phone calls to the protected party.

Reference Handout 1: Current Conceptual View – A diagram of the current situation. Yellow boxes indicate places in the process for improvement.

Reference Handout 2: Florida diagram – The key point is that there is a single point of entry. The courts communicate directly to the sheriff's office, which is the single point of communication to NCIC.

Reference Handout 3: Connecticut diagram – Similar as to single point of entry; however the single point of entry happens at the judicial branch.

Senator Wiener:

Just for clarification in the introductory remarks I understood that this was based on the report that was from 1995 funding streams to do all the field surveys?

Ms. Snyder:

This survey that created the grant opportunity was in 1993 that created the Brady Act. The actual NICS Improvement Act occurred in 2008 after the Virginia Tech shooting incident, which created the authority to have the NICS Improvement Act.

Senator Wiener:

I didn't know what time reference we had on this, so this is relatively current information as to what we're doing to make improvements.

Ms. Snyder:

The study itself was done in July and August of 2011.

Chief Conmay:

Senator if you would like, Julie Butler is here and she can give us a real brief summary of what brought us here, if that helps you.

Julie Butler, Records Bureau Chief for the Department of Public Safety:

Ms. Butler gave a brief overview of the Brady Act as it related to the Department of Public Safety. The Brady Act was enacted in 1993 and it outlines 10 federal prohibiting categories for persons who are attempting to possess a firearm. In 1997 when the Virginia Tech tragedy happened, it was discovered that there were several loopholes in the Brady Act in that mental health information was not getting entered into the National Instant Criminal Background Check System (NICS), which is a system housed by the FBI and our state Brady program references and checks in terms of the transfer of firearms. In the wake of that tragedy, the NICS Improvement Amendment Act was enacted to strengthen the requirements of reporting mental health information to the FBI and to states that have their own Brady program, such as the state of Nevada.

We have known for a very long time that the protection order system in Nevada isn't perfect. In light of the NICS Improvement Amendments Act we partnered with AOC on this federal grant opportunity. The enabling legislation of AB46, which implemented the NICS Improvement Amendments Act in Nevada, allowed us to be eligible to receive this federal funding to study the protection order system in the state of Nevada. With that grant we have undertaken this study.

The study was not strictly limited to domestic violence orders. There were some 50 recommendations for improvement from the study.

Ms. Snyder:

A successful approach and plan of action will require close cooperation between the agencies involved and the courts. We've found that to be successful in several other areas that we've been working with, AOC and DPS need to regularly identify projects that will impact both the judicial branch and the Department of Public Safety overall. Critical drivers in the process of improving the protection order system are timeliness of overall process and victim/officer safety.

Making significant changes at the current time to the Department of Public Safety protection order system is impractical. The current Department of Public Safety protection order system is scheduled to be replaced.

Successful strategies to improve this process and the systems will require the leadership and engagement of a number of justice stakeholders and a multiagency governance entity to engender support and participation in making protection order-related improvements. We've seen the downfalls of not having such an entity in the current system.

Staffing and workload impact could be significant if technology-related investments are not made. Technology should not necessarily drive the process, but it certainly can help to resolve some of the timeliness issues.

Implementations of the strategic recommendations for new or replacement systems and processes must consider FBI, Department of Public Safety NCJIS, NCIC and AOC security requirements.

Some of the key recommendations are:

1. Establish a multi-agency governance body to implement recommendations.
2. AOC should provide a central Protective Order system protection orders for Nevada courts that includes all types of protection orders and electronically send this information to the Department of Public Safety. This allows direct communication to and from the courts.
3. The protection order system should include all types of protection orders and provide service notification information to the AOC. This will help to confirm the active orders immediately. The protected protection parties would be covered statewide.
4. AOC and the Department of Public Safety should continue to work cooperatively to provide the electronic hit confirmations and validations.
5. Establish a consistent protection order packet that includes a standardized law enforcement information sheet and a passport cover sheet.

Mr. John McCormick, AOC:

Currently we have standardized protection order forms. What MTG has recommended would be to use the passport cover sheet to provide key information on the first page. That sheet has been recommended to be used by the Supreme Court, but it is not required. AOC is reassessing the forms and deciding where they need to improve.

Ms. Snyder:

6. Another recommendation was to approach the Legislature to create the stronger penalties for domestic violence protection order violations so they can be in alignment with the other types of protection orders and the penalties are the same.

7. Approve assistance to citizens for non-domestic violence protection order violations.

Reference Handout 4: Conceptual View of some of the recommendations. Highlighted yellow boxes show points of improvement based on the new environment.

In a collaboration between AOC and the Department of Public Safety the next steps are to continue to present this information to the justice community to raise the awareness and garner support needed to make some of these recommendations a reality and to advocate for establishing a governance body to determine the strategic alignment with justice partners as a whole.

Chief Conmay:

Thank you, Laura. And as you look at the agenda today we are going to have another presentation and there's going to be quite a bit of discussion concerning governance. This and the next presentation will demonstrate some issues I think we have.

Senator Valerie Wiener, Southern Nevada:

In one of the bullet points I recall the technology is outdated and then there is rolling out new technology, and I don't remember what agency that is with. That technology is holding it up right now. What are we doing to create assurances that the system has integrity until we get the new technology and get everything up to speed?

Chief Conmay:

The Department of Public Safety is currently involved in a study looking at the entire criminal history system and to update it. I'll ask Julie Butler to recap that and state what is currently going on.

Ms. Butler:

We are currently undertaking a study of three of the applications that were written in a very old platform for the Department of Public Safety. One is our computerized Criminal History System, one is the Protection Order System and one is the Offender Tracking and Notification System. It does not make sense to spend money updating systems we hope to replace. The study is a roadmap of what we hope to undertake during the 2014-15 Legislative Session of what we need to do to replace that system. We've also been in discussions with AOC as to whether or not the courts should house a Protection Order system instead of Department of Public Safety. This is one of the recommendations that came through the study. Perhaps the Department of Public Safety doesn't need to have the system per se, except to provide notification to law enforcement agencies. In terms of today, the process is status quo. We are trying to do what we can to raise awareness regarding issues in preparation for the 2013 Legislative Session. We are doing our best to educate the criminal justice community on the steps that we need to take going forward.

Senator Wiener:

Again I'm concerned about the integrity of a process that we're hearing in the study there's some significant challenges in terms of the consumer of this, the people who need the protection. If we have these antiquated systems and we are talking about 2014/2015, or a few years out, raising awareness. I appreciate that and going to the Legislature to create equity between electronic and in person. I'm just concerned about is if there are gaps now how are we creating greater protections and equity for the people who need those orders?

Chief Conmay:

If I could asked Scott Sosebee with the Administrative Office of the Courts to address some conversations he's had with the justices and maybe shed some light.

Mr. Scott Sosebee, Deputy Director of IT with the Administrative Office of the Courts

I think Senator Wiener's concern is shared by those of us who have worked through these issues for some time. The study is the first step to gather the information to effectively address the issues, whether it's a technology or statute issue.

Mr. Sosebee:

This information was presented to the justices of the Supreme Court last week. From a technology perspective, from an organization perspective of getting the resources available to begin to address a lot of the issues you have concerns with, we are leading back to governance being critical and the key to address the issues. We recognize certain weaknesses; we just do not have the resources to bear to address those, especially from a technology perspective. Certain recommendations are substantial projects to undertake and require considerable coordination with agencies involved. We need to recognize who the appropriate stakeholders are and how to procure funding to move forward. The justices had some initial reservations when they were presented about what we're statutorily mandated to do, taking into considerations the resources we have. It is key to remember governance as the first step. Those who want to improve the system are looking for opportunities and ways we can bring everybody together to do that. I'm very hopeful that we're having this discussion.

Chief Conmay:

I know that's not answering your direct question. It's a question we have all been asking ourselves for quite some time. We don't have the quick fix type answer. You're going to see as we go through the next presentation that there are additional issues that need to be addressed. And I hope it's going to bring us in the final topic into a fairly intense discussion how we will address many topics that face this issue.

Mr. James Earl, Technological Crimes Advisory Board, Attorney General's Office:

There is one other issue that I'd like to mention just briefly, in part to assure Senator Wiener her questions are well taken. As the Executive Director of the Tech Crime Advisory Board, I provide advice to anyone seeking my assistance relating to similar concerns. From my discussions with the State Chief Information Officer, David Gustafson, the Director of the Department Of Public Safety is engaged with discussions with EITS concerning the mix of services the Department of Public Safety would receive and how those services, which were traditionally provided in-house, would continue in the future. There are things occurring outside of these briefings that go to both the robustness of the system and the technology and security in terms of updating the particular system.

Chief Conmay:

I am aware of those conversations and there are likely going to be some changes in the way business has been conducted. This will require much more active governance by this body or the body determined to ensure, as the changes occur, we don't lose sight of the criminal justice agencies' needs.

Mr. McCormick:

One key thing to point out that Laura did not highlight that Department of Public Safety and AOC are attempting to address now are those types of zero cost items which can be addressed now such as forms. The study has identified items that can be worked on now without necessitating large commitments of resources. It is a two pronged approach. While we talk about the larger aspects, we can undertake the smaller aspects now and try to improve as we move forward.

Chief Conmay:

Thank you. Is there any public comment concerning this? Anything in the south? Seeing none we'll move on to Agenda Item D which is going be a presentation by Julie Butler concerning the disposition study.

Agenda Item D – MTG E-Disposition Study Presentation by Julie Butler, Department of Public Safety Records Bureau (Exhibit B)

Chief Conmay:

I'm sorry, before we start is there any public comment as we begin this item? Ok, seeing none.

Ms. Butler:

Good morning again. For the record, Julie Butler, Records Bureau Chief, Department of Public Safety, Records Bureau. I'm going to start my presentation focusing on the study of disposition reporting in the state of Nevada and from there move to a discussion of a potential bill draft request for the 2013 session that I'm hoping will generate some very lively discussion from this committee. If you have any questions as I go through the presentation, please feel free to ask. Before I move on to the first slide, let me just give a brief overview of the Central Repository and a brief history. Central Repository was established in the 1985 legislative session to be the centralized filing cabinet for arrests and disposition information for the state of Nevada. It was one of the last repositories established in the nation. There is a statute that requires Nevada criminal justice agencies to check the records of the Repository first regarding felonies and gross misdemeanors before checking local systems. This is not currently what's happening in practice today. Part of what we're going to be discussing is why that is and some recommendations we think can improve that.

Why are criminal history records important? Accurate criminal history records are the foundation of every single thing we do in the criminal justice community. They are used by law enforcement agencies, prosecutors, courts, corrections, Parole & Probation, and social services agencies to protect the public.

In order for that information to be useful, the information must be complete, which includes all arrests, dispositions and sentencing information. It must be timely, meaning it's reported to the Repository as it occurs. It also must be accurate, meaning it's correct and reliable. There is a federal regulation for reporting court dispositions to state identification bureaus within 90 days of a final disposition.

Increasingly, criminal history records are used by employers and licensing agencies to screen job applicants/volunteers and protect vulnerable populations. In Nevada there are some 62 occupational fields, plus a myriad of local ordinances that require a criminal history records check prior to employment or licensing. It continues to grow. The term "background check" is somewhat misleading. A background check is really not what we provide. We provide a criminal history records search. When this information is not timely, accurate or complete, it can provide a false sense of security to the public. Awareness needs to be raised that we are not checking credit, employment, references, etc.

The AOC and the Repository have been working since 2004 to automate the exchange of disposition information between the courts and the repository, with the goal of getting to that accurate, timely complete situation that we need to make sure for our users. This process was piloted with two courts – one in Carson City Municipal/Justice Court and one Las Vegas Justice Court with minimal success. The problem is we lack a common identification number that follows the subject from initial arrest throughout the process.

We stepped back and took a look at the process. AOC and the Repository partnered on a federal grant to conduct a business analysis of the manual disposition reporting process in Nevada. MTG Management Consultants was selected in May 2011 to conduct that business analysis and recommend a path forward for us.

MTGs Methodology:

MTG interviewed key staff from the AOC, the Repository, from local law enforcement agencies, prosecutors' offices, and courts to learn how information is shared through the arrest and conviction cycle. There were five local agencies interviewed; Carson City, Clark County, Washoe County, Elko County, and Churchill County.

MTG's principal findings were that Nevada suffers from incomplete, inaccurate, and untimely criminal history record information. We are not unique. Every repository nationwide suffers from this problem.

The other major finding in the MTG study was that a lack of governance contributes to poor record quality. Disposition reporting is slow. Our reluctance to mandate that formatting is because we know that local agencies are strapped for resources. Often times we get duplicate dispositions. We know we are missing dispositions, and we get dispositions out of sequence. The other thing that contributes to poor record quality is that there is a statute in the NRS that currently says that the agency that creates a criminal history record is the one that should report to the Repository. What happens in practice is it's not that simple. There is confusion about who reports what and when.

Other Findings:

It's clear from the MTG study that the users perceive Repository information as incomplete. However, some users don't submit the information to us, instead relying on their local systems. The problem is that it is just that, local. One agency stopped reporting dispositions to the Repository altogether for a period of four years, which was discovered through this study.

Another key finding is that person information passed to downstream agencies before the identity is verified through fingerprints.

Another problem that is common throughout the state and one of the reasons we have such a difficult time matching arrests and dispositions, is that there are vocabulary problems that are inherent in our system that lead to poor matching rates. The same acronym means different things to different groups, and that's the difficulty in matching, such as PCN. PCN at the Repository is Process Control Number but at a local agency it means Probable Cause Number. Another example is State Identification Number, or SID. This is the number the Repository assigns to denote the individual's identity and that he has a criminal history record. In Clark County SID means Scope Identification number.

Another example is there is a high level of manual intervention required both to track down the dispositions and match them up to the arrest events. It is inefficient and duplicative. Prosecutor involvement is really, really critical but it is largely missing in the state of Nevada. What came through in the report is some prosecutors view themselves as the official charging agency in the county and don't feel a responsibility to report to the Repository when arrest charges are modified or dropped altogether. This is problematic for us because our information and the information law enforcement needs is arrest based versus case based. This makes disposition matching at the Repository incredibly difficult without those common tracking numbers and the vocabulary meaning the same thing. There is no accounting to ensure the movement of critical data between agencies. The arresting agency does not ensure they sent five charges to DA and verify that the DA did in fact receive those five charges. The DA drops two and adds one before it goes to court. Did the court receive the correct charges from the DA? There is no accountability in terms of what you sent is what we received.

Lack of Governance: Some Recent Examples: NOC, GangNet, CAD/RMS, Protection Orders

Nevada Offense Codes were part of the study and Ms. Butler provided a history. Nevada Offense Codes are a numerical identifier to identify every single criminal offense in the state of Nevada. These codes have grown to over 10,000 Nevada Offense Codes (NOCs). There was not a lot of coordination between local jurisdictions and the Repository. In 2006 a stake holder group met and decided to go with an 11-character NOC that would allow the users to look at a NOC and be able to tell whether or not it was a crime against person or property, type of offense, whether it was a local ordinance or state statute, etc. The problem is we decided to implement this new NOC structure without adequate funding, without an understanding of state and local systems, without a dedicated management of the NOC process, who was going to implement, who was going to move forward. We now have three different sets of NOCs. The Repository system is so old it can't even accept 11 characters. To bridge the gap we created transitional NOCs. What came through loud and clear in the study is the NOC system is a mess.

Mr. John Helzer, Assistant District Attorney for Washoe County:

When you discussed the original and the transitional NOCs there is something I don't want to forget for later. I have heard in the past references saying when the Repository gets the ability to receive the 11-digit they will, yet in the interim people are being asked to use the 5-digit. It became a concern among several people saying if we make this effort and we provide the 5-digit transitional and then the Repository obtains the ability to receive the 11-digit, are they then going to want us to submit the 11-digit or is there going to be some automatic transformation of the 5-digit?

Julie Butler:

Thank you for the question. There is a one-to-one mapping between the 5- and 11-character system. We will be able to take both in the future. Scott maybe you can answer that a little more because you are involved with IT.

Scott Sosebee:

I think the intent would be to move to the transitional now and then as you are updating your systems or when the opportunity presents itself you would then transition and build in the functionality to be able to do the 11-character. There is no expectation at this point that someone should have to update or modify their system to accommodate the 11-character.

Mr. Helzer:

Just to be clear I can tell you that Washoe County is going to New Dawn technology just as we speak they finished it and use the transitionals. We're not going to a new program in the future, so there wouldn't be a request to go to the 11-digits, we'd stay with the 5 because that's what we're going to implement.

Mr. Sosebee:

I would also recommend while that system is being put into place I don't think there would be any harm in building in for the 11-character at that time. I'm not sure where you are in your development cycle, but basically what the request would be is to add another column to your charge table. It is a one-to-one.

Ms. Butler:

I think again this gets back to the governance structure we're seeking to implement. And I think that would be a perfect decision for the governance body to say at what point would there be a mandate that everyone would move to the 11-characters. And if so, when would that occur and what would the expectation be. That is a perfect example of the decision that we would hope as we get further on in this discussion of what would be made by the governance body we're seeking to establish.

The GangNet system is an example of a grant funded system with no long-term plan for sustainability. In 2005, the Attorney General's office convened a task force to study criminal gangs in Nevada. Out of the study came a recommendation that there needed to be a centralized system to track criminal gangs within the state. The recommendation was that the state should adopt the GangNet system, which was being used in California, the Las Vegas Metropolitan Police Department and the Reno Regional Gang Unit. The Office of Criminal Justice Assistance gave a federal grant to the Repository and the Department of Corrections to set up a state-wide gang intelligence system. In 2009, the Repository set up this system. In practice, some of the smaller local law enforcement agencies have no need for GangNet. The demand is not there. The state is questioning whether this is cost effective. At some point we're going to need to replace the technology and equipment. There is no long term plan because this was funded by a grant. Is there enough need to sustain this?

The Computer Aided Dispatch (CAD) and the Records Management System is another example. In the fall of 2011, the Department of Public Safety went live with a new CAD/RMS for the Department of Public Safety, for other state agencies, and for some smaller local and tribal law enforcement agencies. There was tremendous need for this system. The RMS is a tool that every modern law enforcement agency needs to do business competently. The former DPS Director was able to secure grants for these projects. Again, it was grant funded. The long-term maintenance costs of this system are going to be significant. The significant thing that is lacking is a governance. How are we going to maintain it? Who is going to decide if changes need to be made to the system, and how will changes be implemented? In theory maybe court assessments should cover some of this since it is a criminal justice related function. However, the courts assessments are not adequate.

Chief Conmay:

I would like to point out that this was a critical need and it was funded by grants. The need will continue. We're going to have to figure out the long term maintenance and what is lacking. This system operates on behalf of multiple agencies. Each agency is going to have its idea of what would be a nice enhancement or where we want to take this. Without some governance to make decisions so that we're not trying to do everything that everyone wants, it'll become unwieldy. We're not saying it was not a good idea. What we're saying as these or other things come up, what's lacking is governance to guide in the future.

Ms. Butler:

Thank you and I'm sorry if I implied that the CAD/RMS is not needed.

We heard earlier from Laura about the Protection Orders and the need for a better way.

If I leave you with nothing else today, I'd like to impart that the system is broken and technology is evolving too rapidly. It's getting too complex to have each agency doing its own thing and expecting at the end of the day the Repository is going to make it all work. We've briefed the Committee before on other systems with similar challenges. Business as usual is no longer an option. The Repository is going to continue to struggle to provide these necessary services to our users.

MTG made several recommendations for a new, integrated Criminal Justice System and a plan for implementation over a 5-year period with an effort by the entire criminal justice community. The first step is to establish a governance body and make that happen.

Chief Conmay:

Julie, I would like to step in here because I think this is going to get us into a lengthy discussion. I would like to recommend a break and we are back at 10:15. We're going to get into a Bill Draft Request concerning governance that I think is going to generate some lively discussion.

Mr. Helzer:

Before the break I understand that you might want to go on to the Bill Draft, but on the agenda it clearly indicated that we would be having discussion of the MTG study and presentation, and I have several questions about some of the things that have been represented today as being findings and conclusions that I can't really locate in the materials I have. So I would like to have as set forth on the agenda, a discussion of the MTG study and effort prior to going on to the Bill Draft.

Chief Conmay:

We can do that. There will also probably be some time taken up doing that, and I didn't mean to imply we wouldn't. I think the governance is part of that discussion. We will come back to that.

Mr. Helzer:

I respect that. I just see the Bill Draft invoking some lively discussion and before we get there I have some questions about the study, some things I've personally observed and I just think those should take place. Then we can consider the Bill Draft.

Mr. Earl:

I agree with that and would also like to have some high level discussion before we go to the Bill Draft because surprisingly enough I learned only earlier this week that the problems that Julie and the Department of Public Safety and others face dealing with the NCJIS system are, in fact, very similar to some problems that exist right now in the Secretary of State's office in terms of putting together a business portal. And I'd like to mention that a little bit because some of the problems they have in terms of implementing a new system, where a single set of information, a database, is used by a variety of users and all that information has to be the same, while they're trying to set up a new system, you folks because of the funding that was taken from the NCJIS pools by the Legislature over the past couple of years haven't been able to update your systems and you're thinking about how to jump now to a new system; which is essentially rock bottom and involves the same problems that that Secretary of State's Office has, which is you want to have a single large data repository that is used by a number of different users all across the state, but it's really important that the information contained in that repository is the same to be able to populate the different uses that different users make of it. That's a larger big picture discussion as opposed to talking about particular portions of the Bill of Draft.

*The Board voted unanimously to adjourn at 10:07am for break to return at 10:15am.
Convened at 10:18am.*

Chief Conmay:

As we're trying to take minutes and I know we're going to get into more lively discussion, if everybody could try to remember to identify themselves, myself included, when we speak, it'll help as my staff try to take minutes.

We'll get back on the record here and we'll have a discussion now about Agenda Item D and the disposition study. I think there were some questions about some of the points in the study, if somebody has a comment.

Mr. Helzer:

I just need to go through a few things. I'm looking at the first page of your PowerPoint and it references why criminal histories are important and I don't think there's any doubt they are. But you made reference, Ms. Butler, to the Fed's requiring a report within 90 days. I was present when the site visit took place and one thing I asked MTG was "were they aware of any issues or concerns that had come down from the Fed's?" They were not. Are you saying there's some indication from the federal government that because of our problems that we're experiencing, which seem to be evident in every other state, that we're at risk or something for our Criminal Repository records or access? Because I did not get that impression from the consultants.

Ms. Butler:

In terms of them imposing sanctions, or anything of that nature, no. The 90 day regulation has been in place for years but it has never been adhered to. Part of the NICS Improvement Amendment Act, imposed after Virginia Tech tragedy, one of the requirements is that every year states are required to report the quality of their records to the U.S. Attorney General. We're supposed to be measuring accuracy, timeliness and completeness, which is important to grant funding. It behooves us to make improvements in this regard so we can go after those federal dollars in the future.

Mr. Helzer

Not trying to jump around too much, but the histories of the E-Dispos, which the study with Carson City was referenced and there was minimal success. Was that an effort that involved the Carson City District Attorney's Office providing disposition information such as charging decisions, dismissals, did it include that?

Ms. Butler:

I don't know. My understanding was what we were trying to do was automate once the information was from the court to the Repository. One of the things that wasn't covered in the study, it was the Carson City District Attorney's office that was not reporting information on behalf of the courts for a period of four years. Maybe Scott you have additional insight on the Carson City matching issue.

Mr. Sosebee:

I can speak a little bit to the success and failings of that pilot. When we initially put that exchange live, and it was from the Carson City Justice and Municipal court to the Repository, our initial success rates were in the 60-70% finding. Then they dropped off to where we were matching less than 10%. When we did some analysis on that, we determined that they had made a change in their information system, which changed the PCN number that was being reported. Once that change was instituted, we had a significant drop. We have some pretty significant systemic problems beyond just the ability to move the data. They can move the data but can not match the data.

Mr. Helzer:

Thank you. I did hear reference when a discussion took place about NOCs that there was buy in from the District Attorneys' Association, there were still requests for clarification about the usefulness, the applications. Some of the things I've already discussed. While there may be initial buy in, there is still value to have another discussion with them now that there are new members. I know that at the last meeting in October the proposed Legislation was discussed and the need for governance was discussed. A lot of the things we heard then are represented today. What I'm hearing today and I'm having a little trouble with, is the need for the governance and strengthening the governance committee is strongly supported by the MTG study and I don't know if I'm able to glean that out of this or that's a conclusion. What I see with the MTG study is a lot of observations, with an indication of what really needs to be done is to get to the brass tax. I see statements, but the conclusions that preceded this effort by the consultants were that we needed stronger governance. I don't see where that is a recommendation or conclusion of this study. Maybe it's within the site studies. I don't have a problem with the recommendation or the discussion that's coming; I just had an issue as to whether that was a conclusion of the consultants.

Ms. Butler:

To answer that, we have known for a long time that our records are not timely, accurate and complete. The backlog that we had of dispositions (over 300,000 years ago) have been slowly chipped away. What this study served to do was just confirm our suspicions that we need more accurate, complete and timely records. We've also tried to engage the committee to say that, as it's structured now, where we just provide informational reports to the committee, is not quite useful. What we're looking for is a group or body to engage in the strategic partnership.

This is larger than an IT committee. What we're looking to do is engage a strategic policy committee that would make directions for the entire criminal justice community. In terms of the overall findings, on page 5 of the study it talks about the finding that there's no single point of ownership or authority that exists for the overall criminal history reporting process in Nevada. We've tried to engage the committee on four separate occasions in the last couple of years to say that NCJIS Advisory, as it's currently constituted and as it's rolled out, isn't it. Chief Conmay uncovered some information in historical files, this committee did make those policy decisions and they did do topic papers, patterned after the FBI's Advisory Policy Board, where the locals would come to this body to make decisions on what we will do as a state. Then the policies would be implemented. This committee was disbanded somewhere around 2000 and reconstituted in 2005. Since the reconstitution there have been no teeth, causing us to flounder.

Mr. Helzer:

I haven't really been involved with the consultants' report without the consultant being present. I would have preferred to question some of the items within the report with the MTG representatives. Is there some reason they weren't here today to discuss their own report?

Chief Conmay:

There is a reason and Scott can address that.

Mr. Sosebee:

We did attempt to schedule them to be here. They had a scheduling conflict and at that point it was decided we really couldn't change this meeting. Originally the intent was for them to be here and present their findings. But when we couldn't accommodate the scheduling, Julie Butler decided to present.

The preliminary findings report is just that. It's not the final report that MTG released. That was just reviewed and finalized at the end of December. It was my expectation that we were going to have an executive summary of their findings for the Advisory Committee today and I'm not sure if we received that. But I think that would answer your question regarding why the findings report does not demonstrate the governance recommendations. There is a secondary aspect of this study.

Mr. Helzer:

Thank you and perhaps those could be provided when available. I recognize there is need for action, as well as discussion, which will not be ignored. I wanted to acknowledge that a lot of what is in that proposed legislation I don't think is necessarily reviewed and endorsed by this consultant. It's our solution to what has been observed as weaknesses in our system. I would like to address a couple of more things.

Chief Conmay:

If I could just interject one comment. We began discussions about our belief that there was a need for some better governance operation before this report. We've been talking about that to this committee for some time. This report came out independently and made the same findings and we're reporting here today on this report and pointing out that they're seeing the same issues in a variety of areas. I don't want to leave the impression that we now think we need governance in these various areas because of these reports. This is something that we felt was necessary even before these reports were generated.

Mr. Helzer:

I acknowledge that those discussions preceded the report. If available, I would like to see the Request for Proposals for clarification as to where something is going and being directed.

Ms. Butler:

The Administration Office of the Courts engaged in an interview process to retain a consultant. They do not have to go through a request for proposals process.

Mr. Sosebee:

We did do a Request for Proposal process for that. We can provide those materials. There's no reason why any of the deliverables from the study or project can't be delivered to the committee. It is an overwhelming amount of information.

Mr. Helzer:

I didn't want it all. It's just that the RFP is concise. I mention it because I'd still like to know where we are in the process that there's an executive summary coming and is there an availability to ask them to do certain things. What I had been hoping for when I reviewed the report was some kind of a triage. Does the arrest information match with the disposition? We're returning to filling in the gaps. I was hoping there was some kind of game plan, here's where to put your efforts first because of public safety. I also didn't see any recognition or discussion of who's going to pay for this. What is the funding? Are these going to be mandates that are unfunded because everyone is inundated with doing more with less? I don't see the balancing between the study, findings, resources, allocations, cost, how to get there and what is reasonable. This is a huge realization as to what you want and what you can do.

Chief Conmay:

The draft report that I saw does propose a series of projects and an order by which the consultant thinks those projects might be completed. My perception or my idea concerning the governance is then the governance body, if it were in place, could look at those recommendations and make decisions "yes, we like recommendation #1, and no we don't like #2 and here's the order we're going to do them in". "And here's the timeframe that this could occur. And here's what we're going to take to the Legislature, if necessary, to ask for the kinds of funding we're going to ask for or not ask for." To me the critical component of the governance is the funding. If we have these shared services and particular agencies wish to do particular things that impact the shared services, the governance body would then attach some priority and decide for the good of the whole. Just because a consultant or entity says we want to do something, the body has to make a decision whether or not the long term goals are achieved and whether we want to spend the money on it.

Mr. Helzer:

Thank you. I have other questions, but I've been satisfied with the ones that really needed answers. I appreciate your indulgence.

Chief Conmay:

Any other comments?

Mr. Earl:

The parallels I want to draw between the problems faced here and the problems as I see them in the Secretary of State's office are motivated by something that motivates all of us, which is to do the best that we can for both the state and all of its subdivisions in terms of providing the services efficiently and without duplication. Without duplication means without spending massive amounts of money. I'm not interested and not suggesting that the NCJIS system become part of the Secretary of State's portal. I see what's going on in a variety of different departments in the state and their interface with governing agencies at the municipal and county level. Clearly the NCJIS system does that type of interface in the criminal justice information system. I want to draw a parallel. There is a single data repository, which is a very large database, on which a number of user agencies draw. You want to have rules, you want to tighten up who puts information into that database and who takes information out of that database to ensure it meets the needs of your users, and the information is accurate.

And the same information is used to populate different types of reports. The reason I've been able to participate since the 2005 reconstitution of the NCJIS Advisory Board goes to the issue of governance in my own organization, Tech Crimes Advisory Board. I report to the Board. I feel, as part of the accomplishment of my Board's mission, a need and a responsibility to support the agencies that are represented under my Board. Earlier this week I was asked by EIT to accompany them to the Secretary of State's Office for discussions on implementation of the Nevada Business Portal. As some of you know, there are special statutory provisions made in the last session regarding the business portal. Until relatively recently, the portal was going to be designed, built and operated on the basis of an outside contract. For whatever reason, that fell through, and the Secretary of State's Office is now in the process of moving or attempting to move that type of outside contractor functionality into EIT, where EIT would provide the database functionality and the software necessary to support the business portal. The business portal, not unlike NCJIS, is designed at a very high level to provide different types of services. The information contained in the business portal database would be used by other state agencies and local and municipal government agencies, like the entity within Clark County and within Reno that issue business licenses. There are some problems the Secretary of State's Office faces that are not unlike the problems that you folks are facing. All I'm suggesting is that when the Department of Public Safety and NCJIS think about how to move from the antiquated system that has been operational with band aids and chewing gum for the last 15 years, that you consider in that transition whether it is appropriate to consider as an analog to the NCJIS Information Sharing System, the type of Info Sharing System that is being introduced within Secretary of State's Office and EITS to serve various agencies in much the same way the Department of Public Safety shares information with other criminal justice agencies at the state level and with local entities. The interesting thing is that when the Secretary of State's portal is introduced, the actual physical transmission layer of the information will be the same over the Silvernet System, with an additional layer of commonality because that system is managed by EIT. That's the only reason I wanted to bring that to your attention. There are some parallels and I happen to have a view into the way other departments are doing things. I would suggest longer term we think about whether there are parallels regarding major amounts of data that are being moved around to various users through the state that might influence the way you transition the NCJIS system to a new system, both hardware and software, over the next three years. The Secretary of State's solution might hold solutions to how NCJIS transitions.

Chief Conmay:

My staff and EIT staff is currently engaged in meetings to do just that. In fact, there's a meeting this morning where we're having discussions about what is possible or not possible. The technology aspect of this and the governance that we're talking about at this committee is critical. I want to remind the committee that technology is not the only responsibility of the committee, although everything we're talking about is essentially related to technology. I feel like the things that you're suggesting probably need to occur.

Ms. Butler:

If I could also add, MTG did recommend a path forward to us. In subsequent studies that were just released after Christmas, they did recommend an action plan for us to follow over the next five years, in a series of very detailed, very complex phases. I chose not to bring those to your attention this morning, because I felt that would be putting the cart before the horse. Here's the solution for this new multi-million system before we step back and ask the critical question – "Do we really want to go there?" "Do we want the system?" And then if it is decided to move forward, and we get the buy off from this body or a similar body, then what do we do in terms of each of us going back to our own respective agencies and saying how do we make this happen. There is a plan to go forward. We have the choice of adopting MTGs recommendations and their path or opt to use other recommendations. That's a decision we would ask if there's buy-in from the governance committee.

Chief Conmay:

Thank you, Julie. Any other comments regarding Agenda Item D? Anything from the South? It kind of transitions into E which is a Bill Draft Request concerning the establishment of some governance body.

No comments.

We have submitted a proposal for a Bill Draft Request, and I want the committee to understand this is one idea. We want to have some lively discussion about it. I know it raises some concerns for people about what are we trying to do. We want to have some open discussion about it. Julie is going to present what was behind these suggestions, and then we'll go from there.

Agenda Item E – Bill Draft Request for NCJIS Governance Establishment Presentation by Julie Butler, Department of Public Safety Records Bureau (for discussion and possible action) (Exhibit C)

Ms. Butler:

In terms of moving on, I've changed this just a little bit from what was e-mailed to you last month in that we've added a bill digest to give you a summary of what we're trying to do. We're not trying to usurp authority or control any individual agency. We're not trying to make this an IT committee and I really need to stress that. Although the IT systems are one means on how we plan on addressing the problems. It is our intent that this is a policy and a strategic committee to set the tone for the criminal justice community statewide.

Starting off in the bill we felt it important to start off with some definitions because they don't exist anywhere in statute. The first three parts of our proposed draft defines CJIS to mean the Federal Bureau of Investigations Criminal Justice Information Services division. Then we felt it important to define NCJIS because although we all refer to NCJIS, amazingly enough it's never actually been defined in statute. We defined it as that collective set of criminal history and public safety databases maintained by Records and Technology and accessible by agencies of criminal justice at the local, state and federal levels. Finally, we felt it important to define what criminal justice information and this is adopted really from the FBI's definition in their new CJIS Security Policy to mean that abstract term used to refer to all CJIS and NCJIS data provided necessary to perform our missions.

One of the findings from the MTG study was that there's a confusion created by this particular NRS (**NRS 179A.075(3)**), which says that each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues and any information in its possession relating to the genetic markers. This has not worked so well in practice. The Repository has trouble with District Attorney modifications to charges. We added the word "modifies" so that it's clear there is a responsibility for the agency if they create it, change, or finalize it, they are responsible for reporting that information to the Repository. The other change in that same paragraph, we've changed sub-paragraph C, they're responsible to report the information to the Repository through an electronic network, which is the NCJIS system, in a manner prescribed by the Director and in a time period prescribed by the Director. Chief Conmay was conducting research and there was a bill draft years ago that actually when this initial language was adopted said within 30 days. That didn't make it through session. That would be a decision for this committee to determine what would be a reasonable time period. Going further, as far as the responsibilities of the central Repository to house and maintain the Nevada Criminal Information Justice System and the computerized messaging switch for law enforcement and then to serve as the FBI's CJIS Systems agency for the state of Nevada because that's not been in statute although it occurs in practice. Any questions so far?

Mr. Helzer:

I was looking at the first page; paragraph 3 that you referenced caused some concerns. When it gets to the recommended adding of modified, I didn't see in the MTG study addressing the value. I'm aware that it would be helpful occasionally. What is most critical is what was someone booked on and what was the final decision. I've never seen any effort to say what it would take to provide that information. It's not that District Attorneys don't want to share their information because it's a burden; they just don't think it's necessary. It takes time. It seems that taking the time to answer questions by phone versus this huge effort to say everything you do by modifying the charges once the booking has taken place. The perception is that unless substantial need can be shown to justify the big expenditure that's going to be involved, or unless the committee will commit the State of the State will commit providing the funds to do that, the suspicion is that because there has been a long term failure to match the arrest records with the disposition, this is viewed among District Attorneys as a way to get the District Attorney to help with the matching. This need to be addressed. If you add every little change, though it sounds good, it wasn't long ago that we were discussing the complexity and how confusing criminal records can be to the average person trying to read them. That's my first comment.

Ms. Butler:

I think what I'm most care about is if law enforcement brings that individual in on five charges and two are dropped, we need to know what happened to the other charges, because that's the way our system works. We need a notification from the prosecutor.

Mr. Helzer:

It's probably needed for the individual citizen. I've seen it impact on immigration proceedings. If this comes down as a mandate, I'm saying send it down with money. Although there's a recognized need, I'm back to weighing the return for the expenditure.

I did note when you referenced 30 days as the time period. Are we talking about the time period for the submission of the information to the Repository, but is the Repository to committing to inputting for the same public safety needs that the same information upon receipt will in the same timeframe be inputted and available for law enforcement?

Ms. Butler:

Duly noted and it was a very valid observation. Thank you.

We are proposing to change the title from "Advisory Nevada Criminal Justice Information Sharing" to "The Committee on NCJIS Governance". What we are proposing is this body essential be reconstituted so it gets rid of the designees. We will explain the vision so the committee consists of the Director of Department of Public Safety, the Attorney General, the Director of the Department of Corrections, the Chief Justice of the Supreme Court, the President of the Sheriff's and Chief's Association or their successor, and I'm not sure how the District Attorneys' Association works, if you have officers or presidents, so right now I put the Executive Director of the Nevada Advisory Council for Prosecuting Attorneys. We included the Parole Board because they are a member of the state criminal justice community and their voice was not represented before but they do use the Repository information. The thought that by eliminating the designee we elevate the importance of this committee and they do make those over-arching decisions as a community into what things are we going to support and focus our collective resources on and how are we going to move forward on funding requests, staffing, legislative changes, etc.

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Chief Conmay:

I don't want to give the impression that working members are no longer part of it. What we envision are steering committees, working groups, some of the existing governance bodies that would report to this committee. The hands-on people would continue to provide the input necessary for the committee to make its decisions. We would give the committee that importance in making those decisions. When looking at the Committee in the 1980's, it was being conducted similar to what we are now proposing. I can speculate that the time demands became too much and that's where designees became involved. I think we would have to guard against time demands, but I think it's workable using sub-committees and working groups, reporting to this committee.

Ms. Butler:

This is a perfect opportunity to go back to GangNet. There is a Governance Committee for that. The issue is the long term sustainability of the system and who is ultimately responsible. The GangNet Committee would be a subcommittee of the newly constituted NCJIS Governance Committee.

Governance shall establish binding policies, procedures and standards that apply the best management practices for the statewide sharing of criminal justice information between the agencies and with NCJIS. Again stressing this isn't an IT committee. I'll turn over to the Chief Conmay to initiate discussion on the draft.

Chief Conmay:

I understand there are concerns. I'm going to say that there is no intent or effort to usurp anyone's power or authority or ability to do things within their organizations. The hope is that we would establish some standards and policies that would enable information sharing to happen going forward more easily. When I did some of the historical research, this committee in one form or another has discussed these topics since 1988 and we are pretty much in the same shape we were in 1988. If we continue to conduct business in the same fashion, 25 years from now we will be discussing the same issues. Some form of a process that involves some governance operation with teeth is the only way to break out of this deadlock. I'll open it up now because I know people have a lot of things they want to say.

Mr. Earl:

The Tech Crime Advisory Board went through a somewhat similar change in governance structure that was solidified in 2007 Legislative session. My first observation is on one hand fully sympathizing with your interest in involving principals as representatives on committee who can make trucks roll. The problem experienced with making high level appointments is scheduling by eliminating designees. I suspect the same will be true with this Bill Draft Request. I suggest that you consider adding someone else and that is the head of EITS or his designee because if this is to be supported by the state system, someone from that agency must be included. Sometimes your discussions are going to involve the physical IT plant. The security part is another part of the IT. If you include EITS at all, you need to provide the manager of that unit the ability to provide somebody one time, and somebody another time. Another problem is a statewide organizational one. I've got a paper flipchart in my office with all of the committees that have common interests. Two problems – One, scheduling them all in one place and secondly, the concept behind having a series of committees and subcommittees is fine in practice, but I've seen it devolve into a situation where one subcommittee can't do anything before they hear from another subcommittee.

Chief Conmay:

I appreciate your input. Any other comments on this?

Mr. Helzer:

I agree with the attendance issue. You have to recognize that you have to have someone there who can make a decision. People who attend here to some extent have the commitment and authorization to do something so long as they receive fair notice of what is taking place and have an opportunity to discuss it with whoever designates them. It seems inconsistent to what you're trying to do to allow proxies. It's a necessity on some level to have representation. Maybe the answer is to try and have those people chosen more carefully or given some power to make decisions. Reference section (h) "one member appointed by the Department who uses central Repository to obtain information" – this seems to give a second vote and if we're talking about strengthening the Governance Committee to almost result in mandates, I'm concerned about over-empowering somebody. This seems redundant to me. If we need the expertise, somebody comes in; they tell us what's going on. It seems like another vote for the Director.

Chief Conmay:

The individual, based on this iteration of the Bill Draft Request would be appointed by the Director. So an argument could be made that this person could be influenced. The flip side of that is that we're trying to ensure that all users are adequately represented and there are a lot of these users.

Mr. Helzer:

Ms. Butler, you talked about things that are reported and the criminal histories I see involve many municipal codes and you might want to consider city attorneys as a participant. Especially if you're going to start talking about commitments between the arrest and disposition. I see the user appointment from the Director as another vote for the Director which doesn't seem fair.

Ms. Butler:

The intent is that we get people who can make the decision. Designees must be carefully selected.

Assemblyman Steven Brooks, Southern Nevada:

Given the financial restraints of the state, which doesn't seem to change, I appreciate the policy you've put together in the form of the Bill Draft Request, the fiscal note is a reality. I am concerned because you have stated that we have a broken system needing repairs. My question to you is can this be implemented without a fiscal note and if so, how? If not, what fiscal impact would this have on the county or the state? We can take this as far as we can go, but once it hits the Ways and Means Committee and Fiscal committees, this bill could very easily be killed. Thank you.

Chief Conmay:

Thank you. I don't anticipate the changes that we're proposing to the make-up to the committee necessarily costing any more than the current process. What I do anticipate is that if we were to go to this governance model, that there is the potential over the long term of some savings in the form of consolidation of effort, focus of resources, those kinds of things. With respect to this Bill Draft Request, I'm not anticipating fiscal notes being attached. The fiscal impact probably could be argued in that if this body were to recommend something that was then mandatory, there'd have to be consideration by the body at the time it was making those recommendations as to what that the fiscal impact might be later on. I don't think these changes involve a fiscal impact, but the body, once it's constituted and starts making decisions, would have to consider the costs of things it was recommending.

Assemblyman Brooks:

The reality of this governance board is going to bring decision makers together in order to make concrete decisions to institute change which will have fiscal impact. I understand this BDR doesn't necessarily do that; what it does is changes the makeup of the Board. Once that Board is made up has there been any thought on how you're going to deal with those situations? If we can save dollars from the different agencies to basically fulfill the mission of whatever we're going to do. I need you to keep that in mind as you move forward.

Chief Conmay:

That is exactly our hope in creating the governance body is that the end result being unified decisions based on need and ability to pay. My hope would be ultimately doing things more efficiently and there would be some positive fiscal impact.

Mr. Sosebee:

My comment would be just to reiterate that statement, more from the perspective of a practitioner trying to implement these statewide projects, when you're involved in these projects it becomes clear of the amount of waste and inefficiency that are involved in these types of projects. As a practitioner being tasked to implement these projects, I think some statewide direction is greatly needed on what the priorities are and take it to the next step what types of standards are being expected to be implemented. These types of taskings regularly deal with those that involve AOC and/or the Department of Public Safety. If this governance body that's being proposed is established, it could address the lack of participation of the affected agencies when new tasks are implemented. Waste is occurring throughout the state in trying to implement these types of projects. I support any movement to strengthen governance and those types of priorities, recognizing that there are certainly some concerns on how that would be done.

Senator Wiener:

I'm looking at paragraph (3) "establish binding," and that's a red flag for me. Why is there some compelling need to add "binding"? How would you enforce it if it someone did not comply? That's where fiscal impact could be incurred, the enforcement piece. What would the role of the Legislature be if this is establishing binding policies, procedures and standards? This looks exclusionary. I have one other question, but could we talk about that one first?

Chief Conmay:

The thinking in establishing binding as a term is similar to what Scott just pointed out. We want the governance committee to sort of establish what has been decided to be the state's standards for shared systems. In other words, if a local agency decides to get a grant and buy a product that's not compatible with what's been established as a standard, then let us know we've done this and now we want you to do something, if it isn't within the standards which were set, then it's not going to be part of the shared system. What we're seeing today, people do what they do, and then they want some services for that and we may not be aware it was going to hit us and now we've got to figure out how we're going to support that, along with the time and effort. We're trying to say the governance body will establish policies and standards that apply to the shared services. We're not telling people they can't do things within their agency, but if they want that on the shared system, then they have to meet these standards.

Senator Wiener:

My question would be if you establish policies, procedures and standards, then in the language of those you could include some of that language of necessity that it needs to be standardized. I've not seen this in a board context, binding arbitration. The enforcement would be you can't play if you don't participate the way we want. I can understand you want the standardization, but that's already there. The language establishes the precedent. I'm concerned about binding.

Chief Conmay:

The outcome would be if you are outside the standards, you wouldn't be able to participate in the shared system.

Senator Wiener:

And so you're adding the word "standards", the word "binding" is problematic for me. Does the Legislature in terms of the law making, what are you doing in terms of new law making? It looks like it's exclusionary. That the Governance Committee will be autonomous outside of every governing or rule making entity in the state.

Chief Conmay:

That is not the intent, so if we need to make an adjustment there, we will make the adjustment. The intent with respect to Legislative initiatives is that the Committee would make recommendations. We're trying to bring everybody together to operate in that system.

Senator Wiener:

I don't think you need to word "binding". I have one other question also. It would be number (7) referencing the Director may establish regulations as necessary. Generally it is the collective agreement and not a singular entity. There is a process in play when regulations are developed. That is not the process that has been engaged by the committees and commissions in which I've served.

Chief Conmay:

The language is actually some language that's used in a variety of other statutes that apply to the Repository that enabled the Director to establish regulations. However, those are not unilaterally established. We go through the process that includes hearings and other requirements before those regulations are implemented.

Any other comments:

Mr. Earl:

I like to talk a little bit about antiquated systems and how they fall over eventually. I moved to Nevada before the 2003 Legislative Session. My first job was working for the Senate Finance Committee, and then I contracted with AOC after session. Court finances were run through a system called Paradox. It was an exceptionally old operating system that could only interface with a stand alone printer. At the time that was how AOC kept track of incoming money. I was asked to do a preliminary ROI and RFP for a new system. Unfortunately, the system hardware/software that supports the NCJIS is fast approaching the analog position that AOC was in and is about to tip over. To the predecessors of who are now here from the Department of Public Safety, they recognized this years ago, started to put money away in a sinking fund to do this updating, but the economic down turn hit and the 2009 Legislative session drained the fund established to replace the system. I need to remind folks that we are looking at supporting a system that was about to tip over 2-3 years ago and we are now further beyond its normal expiration life. We are all trying to do a variety of different things to get the state through the hard times. SB82 passed allowing for the first time EITS to bundle purchases of hardware/software and so part of the updating systems across all government agencies. We shouldn't be under any illusion that the old system is now being used beyond its expected life time. The further we get beyond that expected lifetime without some type of replacement; we risk a catastrophic failure leading to data being irretrievable. This leads to a total or partial crash rendering law enforcement agencies and courts statewide unable to retrieve important information. There is some bare minimum of cost that we have to expend in order to ensure law enforcement agencies and courts are able to exchange information.

Chief Conmay:

Mr. Earl articulates my worst nightmare. I didn't discuss that here because I don't want this appear to be like we're trying to do something to get some money. Those are just facts that if the system fails we're going to have a serious problem. We will be submitting at this next session a plan for replacement of the system over a number of bienniums. It is hanging over our head every day. That really is what brought me to this point, to begin discussing with my staff is there a way

we can do things that would in the long term, help us with those kinds of things. If we were to adopt this model and look at all of these various systems over time, the next time we have replacement issues or interface issues will be made easier and much less costly. This is not an effort by the Department of Public Safety or Records and Technology Division to grab up some type of power.

Is there further comment? I think what we wanted to do today is to find out if there was a desire from the committee to proceed. If we don't do anything, I would put out there that I'm not sure this committee serves any real valuable purpose.

Mr. Earl:

Let me put this in context in terms of the potential difference between the way a statute is written and the way in which there can be organizational implementation that sits behind the words of the statute. My suggestion would be that coming out of this session; you might make the recommendation that Chief Perry consider speaking with, either collectively or individually, the individuals who would serve on a new governance committee. Essentially layout at his level the reasons why he believes that their participation on a new governance committee is appropriate. If they sign on, then you essentially pass the first threshold which is ensuring you won't have the Director of Department of Corrections showing up on a Legislative hearing saying "I oppose this bill".

Director Greg Cox, Director of Department of Corrections:

Julie referenced a plan of action submitted by MTG. Would it be possible to get that plan of action and what they suggest we do?

Chief Conmay:

Absolutely and I apologize because I thought it went out by e-mail.

Ms. Butler:

I sent out the preliminary report. My thinking being that I didn't want to overwhelm everybody with the solution before we did the initial steps of "do we even agree that this is may be a good idea in establishing a governance". My thought that this meeting would hopefully get your buy in and then at the next meeting, present you with those findings and we could have an in-depth discussion. Maybe we can take a vote after which we hope you agree that the governance is a good idea. Then we can discuss what is MTG's plan.

Chief Conmay:

Since it was your report, Scott do you have a problem if we distribute the study at some point?

Mr. Sosebee:

Absolutely not. Again it was a decision to not overwhelm with information and to try to keep the focus. We can make all the materials available from the study and the executive summary.

Chief Conmay:

So Director Cox, in answer to your question, yes we can get you them.

Mr. Helzer:

As far as how to proceed, I know there's frustration. I would suggest that when we last met there is nothing magic about a twice a year meeting. I would like to meet real soon with suggestions in writing with respect as to what constitutes the governance committee, along with a number of items. I heard Senator Wiener and Assemblyman Brooks talking about the budget. We need to address that more. The committee may not be a cost but the decisions made by the committee may cost and who pays for it is an issue. The sanction of non-participation would be inability to reach information necessary to conduct business. The solution is to discuss the realities of cost.

Chief Conmay:

What we're trying to accomplish I agree we can't wait six months. We need to meet.

Assemblyman Brooks:

With all due respect, according to the report that we got earlier today, only 29% of arrests have the disposition on file. That poses a problem to me. We have more medical occupations coming online and we have a decreased capacity to handle these things. We talked about the Repository not having enough characters, only having a 5-digit NOC capacity instead of an 11-digit capacity. My hope with being on this board was to help tackle some of those issues. I think you may be underestimating the authority of the current committee having Senator Wiener and myself on this particular board and present. We need to identify ways to supplement and/or pay for some of things that you need and asking us to carry a Bill Draft Request on your behalf to accommodate the citizens of the state of Nevada so we can rectify some of these problems. The reason why I'm on this board is I thought that is what we're tackling. If that the way you'd like to go, you don't necessarily need a governance board to do that, I think you already have what you need here. I would encourage you to weigh this legislation or policy you would like to see created that would help plug some of the holes that are in existence and then start talking about the reality of the financial impact and how we can find a way to get past that obstacle. I think this is a very effective Board; we just have to use it in an effective manner.

Chief Conmay:

Thank you sir. What I want to make sure that I'm hearing then is that if we decide to go that way that we would like the Department of Public Safety to bring forward those things that we see as the necessities at this time. The reason I point that out is what we're suggesting is that rather than it just be the DPS, it be the body as a whole that prioritizes and decides. We can do that. We have a list of things right now that we could do that with, but we didn't want to be seen as sort of driving the car ourselves. So we were looking for the body to take on that role and prioritize.

Senator Wiener:

I'd like to see some of my concerns addressed. It's just tweaking and you want higher level participation. Jim's suggestion is interesting if you can get people to commit to those types of conversations. I'm on the Tech Crime Advisory Board and we don't have any Bill Draft Requests come out of that. The reason for legislators being on the board is to take these pieces of legislation; we've sat in on these conversations and bring a collective voice to the Legislature and our reasons for wanting to seek policy changes. Continue this governance conversation; you have substantial authority now as you choose to use it. There are a lot of powerful voices here that can be heard through legislation.

Chief Conmay:

Thank you Senator. Any other comments? Any public comment? I think then I'm open for the suggestions here, do we want to meet again? It doesn't sound like today we're going to take action on what's been proposed. Do we want to entertain the suggestion to schedule a meeting in a month, look for some input about whether or not we want to make any changes or can we continue under the authority we currently have?

Mr. Earl:

This is not a motion. But I would consider moving that we adjourn at your call as we did last time and how you want to make the determination as to when to bring us back to session could be based in significant part on the suggestions from our Legislators, as well as my suggestion, in terms of possible actions, that the Chief might undertake or some combination of both. In terms of my availability, I will be here anytime you want to come back into session.

Chief Conmay:

I think that probably is the best idea. Everyone has a copy of the proposed BDR and I would be interested whether we're going to pursue this or not. I would be interested in some input as to how you see that and what changes you might make to that. I believe it is a good idea to have a discussion with the Director and have him make some contacts at that appropriate level as Mr. Earl has suggested. Maybe we can get some input from those players about whether that creates significant concern for them as well. Then we can reconvene at a date we find mutually acceptable. We can be in contact.

Senator Wiener:

Before you conclude this, we would like to review what some of the suggestions and comments from today prior to the next meeting so can come in fresh. That would be helpful.

Chief Conmay:

Absolutely. That would be my intent, would be to distribute to everybody prior to the meeting. I'm getting the sense that we may not want to make significant changes to this. It is a pleasure to have the Legislative representatives here. I agree that if we have those people in attendance and we can garner some support or at least some understanding of what we're talking about, that's really to our benefit. And that may alter how we view what we have to do going forward. I really do appreciate the insights and the input. All we really want to do is create some process that is beneficial for everyone.

I will adjourn at my call and we'll contact everyone with potential dates to reconvene in the near future after we have assembled all of this information so we can get it out to you. We'll also get out to you the full packet of the study we've been discussing today. It's a lot of information, but I understand you'd like to see it and know what we've been talking about.

Assemblyman Brooks:

The summary will be fine.

Agenda Item F – Comments of Committee Members (for discussion)

No comments

Agenda Item G – Public Comment (for discussion)

No comments

Agenda Item H. – Schedule Next NCJIS Advisory Committee Meeting (for possible action)

I. 12:00 noon Adjourn (for possible action)

Chief Conmay:

I don't think I have anything else. Is there any other comment from anyone, public comment, north or south? Seeing none I would entertain a motion to adjourn.

Mr. Earl: Move to adjourn at the call of the chair. Undersheriff Robert Quick seconded

Chief Conmay:

All in favor? No opposition. So adjourned. Thank you everyone.

The Board voted unanimously to adjourn at 12:13 PM.

Respectfully submitted, (subject to approval at the next Board meeting)

Deborah Crews, Administrative Assistant II