

Mental Health Implications for Policing Practices and the Administration of Justice



A Report of the
Nevada Advisory Committee to the
U.S. Commission on Civil Rights

August 2019

Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states and the District of Columbia. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

This report is the work of the Nevada Advisory Committee to the U.S. Commission on Civil Rights. The report may cite studies and data generated by third parties, which are not subject to a separate review by Commission staff. The views expressed in this report and the findings and recommendations contained herein are those of a majority of the State Advisory Committee members and do not necessarily represent the views of the Commission or its individual members, nor do they represent the policies of the U.S. government.

**Nevada Advisory Committee to the
U.S. Commission on Civil Rights**

The Nevada Advisory Committee to the U.S. Commission on Civil Rights submits this report regarding the implications for the administration of justice of policing practices impacting communities of color, veterans, and individuals with mental and behavioral health issues. The Committee took into consideration best practices outlined in the report of the [President's Task Force on 21st Century Policing](#) focused on community policing and crime reduction to learn from state law enforcement agencies if these practices are being implemented.

The contents of this report are based on testimony received during a public briefing on August 9, 2018, in Las Vegas, Nevada and a community forum on May 3, 2019, in Carson City, Nevada. Based on the findings of this report, the Committee offers to the U.S. Commission on Civil Rights recommendations for addressing civil rights concerns related to policing practices specifically in the use of force and related criminal justice topics in hopes that the information presented here continues the efforts of the Commission in addressing criminal justice reform across the nation.

**Nevada Advisory Committee to the
U.S. Commission on Civil Rights**

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I. EXECUTIVE SUMMARY

In Nevada, a series of events prompted community concern about policing practices involving individuals with mental and behavioral health issues, such as PTSD and traumatic brain injuries, resulting in strained police-community relations. For example, in 2011 a Las Vegas police officer shot and killed Army Sergeant Stanley Gibson, an unarmed African American Gulf War veteran, while attempting to remove him from his car. Sergeant Gibson had a diagnosis of anxiety and depression from a years-earlier interaction with police. During the 24 to 48 hours just before he was shot, Gibson had multiple interactions with police and health care providers who all failed to effectively respond to the severity of Gibson's mental illness. This case highlights several issues, among which is the importance of managing mental illness through preventative care and early interventions as well as the need for Crisis Intervention Training among law enforcement.

Police officers are not surrogate mental health professionals, yet they are often the first responders on site when someone experiencing a mental health crisis is manifesting inappropriate or dangerous behaviors. In many cases, the resulting interactions end with deadly results as a New York Times article reported 25 percent or more of people fatally shot by the police have had a mental disorder. Nevada has increased de-escalation training for officers to better handle situations where individuals are manifesting signs of mental illness. However, at the same time, Nevada's mental health resources have been increasingly stretched thin or are non-existent. In fact, Nevada placed last in Mental Health America's rankings of states' availability of mental health resources; the problem is particularly acute in Nevada's rural and frontier regions. Counties and municipalities are trying to adapt by developing procedures for dealing with mental health emergencies, but they are hobbled as the growing problems have outpaced available funding.

In the 2019 legislative session, state legislators introduced an omnibus bill to overhaul the criminal justice system to address some of these problems. On June 17, 2019, AB 236 passed allowing for the following changes: removing mandatory minimum sentences for several crimes; giving judges more discretion in sentencing; expanding some offenders' eligibility for probation; reducing penalties for certain drug offenses; reclassifying several felonies; raising the felony theft threshold from \$650 to \$2,000; adding tiers to burglary crimes and corresponding penalties; and making more offenders eligible for treatment for drug or mental health problems instead of incarceration.

At the federal level, events over the past few years have also exposed fraught relationships between police and local communities in states across the nation. In response, President Barack Obama signed an executive order on December 18, 2014, establishing the Task Force on 21st Century Policing charging them with the responsibility of identifying best practices and offering recommendations on how policing practices can promote effective crime reduction while building public trust. In their report, the task force identified six pillars for best policing practices and recommendations. Of the six pillars, the fourth pillar, Community Policing & Crime Reduction, focuses on "the active building of positive relationships with members of the community" as a mechanism for reducing crime and improving police-community relationships. The Nevada Advisory Committee to the U.S. Commission on Civil Rights' focus, therefore, is to understand the implications for the administration of justice of policing practices on communities of color, veterans, and individuals with mental and behavioral health issues.

The following report is divided into three sections and results from the testimony received at two public meetings and testimony submitted to the Committee in writing during the thirty-day open period for public comment. The first section provides background information about the brief history of the deinstitutionalization movement and incarceration, policing individuals with behavioral health issues, and proposed solutions. The second section is a summary of themes derived from testimony. Finally, the Committee offers findings and recommendations directed to federal and state entities. The Committee voted to approve this report on July 29, 2019 by the majority of members.

The Nevada Advisory Committee identified the following nine findings:¹

1. State detention centers across the country serve as the largest mental health facilities for individuals who are seriously and chronically mentally ill. The number of offenders admitted to Nevada prisons with mental health needs is up 35 percent from 2008. In 2017, there were 1,751 prison admissions indicating a mental health need.
2. Nevada has a severe shortage of behavioral health care providers. Compared to other states, Nevada ranks at or near the bottom in terms of the number of licensed mental health providers per 100,000 population. According to the 2016 Area Health Resources File, behavioral health providers are also poorly distributed throughout Nevada. The severe lack of behavioral health providers is concerning as many individuals involved in the criminal justice system have a mental illness.
3. While codified diversion programs such as mental health and veterans' treatment courts increase public safety, reduce criminal recidivism, restore positive community involvement, and save taxpayer money, specialty court judges, public defenders, and others involved in the criminal justice system, regularly experience hobbling resource shortages. For example, 51 people are on a seven-month waitlist to participate in Clark County's mental health court program and, due to funding shortages, this wait is only expected to grow. There are especially long wait times for women who need residential treatment.
4. Testimony indicated law enforcement agencies have adopted recommendations outlined in the 21st Century Policing Report on community policing and crime reduction. Law enforcement are now taking further steps to evaluate their community policing practices. However, it is unclear if all state law enforcement agencies consistently apply policing best practices.
5. Diversionary programs, such as specialty courts, are less available in rural areas, which force those jurisdictions to send their clients to receive treatment in neighboring counties.
6. Crisis Intervention Training (CIT) for law enforcement is not required statewide due to resource limitations, therefore CIT is not available for enforcement officers in every jurisdiction. Moreover, no state law requires law enforcement to undergo CIT to de-escalate someone experiencing a mental health crisis. In one example, a captain at Las Vegas

¹ Citations associated to findings and recommendations are found on pp. 27-33.

Metropolitan Police Department stated that he received only an hour of training on cultural awareness and mental health awareness training during his time at the police academy.

7. Many law enforcement agencies have de-escalation procedures and many officers report having received training; however, testimony indicates there is reason to believe some officers may continue to exercise loose discretion during interactions. For example, Tashii Brown Farmer, a man with schizophrenia, died in 2017 after being tasered seven times and placed in an illegal chokehold while in Las Vegas Metro police custody.
8. There is a need for data collection in several areas including:
 - a. the cost/benefit ratios of running specialty treatment courts;
 - b. the number of individuals needing mental health services; and
 - c. accurate demographic data of individuals interacting with the criminal justice system.
9. Panelists also discussed Medicaid coverage and reimbursement rates. Case management, a highly sought-after service for ensuring individuals successfully complete treatment programs, is not covered by Medicaid. This creates an issue for community-based clinics that provide needed services and receive federal reimbursement.

In keeping with these responsibilities, and in consideration of the testimony heard on this topic, the Nevada Advisory Committee requests the Commission to submit this report to the following federal and state entities and respective recommendations:

The U.S. Department of Justice should enforce the Americans with Disabilities Act and consider adding veterans as a protected category to other civil rights laws.

The U.S. Department of Justice, Community Oriented Policing Services should encourage law enforcement agencies to implement best practices outlined in the [President's Taskforce on 21st Century Policing](#) report, especially under Pillar 4: Community Policing and Crime Reduction.

The U.S. Department of Health and Human Services should enforce the Affordable Care Act in its totality and allow Medicaid funds to be used for court ordered assisted outpatient treatment.

The Substance Abuse and Mental Health Services Administration (SAMHSA) should continue providing training, resources, and technical assistance for health care professionals enrolling people with behavioral health conditions in Medicaid and/or Medicare. SAMHSA should also support evidence-based programs that reduce violence, incarceration, hospitalization, and homelessness, such as assisted outpatient treatment.

The U.S. Congress should provide appropriations for the Mentally Ill Offender Crime Reduction Act to provide grants to state, local, and tribal governments for preventative care, diversion options, and intensive outreach services through additional staff, pre-trial and in-custody programs, and outreach through public safety mental health liaison workers. The U.S. Congress should also provide appropriations for the Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant Program to fund state and local jurisdictions with the critical funding necessary to support law enforcement, prosecution, indigent defense, courts, crime prevention and

education, corrections and community corrections, drug treatment and enforcement, planning, evaluation, technology improvement, crime victim and witness initiatives, and mental health programs related to law enforcement and corrections programs, including behavioral programs and crisis intervention teams.

The Nevada Legislature should:

- Expand behavioral health services billable under Medicaid.
- Provide equitable funding for mental and physical health services to respond to the absence of funding in rural areas of the state.
- Develop legislation to ensure license reciprocity to attract out-of-state mental health professionals.
- Fund research in the following areas: (i) a needs assessment of mental health services administered throughout the state; (ii) identify factors that may prevent “frequent flyers,” who are high users of costly emergency services; (iii) identify the relationship between substance abuse and mental health disorders and its impact on the criminal justice system; (iv) a cost benefit analysis to compare the cost of housing individuals with serious mental illness in prisons and jails to the cost of treating them in the community; (v) demographics of individuals accessing mental health services.
- Continue to fund jail diversion programs such as mental health and substance abuse courts and expand availability of such programs to rural areas of the state.
- Create a long-term secured facility complete with wraparound services for individuals who are severely mentally ill and cannot be supervised by the Nevada Division of Corrections or local courts.
- Provide appropriations to increase the number of long-term state hospital beds, local hospital beds, and housing options for persons with a serious mental illness.
- Fund early interventions and preventative care for mental health, which includes funding more school psychologists, social workers, and family health services.
- Review and pass criminal justice reforms that will decriminalize mental illness.
- Review the current Legal 2000 process to decrease its use for managing persons experiencing a mental health crisis.
- Require mandatory training at all levels of the judicial and legal system on serious mental illness and crisis intervention.

The Nevada Governor should draft a proclamation to raise awareness about mental illness and provide sufficient appropriations for behavioral and mental health services in the biannual recommended budget.

The Nevada Department of Corrections should bring awareness to how much the State spends to incarcerate individuals with mental illness compared with offering community-centered treatment that emphasizes preventative care. They should also require corrections employees to receive training on how to identify persons with mental illness and crisis intervention skills to de-escalate a mental health crisis.

Nevada law enforcement agencies should require mandatory training on the use of force, cultural competency, and crisis intervention. They should also ensure collaboration across law enforcement agencies, the criminal justice system, and service providers. Finally, they should audit policing practices to fall in line with best practices outlined in the [President's Taskforce on 21st Century Policing](#) report.

Finally, the Nevada Department of Health and Human Services should:

- Increase use of assisted outpatient treatment so that persons with a serious mental illness stay in treatment.
- Stop eliminating public psychiatric beds and restore a sufficient number of beds to increase access to inpatient care for qualifying individuals in crisis.
- Make active use of Nevada's civil commitment laws to provide individuals timely treatment for serious psychiatric symptoms.
- Use court-ordered outpatient treatment (i.e. assisted outpatient treatment) to provide the support at-risk individuals need to live safely and successfully in the community.
- Establish standardized intake screening for health care providers to identify medication needs, suicide danger, and other risks associated with mental illness.

II. INTRODUCTION

The U.S. Commission on Civil Rights (Commission) is an independent, bipartisan agency established by Congress and directed to study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, national origin, or in the administration of justice. The Commission has established advisory committees in each of the 50 states and the District of Columbia. These Advisory Committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction.

In December 2016, the Nevada Advisory Committee voted unanimously to undertake a two-part study focused on civil rights concerns with policing practices. The first study focused on civil rights concerns with the use of municipal fines and fees. Following a public meeting on March 15, 2017, in Las Vegas centered on municipal fees and their impact on an individual's access to justice on the basis of race or color, the Committee issued an [advisory memorandum](#) to the U.S. Commission on Civil Rights in support of the 2017 Statutory Enforcement Report, [Targeted Fines and Fees Against Communities of Color](#).

The report below documents the second part of the study based on testimony received at public meetings on August 9, 2018, in Las Vegas and on May 3, 2019, in Carson City examining the impact of policing practices and implications for the administration of justice on individuals experiencing mental and behavioral health issues, veterans, and people of color. The Committee viewed these issues through the best practices and recommendations laid out in Pillar 4: Community Policing & Crime Reduction of the Report of the President's Task Force on 21st Century Policing.²

The purposes of this report are: (i) to share civil rights concerns brought forth in testimony in relation to disparities in policing practices and communities potentially impacted and (ii) to provide specific recommendations to the Commission regarding actions that can be taken to address civil rights concerns. This report begins with a brief background on the de-institutionalization movement, recent events involving law enforcement and communities of color, veterans and individuals with mental and behavioral health issues; communities impacted by behavioral health service shortages; and proposed solutions. It then offers a summary of themes based on testimony received and concludes with nine findings and several recommendations issued to the Commission to forward to the appropriate federal and state entities. The Committee voted to approve this report on July 29, 2019, by a majority vote.

² President's Task Force on 21st Century Policing, *Final Report of the President's Task Force on 21st Century Policing* (2015), https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf (hereafter cited as *21st Century Policing Report*).

III. BACKGROUND

A. Historical Context of the De-institutionalization Movement and Incarceration

Poor treatment of individuals suffering from mental and behavioral health issues stretches back hundreds of years. Until very recently, due to an inability to study the physical structures and chemical mechanisms of the brain, societies created varying explanations of mental illness, but most were connected to spiritual beliefs, such as demonic possession.³

Those with organic mental illnesses, which are often hereditary, were banished, chained to asylum walls, and even killed through exorcism. While those suffering from exogenous forms of trauma, often related to war, interpersonal violence, and the effects of racism and poverty, were shamed and ridiculed. Because of this past stigmatization of behavioral and mental illnesses, those afflicted, and their families often suffered in silence.⁴

Starting in the 1820s through to the 1950s, state governments and private organizations built psychiatric hospitals and asylums to provide in-patient treatment for community members suffering from behavioral and mental illnesses. State governments and private organizations stood in for families and assumed complete control over providing patients with food, shelter, and other necessities. Families of the ill and traumatized often willingly turned over family members in the hopes that their afflicted relatives would receive curative treatment and to escape from the burdens associated with providing constant care. Unfortunately, without the pharmacological and cognitive therapies available today, most individuals who entered psychiatric institutions remained for their entire lives.⁵

Despite societal pressures to keep family members suffering with behavioral and mental illnesses from public view, there is evidence of the prevalence of individuals suffering from mental illness and trauma from hospital records, court and police records, and newspaper accounts.⁶ With high numbers of patients and few appropriate treatments, state psychiatric institutions were usually crowded, underfunded, understaffed, and often abusive.

As psychology and pharmacology advanced throughout the 1970s and 80s disturbing stories of abuse began to circulate, such as the feature film *One Flew Over the Cuckoo's Nest*, reformers and

³ Jutras, Marc. "Historical Perspectives on the Theories, Diagnosis, and Treatment of Mental Illness," *BC Medical Journal*. Accessed June 9, 2019. <https://bcmj.org/mds-be/historical-perspectives-theories-diagnosis-and-treatment-mental-illness>.

⁴ U.S. National Library of Medicine, "Diseases of the Mind: Highlights of American Psychiatry through 1900: Early Psychiatric Hospitals & Asylums." Accessed June 9, 2019. <https://www.nlm.nih.gov/hmd/diseases/early.html>.

⁵ See Larson, Zeb. "America's Long-Suffering Mental Health System," *Origins: Current Events in Historical Perspective*. Accessed June 9, 2019. <https://origins.osu.edu/article/americas-long-suffering-mental-health-system/page/0/1>.

⁶ Ibid.

their political allies set their sights on the de-institutionalization of individuals with behavioral and mental illnesses. Over time, state psychiatric hospitals closed, community-based health centers were expected to open, and reformers anticipated patients would live with or close to their immediate families. It was assumed that newer psychotropic medications combined with newer cognitive therapies would allow patients to live independently or in a home setting with reduced costs for taxpayers. Unfortunately, in many cases this did not happen. Individuals who needed more care than what was offered often became homeless and interacted with law enforcement due to misunderstandings of their illness-related behavior.⁷

Without sufficient resources for individuals with behavioral and mental health issues to live with their families or independently in the community, municipalities often defaulted to caring for those who were afflicted through emergency rooms and re-institutionalization in prison and correctional systems. Yet, emergency rooms and various criminal justice systems were never funded nor staffed to be the de facto mental and behavioral health providers for a region.⁸

Until recently, police departments and correctional facilities failed to even offer professional development training for officers and other personnel on proper methods for interacting with individuals suffering from trauma and other mental health issues.⁹

In addition to these historical criminal justice trends, Nevada has the additional dilemma of being two urban hubs: one that attract people looking for economic opportunities, physical security, or just a place to rest that never closes. Every day people arrive in Las Vegas and Reno who are living on the edge of insecurity and can easily slip into a mental health crisis. The extent of this transient population's mental health needs and Nevada's response came to light in 2013 when attorneys representing California sued Nevada for what they called "Greyhound therapy," which referred to the practice of placing mentally ill individuals on busses with one-way tickets out of the state.¹⁰

B. Policing Individuals with Mental Illness in Nevada

In Nevada, a series of events prompted community concern about policing practices involving individuals with mental and behavioral health issues, such as PTSD and traumatic brain injuries, resulting in strained police-community relations. For example, in 2011, a Las Vegas police officer shot Army Sergeant Stanley Gibson, an unarmed African American Gulf War veteran, while attempting to remove him from his car. Sergeant Gibson had a diagnosis of anxiety and depression

⁷ Ibid.

⁸ Zinc, Anne. "Mental Health Patients, with Nowhere Else to Go, Are Overwhelming Emergency Departments," *STAT*, October 18, 2018. Accessed June 9, 2019. <https://www.statnews.com/2018/10/18/mental-health-care-emergency-departments/>.

⁹ Martinez, Jr., Octavio. "The Criminalization of Mental Illness," *The Hogg Foundation for Mental Health*, August 8, 2011. Accessed June 9, 2019. <http://hogg.utexas.edu/the-criminalization-of-mental-illness>.

¹⁰ San Francisco Chronicle Editorial Board, "Nevada Pays S.F. for 'Patient Dumping' Scheme." *San Francisco Chronicle*, October 6, 2015. Accessed June 9, 2019. <https://www.sfchronicle.com/opinion/editorials/article/Nevada-pays-S-F-for-patient-dumping-scheme-6554737.php>.

from a years earlier interaction with police. During the 24 to 48 hours just before he was shot, Gibson had repeated interactions with police and health care providers who all failed to effectively respond to the severity of Gibson's mental illness.¹¹ This case highlights several issues, among which is the importance of managing mental illness through preventative care and early interventions, as well as the need for Crisis Intervention Training among law enforcement.

In another example, the Reno Gazette-Journal investigated the fatal handling of inmates in the Washoe County Sheriff's Detention facility in a series of stories. According to the newspaper, there was a dramatic spike in inmate deaths starting in January 2015, which included a suicide rate five times the national average.¹² A handful of the deaths were from natural causes, but many other deaths occurred while the individuals were in the custody of Washoe County Sheriff's Office deputies. Other key points in the investigation dealt with the mental state of inmates entering the jail and the high turnover rate in behavioral health staff in the jail, which impacted how inmates were treated, levels of staffing, and training of law enforcement.¹³

While law enforcement are not surrogate mental health professionals, they are often the first responders on site who interact with someone manifesting threatening or dangerous behavior. In many cases, those interactions end with "25 percent or more of people fatally shot by the police have had a mental disorder."¹⁴ Nevada has increased de-escalation training for officers who interact with individuals manifesting signs of mental illness. Yet, Nevada's mental health resources are stretched thin and often non-existent. In fact, Nevada placed last in Mental Health America's rankings of states' availability of mental health resources.¹⁵ The problem is particularly acute in Nevada's rural and frontier regions. Many communities have attempted to adapt through procedures for dealing with these issues, but are hobbled as growing problems have outpaced funding. For instance, officers in rural areas have sometimes driven individuals to Las Vegas, which is several hours away, to obtain mental health treatment, waited for them to receive treatment, and then drove them back.¹⁶

¹¹ Valley, Jackie. "Answers Emerge as to Why Cop Shot, Killed Unarmed Veteran." *Las Vegas Sun*, March 1, 2013. Accessed August 10, 2019. <https://lasvegassun.com/news/2013/mar/01/answers-emerge-why-cop-shot-unarmed-veteran/>; Coolican, J. Patrick. "The Tragedy of Stanley Gibson's Death Began Days Before He Was Shot by Police." *Las Vegas Sun*, March 7, 2013. Accessed August 10, 2019. <https://lasvegassun.com/news/2013/mar/07/tragedy-stanley-gibsons-death-actually-began-days-/>.

¹² Damon, Anjeanette. "News Series: Death Behind Bars." *Reno-Gazette Journal*, April 13, 2017. Accessed July 11, 2019. <https://www.rgj.com/story/news/2017/04/05/high-suicide-rate-follows-breakdown-mental-health-care-and-prevention-efforts-washoe-county-jail/99133896/>.

¹³ Ibid.

¹⁴ Goode, Erica. "For Police, A Playbook for Conflicts Involving Mental Illness." *New York Times*, April 25, 2016. Accessed August 10, 2019. <http://www.nytimes.com/2016/04/26/health/police-mental-illness-crisis-intervention.html%20>.

¹⁵ Cheang, Jennifer. "The Best and Worst States for Mental Health," *Mental Health America*, Nov. 16, 2017. Accessed August 10, 2019. <http://www.mentalhealthamerica.net/blog/best-and-worst-states-mental-health>.

¹⁶ Messerly, Megan. "An 'Ugly' Process: Sheriffs, Hospitals Shoulder Burden of Crisis Mental Health Care in Rural Nevada." *Nevada Independent*, March 11, 2018. Accessed June 9, 2019.

C. Communities Affected by Behavioral Health Service Shortages

Nevada is home to about 230,000 veterans, comprising over 7 percent of Nevada's population. These individuals live across the state, including the metropolitan, rural, and frontier areas.¹⁷ Veterans living in rural and frontier areas often travel many miles to Veterans Health Administration facilities, leaving them without convenient access to health care services. A study of veterans returning from Iraq and Afghanistan between 2001 and 2005 showed that nearly one-third were diagnosed with various mental health or psychosocial issues, including anxiety, depression, PTSD, and traumatic brain injuries. More than half of those diagnosed had two or more co-existing disorders.¹⁸

Current research also shows that populations subjected to systemic racism, interpersonal violence, and inequities suffer from exogenous trauma at rates higher than surrounding communities. Generational trauma is compounded by pervasive racial profiling, distrust generated by negative encounters with law enforcement, and a steady stream of news about excessive use of force by authority figures against vulnerable populations. Negative interactions reinforce feelings of stress, anxiety, and depression and a lack of treatment options for these symptoms can result in poor health outcomes and full-blown psychiatric illness.¹⁹

Nevada's Native American population is familiar with such trauma as well as limited access to behavioral and mental health care on the state's reservations and colonies. Nevada has thirty-two reservations and colonies, and many are in geographically isolated areas of the state. The National Center for Biotechnology Information reports high rates of mental and behavioral symptoms and illness among indigenous Americans, yet evidence of access to appropriate treatment is missing because treatment options are so often non-existent.²⁰

Combined with the growing epidemic of opioid addiction, Nevada's behavioral and mental health needs have reached crisis proportions, so much so that law enforcement leaders are pleading with

<https://thenevadaindependent.com/article/an-ugly-process-sheriffs-hospitals-shoulder-burden-of-crisis-mental-health-care-in-rural-nevada>.

¹⁷ U.S. Census Bureau, *Veteran Statistics: Nevada* (2015),

<https://www2.census.gov/library/visualizations/2015/comm/vets/nv-vets.pdf>.

¹⁸ Seal, Karen, et al., "Bringing the War Back Home: Mental Health Disorders Among 103,788 U.S. Veterans Returning From Iraq and Afghanistan Seen at Department of Veterans Affairs Facilities," *Archives of Internal Medicine*, March 12, 2007. Accessed August 11, 2019.

<https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/769661>.

¹⁹ The Anti-Poverty Network of New Jersey and the Structural Racism and Poverty Working Group, *The Uncomfortable Truth: Racism, Injustice, and Poverty in New Jersey* (2017),

<http://www.antipovertynetwork.org/resources/Documents/The%20Uncomfortable%20Truth%20Final%20-%20web.pdf>; see also Bruner, Charles, "ACE, Place, Race, and Poverty: Building Hope for Children," *Academic Pediatrics*, September 2017. Accessed June 9, 2019. [https://www.academicpedsjnl.net/article/S1876-2859\(17\)30352-2/fulltext](https://www.academicpedsjnl.net/article/S1876-2859(17)30352-2/fulltext).

²⁰ Office of the Surgeon General, *Mental Health: Culture, Race, and Ethnicity: A Supplement to Mental Health: A Report of the Surgeon General* Ch. 4 (2001). <https://www.ncbi.nlm.nih.gov/books/NBK44242/>.

state legislators to provide alternatives to incarcerating vulnerable community members suffering from addiction and other mental illnesses. Legislators are responding by contemplating solutions to the behavioral and mental health professional shortages and preventative interventions that provide treatment options before an individual or family reaches a crisis stage.²¹

D. Proposed Solutions

Recent events in the past few years have exposed fraught relationships between local police and the communities they protect and serve. In response to these events, President Barack Obama signed an executive order on December 18, 2014, establishing the Task Force on 21st Century Policing. The order charged law enforcement to identify best practices and recommendations on how policing practices can promote effective crime reduction while building public trust. In their report, the taskforce identified six pillars for best policing practices and recommendations aimed at reducing crime and building public trust.

The fourth pillar of this report, Community Policing & Crime Reduction, focuses on “the active building of positive relationships with members of the community”²² as a mechanism for reducing crime and improving police-community relationships. The report states that: “Community policing is a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.”²³ Similarly, it notes “Any prevention strategy that unintentionally violates civil rights, compromises police legitimacy, or undermines trust is counterproductive from both ethical and cost-benefit perspectives.”²⁴ This report, and the best practices and recommendations included, serve as a guide for the Nevada Advisory Committee to understand mental health implications of policing practices and the administration of justice.

²¹ Furlong, Ken, “Nevada’s Criminal Justice System as a Behavioral Health Crisis,” *Nevada Appeal*, May 22, 2019. Accessed June 9, 2019. <https://www.nevadaappeal.com/news/opinion/nevadas-criminal-justice-system-has-a-behavioral-health-crisis-carson-city-sheriff-ken-furlong-says/>; see also, University of Nevada, Las Vegas, News Center. “The Issues: Why Nevada Needs More Mental Health and School Counselors.” Accessed June 9, 2019. <https://www.unlv.edu/news/article/issues-why-nevada-needs-more-mental-health-and-school-counselors?fbclid=IwAR06XyPPqZXpd2WLvR2udiwakKdxg34oNE7FYVEyWvC3-dRigDGYzp38qvw#.XOsTIBzNjA4.facebook>.

²² *21st Century Policing Report*, p. 42.

²³ *Ibid.*, p. 41.

²⁴ *Ibid.*

In the 2019 legislative session, Nevada's state representatives passed AB 236²⁵ on June 17, 2019, to overhaul the state's criminal justice system, the culmination of efforts spanning over 20 years.²⁶ After several hearings on the bill's substance and purpose, legislators accepted the following changes to the state's criminal justice system: removing mandatory minimum sentences for several crimes; giving judges more discretion in sentencing; expanding some offenders' eligibility for probation; reducing penalties for certain drug offenses; reclassifying several felonies; raising the felony theft threshold from \$650 to \$2,000; adding tiers to burglary crimes and corresponding penalties; and making more offenders eligible for treatment for drug abuse or mental health issues instead of incarceration.²⁷

The impetus for AB 236 came from the Nevada Advisory Commission on the Administration of Justice (NACAJ), a state advisory body responsible for identifying criminal justice reforms, who contracted with the Crime and Justice Institute (CJI) to review case files and trends in Nevada's prison population over the last 10 years. The review found many states had seen significant declines in both crime rates and prison populations over the past decade, yet Nevada's prison population grew significantly and is projected to grow even more. CJI also found that Nevada's current incarceration rate is 15 percent higher than the national average and the average prison sentence had increased by 20 percent. In addition, inmates with behavioral health issues requiring treatment or medication had also increased by 30 percent. The study also highlighted the cost of housing a growing prison population and the state's refusal to fund mental health services. By 2028, it is expected that increasing incarceration rates will cost the state an additional \$770 million in operating costs and capital expenditures due to the need to build or lease new prisons.²⁸

IV. SUMMARY OF PANEL TESTIMONY

A. Community Policing and Crime Reduction

1. General Policing Strategies

Panelists testified on various community policing and crime reduction strategies. Providing an academic perspective to the evolution of community policing, William Sousa, professor and director for the Center for Crime & Justice Policy at University of Nevada, Las Vegas remarked

²⁵ Assem. B. 236, 80th Sess. (Nev. 2019),

<https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6419/Overview>.

²⁶ See Corbin, April. "Criminal Justice Bill Watered Down but Still Significant, Advocates Say." *Nevada Current*, June 4, 2019. Accessed July 10, 2019. <https://www.nevadacurrent.com/2019/06/04/criminal-justice-bill-watered-down-but-still-significant-advocates-say/>.

²⁷ Ibid.

²⁸ Nevada Advisory Commission on the Administration of Justice – Justice Reinvestment Initiative, *Final Report 4* (2019), <https://www.leg.state.nv.us/App/InterimCommittee/REL/Document/13671>.

that while community policing in practice is not well-defined among many police departments, it can be defined as a framework operating on three core principles: accountability to citizens, partnerships with the public, and proactive crime prevention.²⁹ Community policing operates on the assumption that there is an “intimate relationship between police and citizens, [and] the desire of citizens and police to work together and not just on problems related to serious crime but also on other community problems, minor offenses, and quality-of-life concerns.”³⁰

Strategies utilized by police under the community policing model emphasize the proactive role of citizens in identifying problems and developing solutions. Mr. Sousa suggested there is a correlation between community policing programs and crime reduction³¹ and attributed the significant decrease of violent crime from 1992 to 2016 to the utilization of various community policing tactics like “problem oriented”³² policing, which places an emphasis on identifying and analyzing existing patterns with the goal of preventing future incidents; “pulling levers”³³ policing, which focuses on the most at-risk of criminal activity with the goal of early intervention; “hot spots” policing, a strategy that relies on the idea that five percent of all offenders generate about 50 percent of all calls for service to police; and “broken windows”³⁴ policing, which deals with the management of minor offenses with the goal of improving quality of life and preventing serious crime. He explained that each law enforcement agency exercises an extraordinary amount of autonomy because some strategies work better in some jurisdictions than in others, but essentially views a police department’s reliance on the 911 system as an ineffective way to reduce crime.³⁵

Panelists testified to implementing various policing strategies. Reno law enforcement assert their implementation of “intelligence-led policing”³⁶ is an important policing strategy that “remove[s] racial profiling and makes it criminal profiling.”³⁷ It promises to “cause less disproportionate number of minority subject stops in [] high crime areas”³⁸ because it uses detailed information from in-house statisticians who inform police officers when and where to conduct stops.

²⁹ William Sousa testimony, *Briefing Before the Nevada Advisory Committee to the U.S. Commission on Civil Rights, Las Vegas, NV*, Aug. 9, 2019, transcript, p. 14-16.
<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000000DH8tAAG> (hereafter cited as *Las Vegas Briefing*).

³⁰ *Ibid.*, p. 18.

³¹ *Ibid.*, p. 21.

³² *Ibid.*, p. 19.

³³ *Ibid.*, p. 19-20.

³⁴ *Ibid.*, p. 20.

³⁵ *Ibid.*, pp. 27-28.

³⁶ Oliver Miller testimony, *Community Forum Before the Nevada Advisory Committee to the U.S. Commission on Civil Rights, Carson City, NV*, May 3, 2019, transcript, p. 6.

<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000000rHCOAA2> (hereafter cited as *Carson City Community Forum*).

³⁷ *Ibid.*

³⁸ *Ibid.*

Assessing community policing practices, Mr. Sousa remarked that Las Vegas Metro Police Department (LVMPD) is considered “progressive”³⁹ relative to other cities because of their intentional outreach with citizens during community meetings to communicate policing strategies and trusting their area command captains to “essentially [be] chiefs of their own areas”⁴⁰ which allow for greater control in decision making.

On the other hand, speakers disagreed with LVMPD’s policing practices. For example, the ACLU discussed the 2017 death of Tashii Brown Farmer, a man suffering from schizophrenia who died after being tasered seven times and placed in an “unapproved” chokehold while in LVMPD custody, as an example of excessive use of force.⁴¹ In another example, Robert Strawder testified that police officers had stopped and frisked his nephew, who has autism, because he was around individuals who were presumably involved in a local gang.⁴² He believes that unwarranted interactions with police officers are rooted in fear and create tensions with the African American community.⁴³

Law enforcement admit that they have had to address dangerous interactions sometimes by using lethal force. LVMPD Captain William Scott reflected on a situation where one of his officers fatally shot and killed an individual who suffered from a mental illness. He stated that if his department knew of the individual’s multiple Legal 2000⁴⁴ holds, the situation may have been avoided. In a similar situation, Carson City police shot an individual with a mental illness five times because he pulled a pocketknife on a police officer.⁴⁵ A defense lawyer representing the individual did not suggest that there was an inappropriate use of force; however, she believes law enforcement need more training to recognize an individual who is experiencing a mental health crisis to avoid a potential fatality.⁴⁶

³⁹ Sousa Testimony, *Las Vegas Briefing*, pp. 30.

⁴⁰ *Ibid.*, pp. 30-32.

⁴¹ “District attorney gets 60 days to seek indictment in Metro choke hold death case.” *News 3 Las Vegas*, January 25, 2018. Accessed August 19, 2019, <https://news3lv.com/news/local/district-attorney-gets-60-days-to-seek-indictment-in-metro-choke-hold-death-case>; Juhl Testimony, *Las Vegas Briefing*, p. 135.

⁴² Strawder Testimony, *Las Vegas Briefing*, pp. 122-23.

⁴³ *Ibid.*, p. 124.

⁴⁴ NEV. REV. STAT. § 433A.150 (noting “Legal 2000 holds” are 72 hour holds placed on individuals who exhibit mental illness as defined by NEV. REV. STAT. § 433A.115 who present a clear and present danger of harm to himself or herself).

⁴⁵ Rasmussen Testimony, *Las Vegas Briefing*, pp. 57-58.

⁴⁶ *Ibid.*, p. 63.

2. Implementation of Recommendations Outlined in Pillar 4 of the President's Taskforce on Policing Report

Panelists from law enforcement testified to their implementation of recommendations outlined in Pillar 4 focused on community policing and crime reduction in the President's Taskforce on Policing report. Generally, law enforcement reported to have conducted agency-wide assessments on policing practices and implemented recommendations as they saw fit.⁴⁷

The Nevada Highway Patrol implemented recommendation 4.1, which encourages law enforcement agencies to consider adopting least-harm resolutions, such as diversion programs or warnings and citations in lieu of arrest for minor infractions.⁴⁸ Instead of issuing a citation or taking homeless individuals, who sometimes suffer from mental illness, to jail for outstanding misdemeanor warrants, Nevada Highway Patrol troopers provide contact information for community-based groups that can assist them.⁴⁹ Las Vegas Metro Police Department (LVMPD) also presented on their diversion program called Law Enforcement Assisted Diversion (LEAD) which currently has 30 individuals enrolled. LEAD addresses low-level drug and prostitution crimes and allows law enforcement officers to redirect low-level offenders engaged in drug or prostitution activity to community-based services instead of jail and prosecution.⁵⁰ LVMPD described their procedure as follows: when an officer encounters an individual suspected of criminal activity, he/she determines if that individual is in possession of a controlled substance. The officer then exercises discretion and determines if the individual is a good candidate for the LEAD program and moves forward with impounding evidence, filing a report, and completing a referral form that is then sent to the public health system or a community organization. LVMPD waits on the referral to an intervention program and follows up with the individual on their enrollment status. If the individual is accepted into any of the referral programs, they must complete recommended interventions. After the public health system or community organization completes an assessment after 30 to 90 days, the LVMPD submits a warrant for the individual's initial charge for possession of a controlled substance if the individual has not complied with the recommended interventions.⁵¹

A Crime and Justice Institute study reported that at least three counties and one city, Washoe County, Lyon County, Clark County and Carson City operate a de-escalation program called Mobile Outreach Safety Teams (MOST), which corresponds with recommendation 4.3 in the 21st

⁴⁷ Miller Testimony, *Carson City Community Forum*, p. 4; Solferino Testimony, *Carson City Community Forum*, p. 7; Scott Testimony, *Las Vegas Briefing*, p. 148; See also, e.g., Kenny C. Guinn Center for Policy Priorities, *Community Policing in Northern Nevada* (2018), https://guinncenter.org/wp-content/uploads/2019/03/Guinn-Center_Community-Policing-in-Northern-Nevada-2018.pdf.

⁴⁸ *21st Century Policing Report*, pp. 42-43 (noting law enforcement agencies should consider adopting preferences for seeking "least harm" resolutions, such as diversion programs or warnings and citations in lieu of arrest for minor infractions.)

⁴⁹ Solow Testimony, *Las Vegas Briefing*, p. 214.

⁵⁰ Scott Testimony, *Las Vegas Briefing*, pp. 151-52.

⁵¹ *Ibid.*, pp. 153-56.

Century Policing Report. MOST encourages law enforcement agencies to engage in community team approaches for planning, implementing, and responding to crisis situations. MOST are composed of licensed clinicians, who are specifically equipped to assist, while riding with police officers, to properly engage individuals experiencing a mental health crisis.⁵²

Nevada Highway Patrol follows this recommendation by implementing a pre-arrest jail diversion program for individuals in a mental health crisis in partnership with LVMPD and several community-based organizations. The focus of the program is to connect individuals to diversionary services including veterans' assistance, especially when patrolling the Las Vegas Boulevard strip corridor, where a noticeable homeless population lives, including some veterans and individuals with mental illness.⁵³

Adopting recommendation 4.7⁵⁴ related to developing positive youth/police collaboration and interactions, the Reno Police Department works with local churches and elementary schools to establish a community reading program focused on at risk youth called 360 Blueprint.⁵⁵ Lieutenant Solferino believes this program has an "undeniable"⁵⁶ impact on elementary school children and increases trust with law enforcement.⁵⁷ In the same way, the Nevada Highway Patrol participate in local school district events like public safety fairs that give them an opportunity to engage with youth.⁵⁸

While not directly tied to any of the action items laid out in recommendation 4.2 of the 21st Century Policing Report, northern Nevada law enforcement presented on implementing community policing as a culture by involving community stakeholders in making key decisions that build trust with the community. For example, Washoe County Sheriff's office invited the ACLU to evaluate their use of force policy because they believe "[law enforcement] can get kind of skewed when [] looking through one lens."⁵⁹ Their hope is that inviting diverse perspectives creates opportunity for improvement in their policing practices. The Reno Police Department, who may be the first to do so in northern Nevada, also involve community members in its internal processes by inviting them to serve on the Chief's hiring board for new police officers. The intention of the hiring board is to provide community members an opportunity to weigh in on who they believe is suitable to serve their community.⁶⁰

⁵² Silveria Testimony, *Carson City Community Forum*, p. 39-40.

⁵³ Solow Testimony, *Las Vegas Briefing*, p. 216.

⁵⁴ *21st Century Policing Report*, p. 49.

⁵⁵ Miller Testimony, *Carson City Community Forum*, pp. 4-5.

⁵⁶ *Ibid.*, p. 5.

⁵⁷ *Ibid.*

⁵⁸ Solow Testimony, *Las Vegas Briefing*, p. 217.

⁵⁹ Solferino Testimony, *Carson City Community Forum*, p. 7.

⁶⁰ Miller Testimony, *Carson City Community Forum*, p. 4.

B. Training

Several panelists testified about receiving and providing Crisis Intervention Training (CIT). In Washoe County, the Sheriff's office reported they have been conducting de-escalation training and CIT for over 20 years. Officers are required every year to receive 24-40 mandated hours of training; however, no one training topic is required and each officer has discretion on which training to complete.⁶¹ The variety of training topics include CIT, implicit bias training, mental health, human trafficking and racial profiling. Police officers working shifts in detention and operations are required to take scenario-based trainings, which allow officers to experience de-escalation and deadly force scenarios. Cory Solferino asserts, "there's a very strong nexus between training and the way that you train in the training environment [and] in the way that you perform in the field."⁶²

Another panelist discussed the importance of requiring CIT for all law enforcement, especially among the incoming law enforcement workforce. Captain Scott with the Las Vegas Metro Police Department (LVMPD) emphasized the importance of teaching new officers about mental health issues and cultural competency throughout their tenure.⁶³ He stated that he only received an hour of training related to mental health and cultural competency during police academy. He cautioned that if these topics were not taught to the incoming law enforcement workforce, they may put individuals suffering from mental illness through a "vicious cycle" of being "hook[ed] and book[ed]."⁶⁴ Offering a differing perspective regarding the responsibility of law enforcement to receive training, Captain Schmidt at the LVMPD testified that while police officers are not mental health providers and were "never meant to be,"⁶⁵ "[the responsibility] has fallen onto law enforcement to address that issue."⁶⁶ She reported that 80 percent of LVMPD commissioned officers are trained in crisis intervention and receive 40 hours of training and a refresher course every two years, a point that differs from Captain Scott's experience with training. She asserts that because of CIT, LVMPD has doubled response calls for people in crisis (34,000 calls) and doubled commitments for Legal 2000 hold processes (11,000).

In addition to law enforcement testifying to their experience with implementing CIT, community-based organizations shared their experiences providing training to law enforcement and its impact on the community. Lakeisha Oliver, program coordinator for the National Alliance of Mental Illness, offers trainings on a range of topics related to mental health to both law enforcement, specifically to the LVMPD, and to the public. She argues that states and communities that invest in CIT programs have seen dramatic drops in deaths, serious injuries, and other costly and tragic outcomes for people with mental illness.⁶⁷ A similar point was echoed by Dr. Jason Schwartz,

⁶¹ Solferino Testimony, *Carson City Community Forum*, p. 11.

⁶² *Ibid.*

⁶³ Scott Testimony, *Las Vegas Briefing*, pp. 172-73.

⁶⁴ *Ibid.*

⁶⁵ Schmidt Testimony, *Las Vegas Briefing*, p. 67.

⁶⁶ *Ibid.*

⁶⁷ Oliver Testimony, *Las Vegas Briefing*, p. 162.

director of community support at University of Nevada, Las Vegas' School of Medicine's Mojave Clinic who shared his experience with training law enforcement on CIT. He believes that after training law enforcement officers who previously had an aggressive demeanor toward individuals with mental illness on CIT, 90 percent of those officers appear much calmer and have a better understanding of individuals suffering from mental illness. He expressed empathy for law enforcement because he recognizes mental health professionals are not always available to assist them, but he strongly advocates for CIT among law enforcement as a temporary solution.⁶⁸

Other panelists commented on the importance of specific trainings that intersect with understanding mental illness, becoming aware of available mental health services, early mental health interventions for youth,⁶⁹ cultural competency on perceptions of law enforcement, stigma associated with mental health among communities of color,⁷⁰ addiction, appropriate screening, and treatment options.⁷¹

C. Specialty Courts

By statute, Nevada's specialty court program helps individuals break cycles of behavior, such as drug and/or alcohol addiction, which influence adult criminal activity, juvenile delinquent behavior, or parental abuse and/or neglect of children.⁷² These courts carry out this mission by "facilitat[ing] testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or abuses alcohol or drugs."⁷³

Participation in specialty courts among communities of color looks similar across the state. In mental health court in southern Nevada, over half of participants are people of color.⁷⁴ In northern Nevada, with roughly 57 participants in mental health court, 19.2 percent are African American, and 10.5 percent are Hispanic or Latino. Participation among African American and Hispanic or Latino communities in northern Nevada veterans' treatment court is nearly a third of participants.⁷⁵

Several law enforcement officers testified about the mental health courts across the state, including benefits and qualifications for enrolling, challenges with funding, and shortcomings with its infrastructure. Judges Bita Yeager and Marie Bell preside over the mental health court and veterans' treatment court respectively in the Eighth Judicial District Court and believe specialty

⁶⁸ Schwartz Testimony, *Las Vegas Briefing*, p. 93.

⁶⁹ Oliver Testimony, *Las Vegas Briefing*, 162.

⁷⁰ Leon Testimony, *Las Vegas Briefing*, p. 120.

⁷¹ Gordon Testimony, *Las Vegas Briefing*, p. 118.

⁷² State of Nevada Administrative Office of the Courts, "Specialty Court Program Overview," https://nvcourts.gov/AOC/Programs_and_Services/Specialty_Courts/Overview/ (last visited Aug. 12, 2019).

⁷³ NEV. REV. STAT § 176.0613(10)(b) (West 2019).

⁷⁴ Carpenter Testimony, *Las Vegas Briefing*, p. 204.

⁷⁵ Picker Testimony, *Carson City Community Forum*, p. 13.

courts demonstrate “fabulous partnership with probation in the courts to ensure that people have every opportunity to succeed on probation.”⁷⁶

Judge Bell asserted one benefit of having individuals go through a specialty court is the cost savings for state government agencies. It costs \$155 per day to house an inmate at Clark County Detention Center; whereas, if an individual goes through a mental health court program, it would cost \$51.67 per day. Other outcomes for individuals who go through a specialty court program include a 10 to 15 percent reduction in recidivism, participants are more likely to decrease their alcohol and drug use, and specialty courts are better alternatives than probation and treatment alone. Mental health court participants are supported by a coordinated multi-disciplinary team that helps participants fulfill legal requirements; receive mental health treatment; receive case management services; engage with continuous monitoring of treatment progress; receive mental health and co-occurring counseling, intensive outpatient treatment; benefit from residential drug and alcohol treatment; drug testing; medication management; medically-assisted treatment and sometimes housing.⁷⁷

Specialty court programs offer many benefits, but panelists noted serious challenges starting with the shortage of funding. For example, a defense lawyer representing individuals suffering from mental illness asserts that mental health courts are less available in rural parts of the state, like Nye County which forces individuals who should be seen in mental health court to attend a municipal court instead.⁷⁸ Marc Picker, alternate public defender for Washoe County, agreed and stated that neighboring rural counties usually send defendants to Washoe County specialty courts because there is a shortage in those areas. He believes that defendants in northern Nevada are largely underserved due to the decline in inpatient facilities in northern Nevada over the last 10 years.⁷⁹ Demonstrating how a shortage in funding impacts services to participants, Judge Bell testified that several probationers are on a seven month waitlist for a specialty court.⁸⁰ For specific populations like women seeking residential treatment, there are especially long wait times.⁸¹ Anne Carpenter, deputy chief for the Department of Public Safety, Division of Parole and Probation, also shared a similar concern and stated that 40 probationers are awaiting space in a mental health program which could take up to 6-9 months.⁸²

Another concern with the specialty court system is that the growing demand for the specialty court programs is outpacing the availability of criminal justice personnel to handle caseloads. According to best practices on case load management, probation officers should have 30 clients and court

⁷⁶ Bell Testimony, *Las Vegas Briefing*, p. 38.

⁷⁷ Yeager Testimony, *Las Vegas Briefing*, pp. 44-46.

⁷⁸ Rasmussen Testimony, *Las Vegas Briefing*, pp. 72-73.

⁷⁹ Picker Testimony, *Carson City Community Forum*, p. 13.

⁸⁰ Yeager Testimony, *Las Vegas Briefing*, p. 47.

⁸¹ Yeager, Bitá. “Mental Health and the Courts.” PowerPoint presentation. Slide 29. Las Vegas, NV.

<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000000DH8tAAG>.

⁸² Carpenter Testimony, *Las Vegas Briefing*, p. 206.

coordinators should have 50 clients; however, probation officers in Clark County are currently seeing 45 clients and court coordinators have 70 clients.⁸³

Criticisms of specialty court programs were also discussed. Sara Gordon, associate professor of law at the University of Nevada, Las Vegas at the School of Law testified to two shortcomings of the specialty court system: (i) many courts are reluctant to use evidence-based treatments for substance use disorder and (ii) they do not allow for the treatment of co-occurring disorders where an individual is suffering from both a substance use disorder and an additional mental health condition or mental health disorder.⁸⁴

Ms. Gordon cited research on the prevalence of drug use: roughly 21.5 million Americans over the age of 12 had a substance use disorder in 2014 and the most common addictions involved alcohol, nicotine, illicit drugs, marijuana, and controlled prescription drugs.⁸⁵ She asserted that substance abuse is a public health concern just as much as it is a criminal justice issue;⁸⁶ people with a substance use disorder very often have an additional mental health diagnosis, which means an individual meets diagnostic criteria for two or more conditions. For example, 57 percent of Nevadans with gambling addiction also met criteria for at least one additional mental health disorder or substance use disorder and 40 percent of opioid-dependent individuals have a co-occurring psychiatric disorder such as depression, anxiety, and bipolar disorders. Other populations affected are adolescents age 12 to 17 who have been arrested and are five and a half times as likely to meet diagnostic criteria for addiction and adults who are arrested and are three times more likely to meet diagnostic criteria.⁸⁷

Ms. Gordon challenged the use of specialty courts because she believes “it’s a bit of a luck of the draw depending on where you end up, the type of treatment and sort of court philosophy that you end up encountering.”⁸⁸ For instance, she stated that drug courts have a punitive focus which means the court is focused solely on the individual’s addiction and their compliance with treatment. In comparison with mental health court and veterans’ treatment courts which “tend[s] to have the stated goal of connecting individuals to available community resources.”⁸⁹ Furthermore, she believes they are traditionally siloed because judges and court personnel do not have the experience to screen and treat individuals with co-occurring disorders who might end up in their courts and may not be aware of available community resources for this population. She also offered the perspective that segregating courts results in further stigmatizing addiction and

⁸³ Ibid.

⁸⁴ Gordon Testimony, *Las Vegas Briefing*, pp. 98-99.

⁸⁵ Substance Abuse and Mental Health Services Administration, “Behavioral Health Trends in the United States: Results from the 2014 National Survey on Drug Use and Health,” p. 23, <https://www.samhsa.gov/data/sites/default/files/NSDUH-FRR1-2014/NSDUH-FRR1-2014.pdf>; Gordon Testimony, *Las Vegas Briefing*, pp. 98-99.

⁸⁶ Gordon Testimony, *Las Vegas Briefing*, pp. 99-100.

⁸⁷ Ibid., p. 108.

⁸⁸ Ibid., pp. 107-08.

⁸⁹ Ibid., p. 107.

that drug and alcohol use disorders are one subset of mental health disorders that are recognized by the medical community that ought to be recognized.⁹⁰

Another area of concern related to stakeholders utilizing specialty courts and treatment programs is the predictability and consistency of these programs. Mr. Picker explained that policies and procedures decided on by various governing bodies such as the state legislature, county commissions, and city council change frequently and have lasting impact on these programs and participants. He asserts, “when we don’t have that predictability for the participants... then their ability to succeed [in treatment programs] becomes extremely limited”⁹¹ which becomes a challenge for law enforcement to help individuals with mental health issues go through the judicial system.⁹²

D. Data Collection

The need for data collection to support policy discussions focused on expanding specialty courts was a prevalent theme among panelists. Judge Yeager stressed data collection efforts to evaluate the effectiveness of specialty courts based on the participants’ experience, but data analysis requires hiring skilled analysts and court administrators face challenges with obtaining funding for data collection and analysis.⁹³ The judge suggested that funding to support data collection and analysis ought to be introduced in the legislature.⁹⁴

There was also discussion regarding the need to capture the qualitative narrative of specialty court participants and potential interventions. Judge Bell stated,

I think we would all agree that the criminal justice system is not the best place to solve all of these problems. We’re just at the end of the road tasked with solving a lot of problems that don’t get caught somewhere else. ...[I]t would be far better if those problems were solved ahead of time [but] how you capture that exactly, [] I think is really complicated.⁹⁵

Judge Yeager’s office currently tracks Legal 2000s, which are used to refer individuals to the assisted outpatient treatment programs.⁹⁶

There was a concern from a community member regarding the inaccuracy of demographic data on individuals who interact with law enforcement. After working with the Reno Police Department

⁹⁰ Ibid., p. 108.

⁹¹ Picker Testimony, *Carson City Community Forum*, pp. 14-15.

⁹² Ibid.

⁹³ Yeager Testimony, *Las Vegas Briefing*, p. 83.

⁹⁴ Ibid., p. 84.

⁹⁵ Bell Testimony, *Las Vegas Briefing*, pp. 81-82.

⁹⁶ Yeager Testimony, *Las Vegas Briefing*, pp. 82-83.

to document Black and Latino communities who were arrested after a large community event,⁹⁷ Lonnie Feemster, President of the Reno-Sparks NAACP, argued that collecting accurate demographic data is key to understanding if certain communities are disproportionately targeted. He noted that some communities were misidentified and assumed to belong to a specific racial group. To remedy this process, he recommended training law enforcement on how to capture demographic information accurately.

Offering an alternative perspective regarding the need for data collection, Ms. Rasmussen, who represents clients in rural counties, suggested a needs assessment should be conducted in rural parts of the state to identify gaps in services.⁹⁸ Robin Reedy from the National Alliance on Mental Illness also noted that data on individuals with mental illness engaged in the criminal justice system is difficult to come by.⁹⁹

E. Veterans

The Committee had a special interest in the unique experience of veterans including their challenges, available support services, and interaction with the criminal justice system.

Jeff Detrick, veteran and academic counselor at University of Nevada, Las Vegas testified about his experience with helping student veterans transition from military life to civilian life and the importance of supporting veterans in this stage. In particular, the transition from a team structure to being independent poses a challenge for returning veterans especially in an education setting because:

They're bringing challenges with this transition, because they're leaving a team and now no one is on them, no one is pushing them to tell them they have to do this. This is all on them. And so, they kind of feel like they're not valued anymore.¹⁰⁰

To address those feelings, he encourages veterans to get involved with veteran organizations on campus or volunteer with other veteran service organizations.¹⁰¹ For other issues that may arise, he keeps in close contact with veteran service organizations to connect students to address those needs.

Speaking to the unique experience of women veterans, Roberta Pike Oates, vice president of Women Veterans of Nevada, highlighted that women veterans are a growing population of returning veterans making up 20 percent of the military and the largest minority group in today's military, a trend that mirrors Nevada's current veteran population.¹⁰² Ms. Oates testified that

⁹⁷ Feemster Testimony, *Carson City Community Forum*, p. 35.

⁹⁸ Rasmussen Testimony, *Las Vegas Briefing*, pp. 72-73.

⁹⁹ Reedy Testimony, *Carson City Community Forum*, p. 46.

¹⁰⁰ Detrick Testimony, *Las Vegas Briefing*, p. 224.

¹⁰¹ *Ibid.*, pp. 224-226.

¹⁰² Oates Testimony, *Las Vegas Briefing*, p. 198.

serving on the Governor’s Veterans Advisory Committee allows her to work collaboratively with other stakeholders to ensure that state programs and policies are open to women and are mindful of women veterans’ unique experiences.¹⁰³ Increasingly important to her work is identifying women veterans in the community; however, she asserts that women veterans often do not self-identify, which is crucial to receiving transition and other veteran services they are entitled to. She emphasized the importance of asking women veterans “have you ever served [in the military]?”¹⁰⁴ rather than asking if they are a veteran to better identify women veterans.¹⁰⁵

She also explained that women veterans face challenges in the criminal justice system because they not only refrain from self-identifying, but “there is a stigma that they may get special treatment”¹⁰⁶ and may experience retribution against them. To support veterans involved in the criminal justice system, she highlighted the work of the Nevada Department of Veterans Service who conduct outreach to prisons to help veterans by informing them of benefits available to them such as access to the veteran treatment court program.¹⁰⁷

When asked by Committee members about how best to support veterans in the state, panelists suggested that organizations should be working in collaboration to raise awareness about veteran culture so that veterans are better served and feel comfortable about returning. For example, SERV Training¹⁰⁸ is available to help the University of Nevada, Las Vegas community learn more about student veterans and military families and provides an overview of student veteran needs and challenges, as well as information about resources available on campus.¹⁰⁹

Veterans involved in the criminal justice system, by statute, are eligible to participate in a veterans’ treatment court program for no longer than a year, provided they meet certain requirements:¹¹⁰ the defendant must be a veteran or active member of the U.S. Armed Forces; have mental illness, alcohol or drug abuse, post-traumatic stress disorder or a traumatic brain injury, any of which appear to be related to military service, including, without limitation, any re-adjustment to civilian life which is necessary after combat service; or be a victim of military sexual trauma.¹¹¹ Providing background on veterans, Sarah Gordon cited research of veterans of the Iraq and Afghanistan wars showing that 25 percent of veterans sought mental health services and of that population, 44 percent had one mental health diagnosis, 39 percent had two and 27 percent had three or more

¹⁰³ Ibid., p. 200.

¹⁰⁴ Ibid., p. 230.

¹⁰⁵ Ibid., p. 230.

¹⁰⁶ Ibid., p. 201.

¹⁰⁷ Ibid.

¹⁰⁸ “Vet SERV Training.” University of Nevada, Las Vegas. <https://www.unlv.edu/event/vet-serv-training>.

¹⁰⁹ Detrick Testimony, *Las Vegas Briefing*, p. 234.

¹¹⁰ NEV. REV. STAT. § 176.A.280 (West 2019).

¹¹¹ Yeager, Bita. “Mental Health and the Courts.” PowerPoint presentation. Slide 32. Las Vegas, NV (2018). <https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000000DH8tAAG>.

disorders.¹¹² Veterans who sought services for PTSD were more likely to meet diagnostic criteria for an additional psychiatric disorder and in many cases a substance use disorder.¹¹³

Providing a county-wide estimate, Judge Bell, who oversees the veterans treatment court in Clark County stated that she often sees patients who suffer psychological issues that come from sexual harassment or sexual assault while serving in the military, which require specific treatment for these issues.¹¹⁴ However, veterans who separated from the military on a dishonorable discharge are ineligible to apply for veterans treatment court because they do not qualify for all of the benefits from the Veterans Administration (VA). Their ineligibility causes concern for specialty court judges because they are unaware of alternatives for veterans with this status.¹¹⁵ Even veterans who qualify for veterans treatment court face challenges with completing their program due to lack of transportation, disability status, housing shortage, and too few mentors to support them.¹¹⁶

When assessing the benefits of veterans treatment court, Ms. Carpenter asserts veterans treatment court is different from mental health court simply because this population of probationers has a myriad of resources through the VA while individuals going through mental health court have limited options.¹¹⁷ She stated, “the great thing about the veterans treatment court is the community partnership”¹¹⁸ because several stakeholders are involved such as the VA, Vet Center, and probation officers who work with the participants.

F. Collaboration

The role of collaboration was a recurring theme among panelists. Mental health advocates told the Committee that organizations serving individuals with mental health issues, mental health professionals, and law enforcement operate in silos.¹¹⁹ Another mental health professional added that there should be no missed opportunities to “expand the toolbox”¹²⁰ of skills law enforcement may use to address the needs of individuals suffering from mental illness and to strongly consider Crisis Intervention Training, raising awareness about mental illness, and how these individuals may find themselves involved in the criminal justice system, and possible alternatives.¹²¹ He argued that while organizations are voluntarily collaborating to provide assistance, “[these actions] deserves more of a mandate than a courtesy.”¹²² Dr. Schwartz, director of Community Support at the University of Nevada, Las Vegas’ School of Medicine followed his point by stating that law

¹¹² Gordon Testimony, *Las Vegas Briefing*, p. 101.

¹¹³ *Ibid.*, p. 102.

¹¹⁴ Bell Testimony, *Las Vegas Briefing*, pp. 50-53.

¹¹⁵ *Ibid.*, p. 52.

¹¹⁶ *Ibid.*, p. 53.

¹¹⁷ Carpenter Testimony, *Las Vegas Briefing*, p. 208.

¹¹⁸ *Ibid.*

¹¹⁹ Oliver Testimony, *Las Vegas Briefing*, p. 160; *see* Bomer Testimony, *Las Vegas Briefing*, pp. 87, 110.

¹²⁰ Bomer Testimony, *Las Vegas Briefing*, p. 88.

¹²¹ *Ibid.*, pp. 88, 110.

¹²² *Ibid.*, p. 116.

enforcement should bring mental health professionals on ride-alongs on selected shifts as an effective way for law enforcement and the mental health community to understand each other's role and how to address interactions between law enforcement and individuals with a mental illness.¹²³

From the perspective of law enforcement, Las Vegas Metro Police Department (LVMPD) Captain William Scott agreed that collaboration between the medical community and law enforcement ought to be strengthened to avoid unnecessary interaction between individuals suffering from a mental illness and law enforcement, especially if they may harm themselves or others. Captain Scott shared that an officer-involved shooting could have been avoided, but “there [was] a disconnect”¹²⁴ among mental health providers, hospitals, and law enforcement. This individual had 22 contacts with law enforcement and on the 22nd interaction, LVMPD was forced to shoot and kill the individual who they later learned was placed on multiple Legal 2000 holds.¹²⁵ As a way to avoid future officer-involved shootings of individuals suffering from mental illness, Captain Scott shared plans to work with mental health providers by establishing a mental health unit within the LVMPD.¹²⁶ This effort would allow mental health providers to share their expertise with law enforcement “so that [they] don’t have to use force on these individuals.”¹²⁷ Other law enforcement testified that established collaborations among community organizations allowed them to connect individuals suffering from mental illness with mental health services¹²⁸ and with information on how to access mental health court.¹²⁹

G. Status of Mental Health Programs and Services

The administration and availability of mental health programs throughout the state to support individuals with mental illness was a recurring theme. Several panelists commented on funding shortages for mental health clinics throughout the state, especially in Las Vegas and northern Nevada.¹³⁰ Mr. Schwartz advocated for wraparound services and policies that encourage affordable housing through funding or other state laws that could help individuals suffering from mental illness avoid being involved in the criminal justice system.¹³¹ Ms. Oliver, program coordinator at the National Alliance of Mental Illness (NAMI) stated that utilizing community-

¹²³ Schwartz Testimony, *Las Vegas Briefing*, p. 117.

¹²⁴ Scott Testimony, *Las Vegas Briefing*, pp. 157

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Ibid., pp. 157-58.

¹²⁸ Picker Testimony, *Carson City Community Forum*, p. 14 (noting collaboration among HOPES, Washoe County Alternate Public Defender’s office and Washoe County Sheriff’s office).

¹²⁹ Schmidt Testimony, *Las Vegas Briefing*, p. 69.

¹³⁰ Schwartz Testimony, *Las Vegas Briefing*, pp. 89-91; Chamberlain Testimony, *Carson City Community Forum*, p. 16.

¹³¹ Schwartz Testimony, *Las Vegas Briefing*, p. 113.

based programs such as assisted outpatient treatment, mental health courts, assertive community teams, can yield positive results, reduce recidivism and save tax payer dollars.¹³²

Panelists also highlighted that Nevada was ranked as the worst state for mental health based on varying measures.¹³³ Ms. Leon stated that there is a shortage of mental health professionals because there is no reciprocation for out of state medical licenses.¹³⁴ In Reno, the need for mental health services is significant with an estimate of one provider for 10,000 individuals and for primary care providers the ratio is 3,000 patients for one provider. Also, counties with mental health programs do not operate full time and typically operate from 9:00 a.m. to 12:00 p.m. on varying days which is limiting for individuals experiencing a mental health crisis. Considering this information, panelists argue that even if individuals seek medical treatment, the state is grossly understaffed and underfunded to provide adequate services.¹³⁵

Examining the way care is provided for individuals suffering from mental illness was also raised. Ms. Leon, who advocates for holistic treatment of individuals suffering from mental illness, noted that mental health care is treated differently from medical care in that there is a disconnect among health care professionals who are often siloed and may have varying treatment plans for individuals based on their diagnosis.¹³⁶

Panelists also discussed challenges with federal Medicaid reimbursements. Mr. Schwartz and Sharon Chamberlain noted that case management is not covered by Medicaid.¹³⁷ This creates an issue for community-based clinics to provide needed services and receive federal reimbursements. Also, in situations where Medicaid provides reimbursements for certain services to service providers, there have been incidents where reimbursements are delayed which disrupts a service provider's ability to operate in an already limited capacity.¹³⁸

Ms. Reedy explained that there are many "horror stories"¹³⁹ because of the shortage of services. She said that families are impacted because individuals are "being released [who] shouldn't be and families aren't being told [by service providers]. [These individuals then] end up on the street, [] [and] end up being a victim."¹⁴⁰ Mr. Picker, who represents individuals with mental illness also

¹³² Oliver Testimony, *Las Vegas Briefing*, p. 161.

¹³³ Reedy Testimony, *Carson City Community Forum*, p. 42; see also Mental Health America, "The State of Mental Health in America: Ranking the States," <https://www.mentalhealthamerica.net/issues/ranking-states> (last visited Aug. 13, 2019).

¹³⁴ Leon Testimony, *Las Vegas Briefing*, p. 260.

¹³⁵ Chamberlain Testimony, *Carson City Community Forum*, p. 16; Picker Testimony, *Carson City Community Forum*, p. 14.

¹³⁶ Leon Testimony, *Las Vegas Briefing*, pp. 121-122.

¹³⁷ Schwartz Testimony, *Las Vegas Briefing*, p. 90; Chamberlain Testimony, *Carson City Community Forum*, p. 15.

¹³⁸ Reedy Testimony, *Carson City Community Forum*, p. 47.

¹³⁹ *Ibid.*, pp. 47-48.

¹⁴⁰ *Ibid.*

highlighted that communities of color have less economic ability to pay for treatments and are more likely to cycle back into the criminal justice system.¹⁴¹

Ms. Gordon raised concern about how the way the state provides treatment options for individuals with co-occurring mental illness, especially as it relates to addiction. She argued that individuals need better access to pharmacological treatments to deter them from getting involved in the criminal justice system.¹⁴² Juxtaposing the way individuals who are being treated for diabetes with individuals who are being treated for addiction (i.e. substance abuse, drug abuse, etc.), she argued that “there would be no question that they would receive medication for their disease” and that when an individual is treated for addiction, providers resort to using a “12-step ideology” because they are fearful of the optics of “giving [individuals] drugs to get off the drugs.”¹⁴³ She also asserts there is a disparity in access to treatments based on socioeconomic status. For instance, individuals who have a primary care doctor may be able to afford a prescription and cope with their addiction privately; whereas, if an individual cannot afford health care, they are limited to accessing a methadone clinic or another public, more visible process. Because of this, she strongly advocates to change the dialogue among stakeholders about treatment options by providing appropriate treatment to individuals before they interact with drug treatment courts or mental health court and to recognize addiction as a disease.

V. FINDINGS AND RECOMMENDATIONS

Among their duties, advisory committees of the U.S. Commission on Civil Rights are authorized to advise the Commission (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.¹⁴⁴

Below, the Committee offers to the Commission a summary of findings identified throughout the Committee’s inquiry. Following these findings, the Committee proposes for the Commission to consider several recommendations that apply to federal agencies and state actors.

A. Findings

1. State detention centers across the country serve as the largest mental health facility for individuals who are seriously and chronically mentally ill. The number of offenders

¹⁴¹ Picker Testimony, *Carson City Community Forum*, p. 14.

¹⁴² Gordon Testimony, *Las Vegas Briefing*, p. 114.

¹⁴³ *Ibid.*

¹⁴⁴ 45 C.F.R. § 703.2(a).

admitted to Nevada state prisons with mental health needs is up 35 percent from 2008.¹⁴⁵ In 2017, there were 1,751 prison admissions indicating a mental health need.¹⁴⁶ Law enforcement noted that while there has been a “paradigm shift” in handling persons with mental health issues, they are unequipped and were never meant to treat individuals with a mental illness to the degree of care a mental health professional would provide.

2. Nevada has a severe shortage of behavioral health care providers.¹⁴⁷ Compared to other states, Nevada ranks at or near the bottom in terms of the number of licensed mental health providers per 100,000 population. According to the 2016 Area Health Resources File, behavioral health providers are also poorly distributed throughout Nevada. The entire population of 16 of the state’s 17 counties lived in a region designated by the federal government as having a shortage of mental health professionals. In rough estimates, 1.5 million Nevadans including all residents of rural and frontier regions, as well as Carson City and Washoe County live in communities considered Mental Health Professional Shortage Areas as well. The lack of behavioral health providers is concerning as many individuals involved in the criminal justice system have a mental illness.
3. While codified diversion programs such as mental health and veteran courts serve to increase public safety, reduce criminal recidivism, restore positive community involvement and save taxpayer money, specialty court judges, public defenders and others involved in the criminal justice system experience challenges with providing services to defendants. For example, there are 51 people who are on a seven-month waitlist to participate in Clark County’s mental health court program, due to funding shortages, and it is expected to grow.¹⁴⁸ There are especially long wait times for residential treatment for women in particular.¹⁴⁹ Another example of the growing demand for diversion programs outpacing resources involves the number of criminal justice personnel. According to best practices, probation officers should have 30 clients and court coordinators should have 50 clients; however, in Clark County, probation officers have 45 clients and court coordinators have 70 clients on their caseloads.¹⁵⁰
4. Testimony indicated some law enforcement agencies have adopted recommendations outlined in Pillar 4 focused on community policing and crime reduction and have taken steps to evaluate their community policing practices; however, it is unclear if all law enforcement agencies across the state apply these best practices. For example, the Nevada

¹⁴⁵ Crime and Justice Institute, *Presentation to the Nevada Advisory Commission on the Administration of Justice* 14 (2018), https://www.crj.org/assets/2018/09/CJI_Nevada-ACAJ-Presentation-1-Final.pdf.

¹⁴⁶ Ibid.

¹⁴⁷ Legislative Counsel Bureau, *Regionalizing the Mental Health System in Nevada: Considerations and Options* 7 (2017), <https://www.leg.state.nv.us/Division/Research/Publications/InterimReports/2017/Bulletin17-06.pdf>.

¹⁴⁸ Yeager Testimony, *Las Vegas Briefing*, p. 47.

¹⁴⁹ Yeager, Bitá. “Mental Health and the Courts.” PowerPoint presentation. Slide 29. Las Vegas, NV. <https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000000DH8tAAG>.

¹⁵⁰ Yeager Testimony, *Las Vegas Briefing*, p. 47.

Highway Patrol adheres to the recommendation for seeking least-harm resolutions¹⁵¹ by providing individuals with mental illness contact information for community-based groups who can assist them instead of issuing citations or taking them to jail.¹⁵² They also focus on community engagement¹⁵³ by working with youth in schools to build trust by participating in local school district events such as “reading hours” and public-safety fairs.

5. Diversionary programs such as specialty courts are less available in rural parts of the state¹⁵⁴ which force jurisdictions to send their clients to neighboring counties to receive treatment.¹⁵⁵
6. Crisis Intervention Training (CIT) for law enforcement is not required statewide in every jurisdiction. Due to resource limitations, CIT is not available statewide to law enforcement officers. Moreover, there is no state law that requires law enforcement to receive training on crisis intervention skills to de-escalate a behavioral health crisis.¹⁵⁶ In one example, a captain at Las Vegas Metropolitan Police Department stated that he received only an hour of training on cultural awareness and mental health awareness training during his time at the police academy.¹⁵⁷
7. Many law enforcement agencies have de-escalation procedures and many officers report having received training.¹⁵⁸ However, testimony indicates there is reason to believe some officers may continue to exercise loose discretion during interactions. For example, Tashii Brown Farmer, a man with schizophrenia, died in 2017 after being tasered seven times and placed in an illegal chokehold while in Las Vegas Metro police custody.¹⁵⁹
8. There is a need for data collection in several areas including:
 - a. the cost/benefit ratios of running specialty treatment courts,¹⁶⁰
 - b. the number of individuals needing mental health services; and
 - c. accurate demographic data of individuals interacting with the criminal justice system.

¹⁵¹ *21st Century Policing Report*, p. 43-44.

¹⁵² Solow Testimony, *Las Vegas Briefing*, p. 214.

¹⁵³ *21st Century Policing Report*, p. 40.

¹⁵⁴ Rasmussen Testimony, *Las Vegas Briefing*, p. 56.

¹⁵⁵ Picker Testimony, *Carson City Community Forum*, p. 13.

¹⁵⁶ Nevada Advisory Commission on the Administration of Justice – Justice Reinvestment Initiative, *Final Report* 15 (2019), <https://www.leg.state.nv.us/App/InterimCommittee/REL/Document/13671>.

¹⁵⁷ Scott Testimony, *Las Vegas Briefing*, p. 172.

¹⁵⁸ Solferino Testimony, *Carson City Community Forum*, p. 11; Scott Testimony, *Las Vegas Briefing*, pp. 172-73; Schmidt Testimony, *Las Vegas Briefing*, p. 67.

¹⁵⁹ Juhl Testimony, *Las Vegas Briefing*, p. 135.

¹⁶⁰ See Yeager Testimony, *Las Vegas Briefing*, p. 83.

9. Panelists also discussed Medicaid coverage and reimbursement rates. Case management, a highly sought-after service for ensuring individuals successfully complete treatment programs, is not covered by Medicaid.¹⁶¹ This creates an issue for community-based clinics to provide needed services and receive federal reimbursement.

B. Recommendations

Among their duties, advisory committees of the Commission are authorized to advise the Commission (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws; and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.¹⁶² In keeping with these responsibilities, and in consideration of the testimony heard on this topic, the Nevada Advisory Committee respectfully submits the following recommendations to the Commission:

1. The U.S. Commission on Civil Rights should send this report and issue recommendations to the U.S. Department of Justice to:
 - a. Enforce the Americans with Disabilities Act.
 - b. Consider adding veterans as a protected category.
2. The U.S. Commission on Civil Rights should send this report and issue recommendations to the U.S. Department of Justice, Community Oriented Policing Services to encourage law enforcement agencies to implement best practices outlined in the [President's Taskforce on 21st Century Policing](#) report, especially under Pillar 4: Community Policing and Crime Reduction.
3. The U.S. Commission on Civil Rights should send this report and issue recommendations to the U.S. Department of Health and Human Services to:
 - a. Enforce the Affordable Care Act.
 - b. Allow Medicaid funds to be used for court ordered assisted outpatient treatment.
4. The U.S. Commission on Civil Rights should send this report and issue recommendations to the Substance Abuse and Mental Health Services Administration to:
 - a. Continue providing training, resources, and technical assistance to support health care professionals on how to develop a plan for enrolling people with behavioral health conditions in Medicaid and/or Medicare.

¹⁶¹ Schwartz Testimony, *Las Vegas Briefing*, p. 90; Chamberlain Testimony, *Carson City Community Forum*, p. 15.

¹⁶² 45 C.F.R. § 703.2(a).

- b. Support evidence-based programs that reduce violence, incarceration, hospitalization and homelessness like assisted outpatient treatment and hospitals
5. The U.S. Commission on Civil Rights should send this report and issue recommendations to the U.S. Congress to:
 - a. Provide appropriations for the Mentally Ill Offender Crime Reduction Act to provide grants to state, local, and tribal governments to deliver prevention, diversion and intensive outreach services through additional staff, pre-trial and in-custody programs, and outreach and public safety mental health liaison workers.
 - b. Provide appropriations for the Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant Program to fund state and local jurisdictions with critical funding necessary to support a range of program areas including law enforcement, prosecution, indigent defense, courts, crime prevention and education, corrections and community corrections, drug treatment and enforcement, planning, evaluation, technology improvement, and crime victim and witness initiatives and mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams.
6. The U.S. Commission on Civil Rights should send this report and issue recommendations to the Nevada Legislature to:
 - a. Expand behavioral health services billable under Medicaid.
 - b. Provide equitable funding for mental and physical health services to respond to the absence of funding in rural areas of the state.
 - c. Develop legislation to ensure license reciprocity to attract out-of-state mental health professionals.
 - d. Fund research in the following areas: (i) a needs assessment of mental health services administered throughout the state; (ii) identify factors that may prevent “frequent flyers;”¹⁶³ (iii) identify the relationship between substance abuse and mental health disorders and its impact on the criminal justice system; (iv) a cost benefit analysis to compare the cost of housing individuals with serious mental illness in prisons and jails to the cost of appropriately treating them in the community; (v) demographics of individuals accessing mental health services.

¹⁶³See generally Casey A. Grover & Reb J.H. Close, *Frequent Users of the Emergency Department: Risky Business*, 10 W.J. Emergency Med. 193, 193 (2009), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2729222/> (noting “frequent flyers” are frequent users of the emergency department who are more likely to have psychiatric, psychosocial, and substance abuse issues than the general population and tend to be complex to manage); but cf. Heather Landi, *Is it Unethical to Identify Patients as ‘Frequent Flyers’ in Health IT Systems?*, Healthcare Innovation (Oct. 19, 2016), <https://www.hcinovationgroup.com/clinical-it/news/13027618/is-it-unethical-to-identify-patients-as-frequent-flyers-in-health-it-systems>.

- e. Continue to fund jail diversion programs such as mental health courts and substance abuse courts and expand availability of such programs to rural areas of the state.
 - f. Create a long-term secured facility complete with wrap around services for individuals who are severely mentally ill and cannot be supervised by the Nevada Division of Corrections or local courts.
 - g. Provide appropriations to increase number of long-term state hospital beds, local hospital beds, and housing options for persons with a serious mental illness.
 - h. Fund early interventions and preventative care for mental health, which includes funding more school psychologists, social workers, and family health services.
 - i. Review criminal justice reforms that will decriminalize mental illness.
 - j. Review the current Legal 2000 process to decrease its use for managing persons experiencing a mental health crisis.
 - k. Require mandatory training at all levels of the judicial and legal system on serious mental illness and crisis intervention.
7. The U.S. Commission on Civil Rights should send this report and issue recommendations to the Nevada Governor to:
- a. Draft a proclamation to raise awareness about mental illness.
 - b. Provide sufficient appropriations for behavioral and mental health services in the biannual recommended budget.¹⁶⁴
8. The U.S. Commission on Civil Rights should send this report and issue recommendations to the Nevada Department of Corrections to:
- a. Bring awareness to how much the state spends to incarcerate individuals with mental illness compared to offering community centered treatment that emphasizes preventative care.
 - b. Require corrections officers to receive training on how to identify persons with mental illness and crisis intervention skills to de-escalate a mental health crisis.
9. The U.S. Commission on Civil Rights should send this report and issue recommendations to Nevada law enforcement agencies to:
- a. Require mandatory training on the use of force, cultural competency, and crisis intervention.

¹⁶⁴ In reference to finding 2.

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- b. Ensure collaboration across law enforcement agencies, criminal justice system, and service providers.
 - c. Audit policing practices to fall in line with best practices outlined in the [President's Taskforce on 21st Century Policing](#) report.
 10. The U.S. Commission on Civil Rights should send this report and issue recommendations to the Nevada Department of Health and Human Services to:
 - a. Increase use of assisted outpatient treatment so that persons with a serious mental illness stay in treatment.
 - b. Stop eliminating public psychiatric beds and restore a sufficient number of beds to increase access to inpatient care for qualifying individuals in crisis.
 - c. Make active use of the state's civil commitment laws to provide more timely treatment to individuals in need of treatment of serious symptoms of psychiatric illness.
 - d. Use court-ordered outpatient treatment such as assisted outpatient treatment to provide the support at-risk individuals need to live safely and successfully in the community.
 - e. Establish standardized intake screening to identify medication needs, suicide danger, and other risks associated with mental illness.

VI. APPENDIX

- A. August 9, 2018 Briefing Agenda & Minutes**
- B. August 9, 2018 Briefing Transcript**
- C. August 9, 2018 Presentation Slides**
- D. May 3, 2019 Community Forum Agenda & Minutes**
- E. May 3, 2019 Community Forum Transcript**
- F. Written Testimony by ACLU of Nevada**

Appendix A

August 9, 2018 Briefing Agenda & Minutes:

<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000000DH8tAAG>

Appendix B

August 9, 2018 Briefing Transcript:

<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000000DH8tAAG>

Appendix C

August 9, 2018 Presentation Slides:

<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000000DH8tAAG>

Appendix D

May 3, 2019 Community Forum Agenda & Minutes:

<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000000rHCOAA2>

Appendix E

May 3, 2019 Community Forum Transcript:

<https://www.facadatabase.gov/FACA/apex/FACAPublicCommitteeDetail?id=a0zt0000000rHCOAA2>

Appendix F

Written Testimony by ACLU of Nevada:

https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IzVf/Iib1Jal9V.4voWyLhZtPckEgeIqeK_vtoY0vFky0Fs

**Nevada Advisory Committee to the
United States Commission on Civil Rights**



U.S. Commission on Civil Rights

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