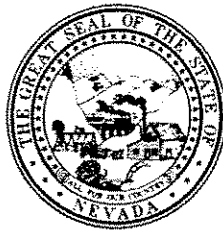


# THE FUNCTION OF PAROLE IN THE CRIMINAL JUSTICE SYSTEM



*Bulletin No. 85-14*

LEGISLATIVE COMMISSION  
OF THE  
LEGISLATIVE COUNSEL BUREAU  
STATE OF NEVADA

*September 1984*



THE FUNCTION OF PAROLE IN THE CRIMINAL  
JUSTICE SYSTEM



Bulletin No. 85-14

LEGISLATIVE COMMISSION  
OF THE  
LEGISLATIVE COUNSEL BUREAU  
STATE OF NEVADA

September 1984



## TABLE OF CONTENTS

|                                                                                                                                                                                  | <u>Page</u> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 1. Senate Bill No. 375, 62nd Session of the Nevada Legislature, an Act Creating a Legislative Committee to Study the Function of Parole in the System of Criminal Justice.....   | iii.        |
| 2. Report of the Legislative Commission to the Members of the 63rd Session of the Nevada Legislature.....                                                                        | v.          |
| 3. Summary of Findings and Recommendations.....                                                                                                                                  | ix.         |
| 4. Report to the 63rd Session of the Nevada Legislature by the Legislative Commission's Legislative Committee to Study the Function of Parole in the Criminal Justice System.    |             |
| I. Introduction and Overview.....                                                                                                                                                | 1.          |
| II. Parole Decision-Making.....                                                                                                                                                  | 5.          |
| III. Department of Parole and Probation.....                                                                                                                                     | 41.         |
| IV. Good Time Credits.....                                                                                                                                                       | 61.         |
| V. Sentencing.....                                                                                                                                                               | 71.         |
| VI. Financial Implications of Alternatives to Nevada's Current Sentencing and Parole System.....                                                                                 | 113.        |
| 5. Credits.....                                                                                                                                                                  | 143.        |
| 6. Appendices.....                                                                                                                                                               | 145.        |
| Appendix A                                                                                                                                                                       |             |
| <u>Current and Alternative Sentencing and Parole Policies in Nevada</u> , published by James Austin, Ph.D., Director of Research, National Council on Crime and Delinquency..... | 149.        |
| Appendix B                                                                                                                                                                       |             |
| Suggested Legislation.....                                                                                                                                                       | 216.        |



Senate Bill No. 375—Senators Foley, Ashworth, Blakemore, Faiss, Gibson, Glaser, Glover, Hernstadt, Horn, Jacobsen, Lamb, Mello, Raggio, Robinson, Ryan, Townsend and Wilson

## CHAPTER 572

AN ACT relating to parole; creating a legislative committee to study the function of parole in the system of criminal justice and providing for its organization, powers and duties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** 1. The legislative committee to study the abolition of parole, consisting of six voting members and seven nonvoting members, is hereby created.

2. The following persons shall serve as voting members of the committee:

(a) Three members of the senate of the 62nd session of the Nevada legislature, appointed by the majority leader of the senate; and

(b) Three members of the assembly of the 62nd session of the Nevada legislature, appointed by the speaker of the assembly.

3. The following persons shall serve as nonvoting members of the committee:

(a) The chief parole and probation officer;

(b) A district judge;

(c) The district attorney of a county of this state;

(d) A representative of an agency of law enforcement of this state;

(e) An attorney in private practice who specializes in defending criminal actions;

(f) A member of the state board of parole commissioners; and

(g) The director of the department of prisons.

4. The chairman of the legislative commission shall designate one of the members as chairman of the committee.

5. The director of the legislative counsel bureau shall provide the necessary professional staff and a secretary for the committee.

6. The voting members of the committee are entitled to receive a salary for each day or portion of a day of attendance at a meeting of the committee in an amount equal to the salary established for the members of the legislative commission and the travel expenses and per diem allowance provided by law for members of the standing committees of the legislature.

**Sec. 2.** The committee shall study the benefits, detriments and costs of abolishing parole, including without limitation:

1. The operation, composition, method of appointment and the powers and duties of the state board of parole commissioners;

2. The operation, composition, powers and duties of the department of parole and probation;

3. The criteria used to grant parole;

4. Credits on term of imprisonment;
5. The length of time offenders must serve before becoming eligible for parole;
6. The effects that modification or abolition of parole might have on the system of criminal justice in this state;
7. The changes which may be needed in the laws governing sentencing if parole were modified or abolished, including changes in the use of guidelines, sentencing for fixed terms and the creation of a commission on sentencing; and
8. The fiscal effects of abolition or any proposed modification of parole upon:
  - (a) The department of prisons;
  - (b) The department of parole and probation; and
  - (c) The state board of parole commissioners.

Sec. 3. The committee may hold public hearings at such times and places as it deems necessary to afford the general public and representatives of governmental agencies and of organizations interested in the subject of parole an opportunity to present relevant information and recommendations.

Sec. 4. All agencies of the executive and judicial departments of Nevada state government and the political subdivisions of the state involved in the administration of criminal justice shall cooperate with the committee and shall furnish to the committee all information and material which the committee requests to conduct its study and prepare its report.

Sec. 5. The committee may accept and use all gifts and grants which it receives to further its work.

Sec. 6. The committee shall submit to the legislative commission a report of its findings and recommendations for legislation before the commencement of the 63rd session of the legislature.

Sec. 7. This act expires by limitation on July 1, 1984.

REPORT OF THE LEGISLATIVE COMMISSION TO MEMBERS  
OF THE 63RD SESSION OF THE NEVADA LEGISLATURE

This report is submitted in compliance with Senate Bill 375 of the 62nd session of the Nevada legislature which created a legislative committee to study the function of parole in the criminal justice system. As required by Senate Bill 375, the committee reviewed the following areas:

1. The operation, composition, method of appointment and the powers and duties of the state board of parole commissioners;
2. The operation, composition, powers and duties of the department of parole and probation;
3. The criteria used to grant parole;
4. Credits on terms of imprisonment;
5. The length of time offenders must serve before becoming eligible for parole;
6. The effects that modification or abolition of parole might have on the system of criminal justice in this state;
7. The changes which may be needed in the laws governing sentencing if parole were modified or abolished, including changes in the use of guidelines, sentencing for fixed terms and the creation of a commission on sentencing; and
8. The fiscal effects of abolition or any proposed modification of parole upon (a) the department of prisons, (b) the department of parole and probation, and (c) the state board of parole commissioners.

Senate Bill 375 established a 13-member committee consisting of six voting legislative members and seven non-voting members all of whom are active participants in the criminal justice system. The members of the committee include:

Voting Members:

Senator Helen A. Foley, Chairman  
Assemblyman Bill Bilyeu, Vice Chairman  
Senator Nicholas J. Horn  
Senator Bob Ryan  
Assemblyman Jack Jeffrey  
Assemblyman Janson F. Stewart

Non-Voting Members:

Rob Calderone, Chief Parole and Probation Officer  
William P. Beko, District Judge Fifth Judicial District  
Robert J. Miller, Clark County District Attorney  
Vince Swinney, Washoe County Sheriff  
Kirk Lenhard, Private Attorney  
Bea Franklin, Parole Commission Member  
Vernon Housewright, Director, Department of Prisons

The S.B. 375 committee held six meetings in both northern and southern Nevada and conducted one subcommittee meeting at the Southern Nevada Correctional Center at Jean, Nevada. Testimony received from the public and various state agencies, including the department of prisons, the department of parole and probation and the state board of parole commissioners, provided valuable information concerning Nevada's current sentencing and parole system. To adequately examine alternatives to Nevada's indeterminate sentencing system which have been used both successfully and unsuccessfully in other states, the committee felt it would be beneficial to invite correctional experts to advise the committee on some of the complex topics to be studied. To this aim, the committee was fortunate in receiving technical assistance from the National Institute of Corrections to bring in a variety of criminal justice experts from throughout the United States.

In addition to reviewing various alternatives to Nevada's indeterminate sentencing system, the committee felt it was necessary to obtain detailed information on how sentencing and parole decisions are currently made in Nevada and to assess the impact of any proposed modifications to the current sentencing and parole system.

Since this information was not available in a form which could be analyzed, the statistical data concerning Nevada's current sentencing and parole practices was developed for the committee by the National Council on Crime and Delinquency (NCCD) through a grant awarded by the National Institute of Justice. The committee also worked closely with NCCD to estimate the impacts on the prison, parole and probation population of various sentencing, parole and good time credit alternatives through use of the inmate population projection model developed by NCCD.

It is hoped that the findings and recommendations contained within this report will provide a blueprint to assist not only the legislature, but the executive and judicial branch of government in helping to shape the future of the state's criminal

justice system. This report is transmitted to the members of the 63rd session of the Nevada legislature for its consideration and appropriate action.

Respectfully Submitted,

Legislative Commission  
Legislative Counsel Bureau  
State of Nevada

Carson City, Nevada

\* \* \* \* \*

LEGISLATIVE COMMISSION

Senator James I. Gibson, Chairman

Senator Thomas J. Hickey  
Senator Robert E. Robinson  
Senator Randolph J. Townsend  
Senator Sue Wagner

Assemblyman Louis W. Bergevin  
Assemblyman Joseph E. Dini, Jr.  
Assemblyman John E. Jeffrey  
Assemblyman Michael O. Malone  
Assemblyman David D. Nicholas  
Assemblyman John M. Vergiels



## SUMMARY OF FINDINGS AND RECOMMENDATIONS

This summary represents the major conclusions reached by the S.B. 375 committee. These conclusions were made by committee members after conducting a total of six committee hearings and one subcommittee hearing. Information was received from the public, state officials, inmates and correctional experts from throughout the United States.

The committee recommends:

### A. Sentencing Guidelines:

1. Creation of a 13-member commission appointed by the governor to develop statewide sentencing guidelines. The composition of the commission should include a Supreme Court justice, two district court judges (one from northern Nevada and one from southern Nevada), a justice of the peace, a senator, an assemblyman, a defense attorney, a prosecutor, two private citizens, one law enforcement representative, the director of the department of prisons and the chief parole and probation officer.
2. The commission should develop a series of recommended sentence ranges for all felony offenses based on the severity of the offense and the offender's prior criminal history. The commission should begin its work on July 1, 1985 and submit its recommended sentencing guidelines to the 1987 legislature and, if approved, the guidelines should be effective July 1, 1987.
3. The guidelines should provide a presumptive fixed sentence with only good time credit earned reducing the term of imprisonment.
4. The guidelines should determine which felony offenders should be incarcerated and those who should be placed on probation, provide restitution, fined or punished by some other alternative sentence.
5. The sentencing guidelines recommended by the commission should allow judges to sentence outside the guidelines if there are compelling reasons justifying an exceptional sentence. However, a written explanation for departure from the guidelines is required.

6. The commission should develop its recommended sentencing ranges without consideration to the impact on the prison population. However, should the commission estimate that its recommended guidelines will exceed the prison population projection of 6,650 inmates by June 1993, developed by the National Council on Crime and Delinquency, based on the current indeterminate sentencing system not being modified, the committee recommends that the commission prepare an additional list of sentencing ranges which will not exceed that limit. This will insure that if the recommended sentencing ranges are more restrictive than the current sentencing system, an alternative proposal will also be available for review by the 1987 legislature.

B. Parole Guidelines

1. Creation of a five-member committee appointed by the governor to develop formal parole guidelines. The composition of the committee should include the chairmen of the state board of parole commissioners, the director of the department of prisons, the chief parole and probation officer, a district attorney and a district judge.
2. To allow the committee to begin its work as soon as possible, legislation should be effective upon passage and approval. The formal parole guidelines should become effective on January 1, 1986.
3. The guidelines should be voluntary, allowing the parole board to make release decisions outside the guidelines. However, any decision made outside the guidelines should be detailed in writing and the decisions compiled and reported to the next session of the legislature.
4. The guidelines should apply to the existing prison population and take into account that those inmates who commit violent crimes or who are career criminals should serve longer terms than the non-violent, non-habitual offender.

5. The guidelines committee should examine the possibility of including the setting of an early presumptive parole date for inmates. If the guidelines committee decides to include a presumptive date provision, it should insure that the parole decision is still completely at the discretion of the parole board regardless of an inmate's institutional behavior. If an inmate feels his presumptive parole date is unfair, there should be a one-time petition process to the parole board to reconsider the release date.
  6. If sentencing guidelines are approved and implemented by the legislature at a later date, then the parole guidelines would continue in effect only for those inmates sentenced under the current indeterminate sentencing system.
- C. Good Time Credit - Nevada's good time credit system should be revised as follows:
1. Inmates should receive 5 days statutory credit per month for good behavior.
  2. An additional 10 days credit per month could be earned for good behavior and participation in work or educational related programs inside the prison for a maximum of 15 days credit per month.
  3. An additional 15 days credit per month could be earned for good behavior and work outside the prison for a maximum of 30 days good time credit per month.
  4. A maximum of 30 days meritorious good time credit per year could be earned for such services as firefighting, saving the life or property of another or exemplary service to the citizens of Nevada.
  5. The board of prison commissioners should adopt regulations concerning the earning, forfeiture and restoration of good time credit.
  6. The parole board should be removed from the formal process of revoking good time credits except that the parole board would have authority to revoke statutory good time at a parole revocation hearing.

D. Classification

The committee endorsed the work done by the 1981 S.C.R. 56 subcommittee which developed the Prison Master Plan. In the master plan a formal inmate classification system was endorsed and a profile of the 1979-81 Nevada prison admission population indicated that inmates should be classified at the following levels: maximum 10.5 percent, medium 51 percent and minimum 38.5 percent. The committee requested information updating the characteristics of Nevada's inmate admission population which indicated that the 1983 inmate admission population had not changed dramatically from the 1979-81 inmate admission population. Therefore, the S.B. 375 committee feels the classification percentages outlined in the Prison Master Plan are still valid.

E. Honor Camp Program

1. Information provided to the committee indicates the need for additional minimum security bedspace within the department of prisons. Currently, only 14.8 percent of the inmate population is housed in minimum security bedspace while the Prison Master Plan and the S.B. 375 committee estimated that 38.5 percent of Nevada inmates should be classified as minimum security risks. The committee recommends that to the maximum extent possible that the department of prisons accommodate increased bedspace needs through expansion of the honor camp program.
2. The committee endorses the continuation of operating the prison honor camps on a pay as you go basis whenever feasible and recommends that the division of forestry continue to actively pursue the acquisition of paid projects for honor camp crews. However, the committee also feels that it is better for the inmates to keep active in productive work projects, even if the projects would not be on a pay for service basis. However, the first priority of jobs should continue to be those that are revenue producing to help offset the cost of operating the program.

F. Management Information Systems

The committee recommends that funding be provided for the continuation of the computerized sentencing and case management information system at the department of parole and probation and the inmate population and classification system at the department of prisons. In the past, the legislature has been faced with a lack of reliable information dealing with the criminal justice system. The state is now at a point where information is becoming available to decision-makers in the executive, judicial and legislative branches of government which will allow educated decisions to be made concerning the criminal justice system. The committee feels these important data systems should be maintained and strengthened in the future.

G. Recidivism

The committee raised many questions concerning recidivism, however, due to the lack of information in this area, their questions could not be answered. Therefore, the committee recommends that the department of prisons and the department of parole and probation collectively develop criteria to assess the recidivism rates for inmates who have been placed in parole or probation supervision compared to those who "max out" their prison sentences. This information could then be used to determine if supervision upon release from prison reduces the likelihood for future offenses. In addition, this data may be useful in determining what factors are important in predicting the type of offender likely to commit further crimes after being released from prison.

H. Expansion of Parole Board

The committee recommends the 1985 Legislature consider the possibility of expanding the parole board from three to five members and the two new members be based in southern Nevada. The parole board currently does not have any members based in southern Nevada and is attempting to handle an ever increasing workload by having the parole board members travel throughout the state. By having two new members in southern Nevada the board will be able to better handle its increasing workload and will be able to be more timely in their decision-making.



## INTRODUCTION AND OVERVIEW

Nevada, in recent years, has been faced with an ever increasing prison population. Nevada currently has the highest incarceration rate of any state at 354 individuals per 100,000 population. By comparison, the national average is 179 individuals per 100,000 population (See Table 1). Nevada also has a high prison disposition rate with approximately 42 percent of all felony convictions resulting in a prison term. In addition, Nevada has a very low parole approval rate of 28 percent in 1983. This is a dramatic change from a 65 percent parole approval rate in 1979. These factors have resulted in a growing prison population that may soon exceed its critical operating capacity of 3,674 beds which would require very costly construction of new prison beds.

During the 1983 legislature numerous bills were introduced which proposed reforming Nevada's sentencing and parole system. In addition, bills were introduced to revise the current good time credit system which affects the length of time an inmate is incarcerated. However, due to the limited data available to estimate the system-wide impact of these bills, most of the bills were not passed. This flurry of legislative activity seemed to indicate a need for a more coordinated correctional policy. Due to these developments, the 1983 legislature passed Senate Bill 375 which authorized an interim legislative committee to conduct a comprehensive study of the alternatives to Nevada's indeterminate sentencing system.

The scope of the committee's work involved the state's entire criminal justice system from sentencing through parole and provided an opportunity for the state to develop a systemwide correctional policy for handling convicted offenders. In order for the committee to make informed, effective recommendations, accurate information was needed to guide their decisions. Very limited information was available to the committee to analyze the key factors affecting sentencing and parole decisions. In addition, committee members felt it was very important to invite correctional experts from other states to review for the committee alternatives to Nevada's indeterminate sentencing system. However, due to the tight financial situation which existed during the 1983 legislative session, sufficient state funds were not available to accomplish these tasks.

With the assistance of Senator Paul Laxalt and S.B. 375 committee members, federal funding was obtained from the National Institute of Corrections to allow the committee to invite nationally known correctional experts to testify on a number of alternatives to Nevada's sentencing and parole system. In addition, a grant was obtained from the National Institute of Justice to finance a study which collected and analyzed data on Nevada's current sentencing and parole system. The committee contracted with the

Table 2. Prisoners under jurisdiction of State and Federal correctional authorities, by region and State, yearend 1982 and 1983

|                                   | Total          |                |                | Sentenced to more than a year |                |                | Number of sentenced prisoners per 100,000 population 12/31/83 <sup>a</sup> |
|-----------------------------------|----------------|----------------|----------------|-------------------------------|----------------|----------------|----------------------------------------------------------------------------|
|                                   | 1983           | 1982           | Percent change | 1983                          | 1982           | Percent change |                                                                            |
| <b>United States</b>              | <b>432,830</b> | <b>414,362</b> | <b>5.9</b>     | <b>419,820</b>                | <b>395,948</b> | <b>6.0</b>     | <b>179</b>                                                                 |
| Male                              | 419,811        | 396,439        | 5.9            | 402,391                       | 379,374        | 6.1            | 352                                                                        |
| Female                            | 19,019         | 17,923         | 6.1            | 17,429                        | 16,574         | 5.2            | 14                                                                         |
| Federal institutions <sup>b</sup> | 31,926         | 29,673         | 7.6            | 26,331                        | 23,652         | 11.3           | 11                                                                         |
| State institutions                | 406,904        | 384,689        | 5.8            | 393,489                       | 372,296        | 5.7            | 167                                                                        |
| <b>Northeast</b>                  | <b>65,680</b>  | <b>60,203</b>  | <b>9.1</b>     | <b>63,076</b>                 | <b>57,181</b>  | <b>10.3</b>    | <b>127</b>                                                                 |
| Maine <sup>c</sup>                | 1,349          | 999            | 5.0            | 858                           | 781            | 9.9            | 75                                                                         |
| New Hampshire                     | 479            | 445            | 7.6            | 479                           | 445            | 7.6            | 50                                                                         |
| Vermont <sup>d</sup>              | 497            | 599            | -17.0          | 378                           | 435            | -13.1          | 72                                                                         |
| Massachusetts <sup>e,f</sup>      | 4,559          | 4,623          | -1.4           | 4,559                         | 4,527          | 0.7            | 79                                                                         |
| Rhode Island <sup>d</sup>         | 1,157          | 1,037          | 11.6           | 878                           | 781            | 12.4           | 92                                                                         |
| Connecticut <sup>d</sup>          | 5,474          | 5,836          | -6.2           | 3,577                         | 3,809          | -6.1           | 114                                                                        |
| New York                          | 30,489         | 27,951         | 9.1            | 30,489                        | 27,951         | 9.1            | 172                                                                        |
| New Jersey                        | 10,209         | 8,191          | 24.6           | 10,159                        | 7,990          | 27.1           | 136                                                                        |
| Pennsylvania                      | 11,767         | 10,522         | 11.8           | 11,699                        | 10,462         | 11.8           | 98                                                                         |
| <b>North Central</b>              | <b>81,640</b>  | <b>78,549</b>  | <b>3.9</b>     | <b>79,624</b>                 | <b>77,353</b>  | <b>2.9</b>     | <b>135</b>                                                                 |
| Ohio                              | 17,766         | 17,317         | 2.6            | 16,686                        | 17,317         | -3.6           | 155                                                                        |
| Indiana                           | 9,360          | 8,790          | 6.5            | 8,973                         | 8,295          | 8.2            | 164                                                                        |
| Illinois <sup>g</sup>             | 15,595         | 14,293         | 9.1            | 15,522                        | 13,949         | 11.3           | 135                                                                        |
| Michigan                          | 14,382         | 15,224         | -5.5           | 14,382                        | 15,224         | -5.5           | 159                                                                        |
| Wisconsin <sup>h</sup>            | 4,898          | 4,670          | 4.9            | 4,862                         | 4,670          | 4.1            | 102                                                                        |
| Minnesota                         | 2,156          | 2,081          | 3.6            | 2,156                         | 2,081          | 3.6            | 52                                                                         |
| Iowa <sup>i,j</sup>               | 2,814          | 2,829          | -0.5           | 2,676                         | 2,709          | -1.2           | 92                                                                         |
| Missouri                          | 8,053          | 7,445          | 8.2            | 8,053                         | 7,445          | 8.2            | 162                                                                        |
| North Dakota                      | 410            | 322            | 27.3           | 350                           | 276            | 26.8           | 51                                                                         |
| South Dakota                      | 824            | 791            | 4.2            | 807                           | 755            | 6.9            | 115                                                                        |
| Nebraska                          | 1,677          | 1,709          | -1.9           | 1,452                         | 1,554          | -6.6           | 91                                                                         |
| Kansas                            | 3,705          | 3,078          | 20.4           | 3,705                         | 3,078          | 20.4           | 152                                                                        |
| <b>South</b>                      | <b>188,373</b> | <b>180,946</b> | <b>3.0</b>     | <b>180,348</b>                | <b>175,145</b> | <b>3.0</b>     | <b>225</b>                                                                 |
| Delaware <sup>d</sup>             | 2,190          | 2,062          | 6.2            | 1,659                         | 1,507          | 10.1           | 273                                                                        |
| Maryland <sup>j</sup>             | 12,606         | 11,012         | 14.5           | 11,968                        | 10,427         | 14.8           | 277                                                                        |
| District of Columbia <sup>d</sup> | 4,344          | 4,081          | 6.4            | 3,465                         | 3,351          | 3.4            | 558                                                                        |
| Virginia <sup>k</sup>             | 10,093         | 10,079         | 0.1            | 9,855                         | 9,715          | 1.4            | 177                                                                        |
| West Virginia                     | 1,628          | 1,729          | -5.8           | 1,628                         | 1,729          | -5.8           | 83                                                                         |
| North Carolina <sup>j</sup>       | 15,395         | 16,578         | -7.1           | 14,257                        | 15,358         | -7.2           | 233                                                                        |
| South Carolina                    | 9,583          | 9,137          | 4.9            | 9,078                         | 8,629          | 5.2            | 276                                                                        |
| Georgia                           | 15,347         | 14,416         | 6.5            | 14,929                        | 14,049         | 6.3            | 259                                                                        |
| Florida                           | 28,334         | 27,830         | -5.4           | 25,385                        | 27,139         | -6.5           | 235                                                                        |
| Kentucky                          | 4,738          | 4,077          | 16.2           | 4,738                         | 4,077          | 16.2           | 127                                                                        |
| Tennessee                         | 8,768          | 7,869          | 11.4           | 8,768                         | 7,869          | 11.4           | 187                                                                        |
| Alabama                           | 9,856          | 9,233          | 6.7            | 9,641                         | 8,581          | 12.4           | 243                                                                        |
| Mississippi                       | 5,586          | 5,484          | 1.9            | 5,481                         | 5,359          | 2.3            | 211                                                                        |
| Arkansas                          | 4,183          | 3,925          | 6.6            | 4,167                         | 3,921          | 6.3            | 179                                                                        |
| Louisiana                         | 12,976         | 10,935         | 18.7           | 12,976                        | 10,935         | 18.7           | 290                                                                        |
| Oklahoma                          | 7,487          | 6,350          | 17.9           | 7,096                         | 6,350          | 11.7           | 212                                                                        |
| Texas <sup>l</sup>                | 35,259         | 36,149         | -2.5           | 35,259                        | 36,149         | -2.5           | 221                                                                        |
| <b>West</b>                       | <b>73,211</b>  | <b>64,991</b>  | <b>12.6</b>    | <b>70,441</b>                 | <b>62,617</b>  | <b>12.5</b>    | <b>153</b>                                                                 |
| Montana                           | 850            | 914            | -7.0           | 850                           | 914            | -7.0           | 104                                                                        |
| Idaho                             | 1,206          | 1,047          | 15.2           | 1,205                         | 1,047          | 15.1           | 121                                                                        |
| Wyoming                           | 721            | 702            | 2.7            | 721                           | 702            | 2.7            | 138                                                                        |
| Colorado                          | 3,450          | 3,042          | 13.4           | 3,450                         | 3,042          | 13.4           | 109                                                                        |
| New Mexico <sup>e</sup>           | 2,013          | 1,718          | 17.2           | 2,013                         | 1,447          | 39.1           | 142                                                                        |
| Arizona <sup>e</sup>              | 6,889          | 6,069          | 13.5           | 6,693                         | 6,048          | 10.7           | 223                                                                        |
| Utah                              | 1,275          | 1,216          | 4.9            | 1,262                         | 1,199          | 5.3            | 77                                                                         |
| Nevada                            | 3,200          | 2,712          | 18.0           | 3,200                         | 2,712          | 18.0           | 354                                                                        |
| Washington                        | 6,701          | 6,322          | 6.0            | 6,701                         | 6,322          | 6.0            | 155                                                                        |
| Oregon <sup>l</sup>               | 4,181          | 3,867          | 8.1            | 4,181                         | 3,867          | 8.1            | 157                                                                        |
| California <sup>e,i,m</sup>       | 39,380         | 34,640         | 13.6           | 38,025                        | 33,583         | 13.2           | 150                                                                        |
| Alaska <sup>d</sup>               | 1,634          | 1,306          | 25.1           | 1,075                         | 856            | 25.6           | 219                                                                        |
| Hawaii <sup>c,d</sup>             | 1,731          | 1,436          | 20.5           | 1,065                         | 878            | 21.3           | 103                                                                        |

NOTE: Prisoner counts may differ from those reported in previous publications and are subject to revision as updated figures become available.

<sup>a</sup> Unpublished Bureau of the Census estimates for the resident population were used to calculate rates of incarceration. Sentenced prisoners are defined as those serving sentences of more than one year.

<sup>b</sup> Federal Bureau of Prisons figures for total prisoners include the following number of persons held under jurisdiction of the Immigration and Naturalization Service: 1,293 on 12/31/82 and 1,134 on 12/31/83.

<sup>c</sup> Population counts are estimates believed to be within the following percentages of actual counts: Arizona (2%), California (1%), Hawaii (1%), Maine (3%), and New Mexico (1%).

<sup>d</sup> Figures include both jail and prison inmates; jails and prisons are combined in one system.

<sup>e</sup> Massachusetts cannot distinguish inmates by sentence length for 1983; therefore, the incarceration rate is based on the total population;

yearend 1983 data are for December 30, 1983.

<sup>f</sup> Figures for Massachusetts and Kentucky and 1982 figures for New Jersey exclude State prisoners held in local jails because of overcrowding.

<sup>g</sup> Illinois' 1983 yearend figures are a partial enumeration based on manual and automated counts.

<sup>h</sup> Wisconsin's yearend 1983 data are for January 19, 1984.

<sup>i</sup> Figures for California, Iowa, and Texas exclude inmates under State jurisdiction but not in State custody.

<sup>j</sup> Breakdowns by sentence length for Iowa, Maryland, and North Carolina are estimates. Beginning with yearend 1983 data, Maryland's population includes inmates at Patuxent Institution.

<sup>k</sup> Virginia's yearend 1983 data is for January 1, 1984.

<sup>l</sup> Oregon's figures include escaped inmates.

<sup>m</sup> Figures exclude adult inmates under the jurisdiction of the California Youth Authority.

National Council on Crime and Delinquency for the data needed on Nevada's sentencing and parole policies and this work was conducted by Dr. Jim Austin, Research Director, who also worked with the interim legislative committee which developed the Prison Master Plan.

The committee was interested in reviewing three types of information. The first area was an update of information developed by the National Council on Crime and Delinquency for the Prison Master Plan. The committee was interested in updating information concerning what types of inmates are entering prison, how long they stay and how they are released. The second area involved how sentencing decisions are currently being made by the courts and the criteria used in making those decisions. Finally, the committee was interested in reviewing the criteria used by the parole board in determining parole release decisions. Once this data had been compiled and analyzed, it was then possible, using computer simulation models, to simulate the effects of alternatives on the probation, prison and parole population.



## PAROLE DECISION-MAKING

### OVERVIEW

Senate Bill 375 mandated an in depth examination into the operation, composition, powers and duties of the state board of parole commissioners. In its examination of the parole process in Nevada, the committee received testimony from Mr. Bryn Armstrong, chairman of the Nevada board of parole commissioners. The committee also received detailed testimony concerning the parole guidelines utilized by the federal government from former Chief Justice of the Nevada Supreme Court, Mr. Cameron Batjer who is currently functioning as vice-chairman of the U.S. Parole Commission. In addition, the committee received testimony from Mr. Joseph Palmer, former chairman of the Ohio parole board and currently working under a grant from the National Institute of Corrections. Mr. Palmer reviewed in detail some of the parole decision-making mechanisms in place in other states and specifically dealt with those states who have adopted parole guidelines.

The two most important factors affecting prison population are the sentencing practices within the State of Nevada and the parole board's decision to grant release or retain an inmate within the prison system. In Nevada there has been a profound shift in the board's parole practices which have had an accompanying effect on the prison population. Specifically, the board has significantly reduced the likelihood of an inmate being granted parole. In 1979, the Nevada parole board reported that approximately 65 percent of all hearings resulted in a favorable parole decision. This percentage has declined steadily to 35 percent in 1982 and 28 percent in 1983 (See Tables 2 through 6). The net result has been longer lengths of stay which in turn increase the state's prison population.

Concerned about these trends, the S.B. 375 committee directed its inquiry on the board's decision-making process and attempted to analyze on what basis the board is presently making parole decisions.

Mr. Bryn Armstrong was asked during testimony why the dramatic drop in the parole approval rate from 1979 to 1983. He indicated that the drop in the parole approvals can be attributed to experience.

"Earlier, the parole commissioners viewed prison behavior and recommendations from prison professionals as reliable guidelines in attempting to determine whether the inmate was a good parole risk. As the commissioners gained independent expertise, through experience and attendance at parole seminars and workshops, they learned that in other states, more reliance was placed in assessing parole risks upon factors known at the

time of incarceration, such as prior criminal history, severity of the crime, whether weapons were used, work background and the age at first risk. The board also looks closely at history of addiction to drugs and records of alcohol abuse since these two factors seem to have an important bearing upon whether the individual can abide by the law."

#### THE HISTORY OF THE PAROLE SYSTEM IN NEVADA

The Nevada parole system originated in 1867 when the Nevada legislature passed into law an act to regulate and make effectual the power of the governor, justices of the Supreme Court and attorney general to remit fines and forfeitures, commute punishments, and grant pardons after conviction. During the period 1867 to 1909 the majority of offenders released from the Nevada state prison prior to the expiration of their sentence were released by commutation of their sentence, which in effect amounted to a discharge from their sentence. This changed in 1909 when the legislature enacted legislation creating a board of parole commissioners for the parole of and government of paroled prisoners. This board was comprised of the governor, justices of the Supreme Court and attorney general. The governor's private secretary was also designated as the secretary of the board to which paroled prisoners were required to report to at least once a month while they were on parole.

In 1929, legislation was enacted which mandated a minimum sentence of one year prior to parole eligibility and made ineligible for parole those who had previously been convicted of a felony. In 1933 the statute was amended which made ineligible for parole those prisoners who had previously been convicted more than three times of a felony. Also in 1933, the chief clerk of the Nevada state prison was made secretary of the parole board with all parolees reporting to him.

The parole department, under the jurisdiction of a state board of pardons and parole commissioners, was established by the 1945 legislature with the first Nevada parole officer being appointed July 1, 1945. In 1957, the legislature enacted legislation relieving the state board of pardons and parole responsibilities relating to parole and probation, redesignating them as the board of pardons and created a state board of parole commissioners consisting of the chief parole officer as the chairman and four lay members appointed by the governor. This board met regularly in the spring and fall of each year for the purpose of considering parole. The membership of the board was increased by the

1959 legislature which also gave the board of parole commissioners full responsibility in the operation of the parole and probation department, including the authority to appoint a chief parole and probation officer.

In 1964, a decision by the Nevada supreme court (Raggio vs. Board of Parole Commissioners) resulted in a whole new prospective of parole in Nevada. This resulted in virtually all offenders who were released from the prison being placed under parole supervision.

The chief parole and probation officer was relieved of his duties of secretary to the parole board in 1973 when the legislature enacted legislation creating a new position of executive secretary to the parole board. During the same session, the legislature enacted legislation which created a work release program that would allow selected inmates of the prison who are within six months of release from the prison to leave the secure custody of the prison and work at employment in the community under the supervision of the department of parole and probation. The 1975 legislature reformed the parole and probation statutes which allowed the court and/or parole board to impose, as a condition of parole or probation, a special condition requiring the offender to pay restitution to the victim of his offense.

A full-time board of parole commissioners consisting of a chairman and two members was established by the 1977 legislature. This legislature also separated the department of parole and probation from the board of parole commissioners and placed the operation of the department of parole and probation under the control of the chief parole and probation officer.

Nevada is currently operating with an indeterminate sentencing system in which the actual amount of time served by an offender is determined by the board of parole commissioners long after the sentence is imposed. At the time of sentencing, a judge can take any evidence he feels is necessary. If an offender is sent to prison on the 120-day evaluation program, the judge has the evaluation report from the department of prisons as well as the recommendation from the department of parole and probation in the form of the pre-sentence investigation (PSI) as tools in making sentencing decisions. The judge has the discretion whether or not he wants to follow the sentencing recommendations in the PSI. In felony cases, the PSI can only be waived if the defendant agrees to waive the report.

When a person is convicted of a felony, the court has the option of:

1. Sentencing to a definite term of imprisonment (within terms prescribed by statute);
2. Suspend sentence; or
3. Grant probation where applicable under statute. (Certain crimes such as murder in the first degree or sexual assault are not eligible for option 2 or 3).

Eligibility for parole is determined from the length of the sentence and most crimes have a definite period within which the judge can sentence the offender. If there are certain elements present in the commission of a crime (i.e., using a gun, crimes against persons 65 years of age or older, etc.), there are enhancements that allow a court to sentence a person to an additional term equal to the term for the basic offense.

An inmate becomes eligible for parole after serving one-third of his sentence (not less than one year) less good time earned. This currently allows someone sentenced to 18 years to be eligible for parole in approximately four years. Current statutes, however, do not provide for reduction of sentences by good time credits for certain types of crimes.

When a prisoner is eligible for parole he can make an application to the state board of parole commissioners. The board will then either hear the application itself or delegate its authority to hear and act on the case to a member of the board or a case hearing representative or to a panel of members of the board and hearing representatives. The victim of the offense must be notified of the offender's parole hearing and is allowed to submit documents and testify. The board may release a person on parole only if it appears there is reasonable probability he would not violate the laws or be a threat to society. The board may attach a number of conditions to parole, but if parole is denied, a rehearing must be scheduled within three years. While on parole, a person is in the legal custody of the board and is subject to its control and may be required to pay a fee to defray the cost of his supervision. A parolee can be arrested for violating the terms of his parole, but must be granted an inquiry before an inquiring office. Any conviction other than a minor traffic offense constitutes probable cause and negates the need for the inquiry. If the board revokes a person's parole, he must serve such part of his unexpired term as the board may determine.

## STATE BOARD OF PAROLE COMMISSIONERS

The state board of parole commissioners was specifically created by NRS 213.108 and consists of a chairman and two commissioners appointed by the governor, each for a period of four years. In addition to the three parole commissioners, the board hires on a contract basis a number of hearing representatives to assist with parole hearings. These case hearing representatives sat with one or two parole commissioners on 1,496 cases or 65.9 percent of those heard in 1983. Hearing representatives sat alone on 113 cases or 5.2 percent and parole commissioners heard 656 cases or 28.9 percent of the cases in 1983. Final decision for parole approval or denial requires the concurrence of at least two of the parole commissioners. In situations where no parole commissioners are present at a parole hearing or only one is present, then that body which is conducting the hearing is considered a panel appointed by the board to hear an inmate's application for parole. An interview is conducted and at the conclusion of the question and answer period and after reviewing information available from the department of parole and probation, the department of prisons and the courts, the panel makes a recommendation which is passed on to the board for their final review and action. If two or more commissioners are present at the parole hearing, the inmate is usually informed immediately after the hearing of the decision of the parole board.

The state board of parole commissioners, pursuant to NRS 209.451, is also involved in the forfeiture and restoration of statutory good time credits for inmates within the state prison system. During testimony before the S.B. 375 committee, Mr. Vern Housewright, the director of the department of prisons, pointed out that this hearing process before the state board of parole commissioners is an added and duplicate step to that already taking place within the department of prisons. Director Housewright noted that an inmate who has committed a serious violation goes before a prison disciplinary committee which recommends the amount of good time to be removed, if any, and that recommendation is submitted to Director Housewright for approval or denial prior to being forwarded to the state board of parole commissioners. The final decision is currently made by the state board of parole commissioners, and Director Housewright noted that this amounts to a duplication of the hearing process which already takes place within the prison. Statistics for the number of statutory time hearings are contained in Tables 2 through 6 and they range from 44 hearings in 1979 to 170 hearings in 1982.

# RECAP - STATISTICS FOR PAROLE BOARD 1979

Table 2

|           | Number of<br>Hearings | Heard for<br>Parole only | Heard for Parole<br>to Streets/ Not<br>C/S & Holds | (Computed on Parole to<br>Streets only) |     |        |     | Total Hearings<br>for Parole<br>Revocation | Number<br>Revoked | Number<br>Reinstated | Number of<br>Statutory Time<br>Hearings | Total Hearings<br>for Work Release | Work Release<br>Approved | Work Release<br>Denied |
|-----------|-----------------------|--------------------------|----------------------------------------------------|-----------------------------------------|-----|--------|-----|--------------------------------------------|-------------------|----------------------|-----------------------------------------|------------------------------------|--------------------------|------------------------|
|           |                       |                          |                                                    | PAROLED                                 |     | DENIED |     |                                            |                   |                      |                                         |                                    |                          |                        |
| JANUARY   | 110                   | 75                       | 67                                                 | 36                                      | 54% | 31     | 46% | 32                                         | 19                | 11                   | 2                                       | 4                                  | 3                        | 1                      |
| FEBRUARY  | 133                   | 101                      | 83                                                 | 56                                      | 68% | 27     | 32% | 28                                         | 14                | 6                    | 3                                       | 1                                  | 0                        | 1                      |
| MARCH     | 95                    | 69                       | 52                                                 | 31                                      | 60% | 21     | 40% | 23                                         | 13                | 3                    | 3                                       | 3                                  | 3                        | 0                      |
| APRIL     | 124                   | 102                      | 89                                                 | 66                                      | 74% | 23     | 26% | 20                                         | 11                | 6                    | 2                                       | 4                                  | 4                        | 0                      |
| MAY       | 157                   | 130                      | 107                                                | 80                                      | 74% | 27     | 26% | 20                                         | 8                 | 7                    | 7                                       | 4                                  | 4                        | 0                      |
| JUNE      | 138                   | 95                       | 80                                                 | 60                                      | 75% | 20     | 25% | 33                                         | 17                | 5                    | 9                                       | 10                                 | 9                        | 1                      |
| JULY      | 140                   | 97                       | 84                                                 | 50                                      | 60% | 34     | 40% | 42                                         | 26                | 1                    | 0                                       | 13                                 | 12                       | 1                      |
| AUGUST    | 131                   | 103                      | 84                                                 | 55                                      | 66% | 29     | 34% | 23                                         | 18                | 4                    | 4                                       | 6                                  | 5                        | 1                      |
| SEPTEMBER | 138                   | 100                      | 88                                                 | 60                                      | 68% | 28     | 32% | 27                                         | 9                 | 9                    | 10                                      | 12                                 | 11                       | 1                      |
| OCTOBER   | 123                   | 100                      | 86                                                 | 55                                      | 64% | 31     | 36% | 22                                         | 13                | 6                    | 1                                       | 4                                  | 4                        | 0                      |
| NOVEMBER  | 152                   | 129                      | 109                                                | 65                                      | 60% | 44     | 40% | 23                                         | 15                | 3                    | 0                                       | 6                                  | 6                        | 0                      |
| DECEMBER  | 139                   | 117                      | 99                                                 | 57                                      | 58% | 42     | 42% | 19                                         | 8                 | 4                    | 3                                       | 4                                  | 4                        | 0                      |
|           | 1,580                 | 1,218                    | 1,028                                              | 671                                     |     | 357    |     | 312                                        | 171               | 65                   | 44                                      | 71                                 | 65                       | 6                      |

THE FOLLOWING STATISTICS REPRESENT ONLY THE LAST FOUR MONTHS OF THE YEAR (SEPTEMBER, OCTOBER, NOVEMBER, DECEMBER)

## OF THOSE HEARD:

AVERAGE APPROVED FOR YEAR: 65%  
AVERAGE DENIED FOR YEAR: 35%

64% WERE RESIDENTS OF NEVADA  
36% WERE NON-RESIDENTS

41% HAD A HISTORY OF ALCOHOL ABUSE  
58% HAD A HISTORY OF DRUG ABUSE

|         | PAROLED<br>TO STREETS | C/S | DENIED |
|---------|-----------------------|-----|--------|
| INITIAL | 55%                   | 13% | 79%    |
| REVIEW  | 25%                   | 7%  | 22%    |

# RECAP - STATISTICS FOR PAROLE BOARD 1980

Table 3

|           | Number of Hearings | Heard for Parole only | Heard for Parole to Streets/ Not C/s & Holds | (Computed on Parole to Streets only) |       |            |       | Total Hearings for Parole Revocation | Number Revoked | Number Reinstated | Number of Statutory Time Hearings | Total Hearings for Work Release | Work Release Approved | Work Release Denied |
|-----------|--------------------|-----------------------|----------------------------------------------|--------------------------------------|-------|------------|-------|--------------------------------------|----------------|-------------------|-----------------------------------|---------------------------------|-----------------------|---------------------|
|           |                    |                       |                                              | PAROLED                              |       | DENIED     |       |                                      |                |                   |                                   |                                 |                       |                     |
|           |                    |                       |                                              |                                      |       |            |       |                                      |                |                   |                                   |                                 |                       |                     |
| JANUARY   | 130                | 87                    | 76                                           | 44                                   | 62%   | 27         | 38%   | 37                                   | 16             | 8                 | 6                                 | 7                               | 7                     | 0                   |
| FEBRUARY  | 122                | 92                    | 80                                           | 41                                   | 53%   | 36         | 47%   | 29                                   | 17             | 5                 | 2                                 | 6                               | 6                     | 0                   |
| MARCH     | 137                | 105                   | 86                                           | 41                                   | 53%   | 37         | 47%   | 20                                   | 16             | 1                 | 12                                | 9                               | 9                     | 0                   |
| APRIL     | 128                | 97                    | 75                                           | 51                                   | 71%   | 19         | 29%   | 19                                   | 14             | 3                 | 12                                | 11                              | 9                     | 2                   |
| MAY       | 112                | 84                    | 75                                           | 47                                   | 67%   | 20         | 33%   | 26                                   | 11             | 11                | 2                                 | 11                              | 8                     | 3                   |
| JUNE      | 127                | 95                    | 78                                           | 45                                   | 60%   | 27         | 40%   | 29                                   | 20             | 5                 | 3                                 | 12                              | 9                     | 3                   |
| JULY      | 163                | 128                   | 110                                          | 55                                   | 55%   | 44         | 45%   | 28                                   | 19             | 6                 | 7                                 | 24                              | 18                    | 6                   |
| AUGUST    | 145                | 109                   | 81                                           | 47                                   | 61.5% | 29         | 38.5% | 23                                   | 15             | 4                 | 13                                | 11                              | 9                     | 2                   |
| SEPTEMBER | 123                | 96                    | 77                                           | 38                                   | 50%   | 37         | 50%   | 17                                   | 10             | 5                 | 10                                | 4                               | 3                     | 1                   |
| OCTOBER   | 147                | 114                   | 92                                           | 35                                   | 38%   | 51         | 62%   | 32                                   | 22             | 2                 | 3                                 | 13                              | 7                     | 6                   |
| NOVEMBER  | 145                | 114                   | 104                                          | 50                                   | 52%   | 46         | 48%   | 23                                   | 14             | 2                 | 9                                 | 2                               | 1                     | 1                   |
| DECEMBER  | 141                | 98                    | 78                                           | 35                                   | 47%   | 38         | 53%   | 38                                   | 26             | 8                 | 5                                 | 4                               | 3                     | 1                   |
| TOTALS    | <u>1,620</u>       | <u>1,130</u>          | <u>1,012</u>                                 | <u>529</u>                           |       | <u>411</u> |       | <u>321</u>                           | <u>200</u>     | <u>60</u>         | <u>84</u>                         | <u>114</u>                      | <u>89</u>             | <u>25</u>           |

AVERAGE APPROVED FOR YEAR: 52%  
AVERAGE DENIED FOR YEAR: 48%

PAROLE REVOCATION HEARINGS: 321

TECHNICAL VIOLATIONS - 41%  
NEW CONVICTIONS 59%

69% OF THOSE HEARD FOR PAROLE ONLY WERE RESIDENTS OF NEVADA  
31% OF THOSE HEARD FOR PAROLE ONLY WERE NON-RESIDENTS

49% OF THOSE HEARD FOR PAROLE ONLY HAD A HISTORY OF ALCOHOL ABUSE  
63% OF THOSE HEARD FOR PAROLE ONLY HAD A HISTORY OF DRUG ABUSE

|                | PAROLED TO STREETS | C/S | DENIED |
|----------------|--------------------|-----|--------|
| INITIAL REVIEW | 44%                | 16% | 66%    |
|                | 29%                | 11% | 34%    |

# RECAP - STATISTICS FOR PAROLE BOARD 1981

Table 4

|           | Number of Hearings | Heard for Parole only | Heard for Parole to Streets / Not C/S and Holds | (Computed on Parole to Streets only) |     |        |     | Total Hearings for Parole Revocation | Number Revoked | Number Reinstated | Number of Statutory Time Hearings | Total Hearings for Work Release | Work Release Approved | Work Release Denied |
|-----------|--------------------|-----------------------|-------------------------------------------------|--------------------------------------|-----|--------|-----|--------------------------------------|----------------|-------------------|-----------------------------------|---------------------------------|-----------------------|---------------------|
|           |                    |                       |                                                 | PAROLED                              |     | DENIED |     |                                      |                |                   |                                   |                                 |                       |                     |
|           |                    |                       |                                                 |                                      |     |        |     |                                      |                |                   |                                   |                                 |                       |                     |
|           |                    |                       |                                                 |                                      |     |        |     |                                      |                |                   |                                   |                                 |                       |                     |
| JANUARY   | 136                | 92                    | 72                                              | 31                                   | 59% | 36     | 41% | 30                                   | 23             | 3                 | 4                                 | 14                              | 9                     | 5                   |
| FEBRUARY  | 139                | 107                   | 96                                              | 60                                   | 66% | 27     | 34% | 15                                   | 7              | 5                 | 17                                | 9                               | 6                     | 5                   |
| MARCH     | 152                | 114                   | 98                                              | 42                                   | 65% | 32     | 35% | 24                                   | 15             | 8                 | 14                                | 1                               | 1                     | 0                   |
| APRIL     | 174                | 136                   | 123                                             | 52                                   | 57% | 54     | 43% | 27                                   | 18             | 5                 | 11                                | 6                               | 6                     | 0                   |
| MAY       | 109                | 89                    | 81                                              | 33                                   | 55% | 31     | 45% | 18                                   | 10             | 5                 | 2                                 | 1                               | 1                     | 0                   |
| JUNE      | 130                | 103                   | 95                                              | 52                                   | 58% | 38     | 42% | 17                                   | 13             | 0                 | 10                                | 2                               | 2                     | 0                   |
| JULY      | 129                | 94                    | 85                                              | 50                                   | 63% | 29     | 37% | 29                                   | 17             | 6                 | 6                                 | 1                               | 1                     | 0                   |
| AUGUST    | 134                | 110                   | 93                                              | 47                                   | 52% | 43     | 48% | 16                                   | 9              | 3                 | 8                                 | 3                               | 2                     | 1                   |
| SEPTEMBER | 151                | 112                   | 100                                             | 60                                   | 63% | 36     | 37% | 27                                   | 24             | 1                 | 12                                | 7                               | 4                     | 3                   |
| OCTOBER   | 139                | 109                   | 90                                              | 42                                   | 49% | 44     | 51% | 20                                   | 9              | 6                 | 16                                | 3                               | 3                     | 0                   |
| NOVEMBER  | 149                | 104                   | 97                                              | 30                                   | 34% | 59     | 66% | 26                                   | 14             | 7                 | 19                                | 3                               | 2                     | 1                   |
| DECEMBER  | 144                | 111                   | 100                                             | 31                                   | 35% | 58     | 65% | 24                                   | 16             | 4                 | 8                                 | 3                               | 1                     | 2                   |
| TOTALS    | 1,686              | 1,281                 | 1,130                                           | 530                                  |     | 487    |     | 273                                  | 175            | 53                | 127                               | 53                              | 38                    | 17                  |

AVERAGE APPROVED FOR YEAR: 55%  
AVERAGE DENIED FOR YEAR: 45%

PAROLE REVOCATION HEARINGS: 273

TECHNICAL VIOLATIONS - 39%  
NEW CONVICTIONS - 61%

68% OF THOSE HEARD FOR PAROLE ONLY WERE RESIDENTS OF NEVADA  
32% OF THOSE HEARD FOR PAROLE ONLY WERE NON-RESIDENTS

45% OF THOSE HEARD FOR PAROLE ONLY HAD A HISTORY OF ALCOHOL ABUSE  
60% OF THOSE HEARD FOR PAROLE ONLY HAD A HISTORY OF DRUG ABUSE

| INITIAL REVIEW | PAROLED TO STREETS | C/S | DENIED |
|----------------|--------------------|-----|--------|
|                | 48%                | 9%  | 43%    |
| INITIAL REVIEW | PAROLED TO STREETS | C/S | DENIED |
|                | 52%                | 10% | 38%    |

# RECAP - STATISTICS FOR PAROLE BOARD 1982

Table 5

|           | Number of Hearings | Heard for Parole only | Heard for Parole to Streets/ Not C/S & Holds | (Computed on Parole to Streets only) |     |        |     | Total Hearings for Parole Revocations | Number Revoked | Number Reinstated | Number of Statutory Time Hearings | Total Hearings for Work Release | Work Release Approved | Work Release Denied |
|-----------|--------------------|-----------------------|----------------------------------------------|--------------------------------------|-----|--------|-----|---------------------------------------|----------------|-------------------|-----------------------------------|---------------------------------|-----------------------|---------------------|
|           |                    |                       |                                              | PAROLED                              |     | DENIED |     |                                       |                |                   |                                   |                                 |                       |                     |
|           |                    |                       |                                              | 1                                    | 1   | 1      | 1   |                                       |                |                   |                                   |                                 |                       |                     |
| JANUARY   | 149                | 92                    | 87                                           | 34                                   | 40% | 50     | 60% | 35                                    | 22             | 6                 | 22                                | 0                               | 0                     | 0                   |
| FEBRUARY  | 143                | 105                   | 98                                           | 21                                   | 24% | 71     | 76% | 30                                    | 18             | 6                 | 8                                 | 1                               | 1                     | 0                   |
| MARCH     | 200                | 165                   | 153                                          | 34                                   | 23% | 116    | 77% | 20                                    | 15             | 2                 | 15                                | 2                               | 2                     | 0                   |
| APRIL     | 145                | 100                   | 91                                           | 29                                   | 34% | 57     | 66% | 38                                    | 29             | 3                 | 7                                 | 4                               | 3                     | 1                   |
| MAY       | 159                | 120                   | 110                                          | 43                                   | 45% | 63     | 65% | 15                                    | 9              | 2                 | 24                                | 4                               | 1                     | 3                   |
| JUNE      | 172                | 136                   | 123                                          | 33                                   | 29% | 81     | 71% | 27                                    | 22             | 1                 | 9                                 | 3                               | 3                     | 0                   |
| JULY      | 164                | 120                   | 114                                          | 43                                   | 40% | 62     | 60% | 21                                    | 15             | 4                 | 22                                | 2                               | 2                     | 0                   |
| AUGUST    | 184                | 141                   | 131                                          | 45                                   | 37% | 76     | 63% | 21                                    | 17             | 1                 | 22                                | 1                               | 0                     | 1                   |
| SEPTEMBER | 178                | 137                   | 124                                          | 36                                   | 31% | 81     | 69% | 25                                    | 16             | 4                 | 16                                | 1                               | 1                     | 0                   |
| OCTOBER   | 182                | 137                   | 129                                          | 56                                   | 47% | 64     | 53% | 31                                    | 19             | 9                 | 8                                 | 6                               | 5                     | 1                   |
| NOVEMBER  | 132                | 109                   | 101                                          | 26                                   | 27% | 70     | 73% | 19                                    | 9              | 9                 | 3                                 | 1                               | 1                     | 0                   |
| DECEMBER  | 170                | 137                   | 124                                          | 51                                   | 43% | 68     | 57% | 19                                    | 8              | 6                 | 14                                | 1                               | 1                     | 0                   |
| TOTALS    | 1,978              | 1,499                 | 1,385                                        | 451                                  |     | 859    |     | 301                                   | 199            | 53                | 170                               | 26                              | 20                    | 6                   |

AVERAGE APPROVED FOR YEAR: 35%  
AVERAGE DENIED FOR YEAR: 65%

PAROLE REVOCATION HEARINGS HELD: 301

TECHNICAL VIOLATIONS - 125 or 42%  
NEW CONVICTIONS - 176 or 58%

1,024 (or 68%) OF THOSE HEARD FOR PAROLE ONLY WERE RESIDENTS OF NEVADA  
475 (or 32%) OF THOSE HEARD FOR PAROLE ONLY WERE NON-RESIDENTS

706 (or 47%) OF THOSE HEARD FOR PAROLE ONLY HAD A HISTORY OF ALCOHOL ABUSE  
793 (or 53%) OF THOSE HEARD FOR PAROLE ONLY HAD A HISTORY OF DRUG ABUSE  
107 OF THOSE INCLUDED IN PERCENTAGES ABOVE HAD BOTH DRUG AND ALCOHOL ABUSE

|                   | INITIAL HRC | REVIEW HRC |
|-------------------|-------------|------------|
| Parole to Streets | 56%         | 44%        |
| Parole/CS         | 70%         | 50%        |
| Denied            | 67%         | 33%        |

# RECAP - STATISTICS FOR PAROLE BOARD 1983

Table 6

|           | Number of Hearings | Heard for Parole only | Heard for Parole to Streets/ Not C/S & Holds | (Computed on Parole to Streets only) |     |        |     | Total Hearings for Parole Revocations | Number Revoked | Number Reinstated | Number of Statutory Time Hearings | Total Hearings for Work Release | Work Release Approved | Work Release Denied  |
|-----------|--------------------|-----------------------|----------------------------------------------|--------------------------------------|-----|--------|-----|---------------------------------------|----------------|-------------------|-----------------------------------|---------------------------------|-----------------------|----------------------|
|           |                    |                       |                                              | PAROLED                              |     | DENIED |     |                                       |                |                   |                                   |                                 |                       |                      |
|           |                    |                       |                                              | #                                    | %   | #      | %   |                                       |                |                   |                                   |                                 |                       |                      |
| JANUARY   | 194                | 156                   | 140                                          | 51                                   | 39% | 84     | 61% | 30                                    | 20             | 3                 | 8                                 | 2                               | 2                     | 0                    |
| FEBRUARY  | 179                | 128                   | 112                                          | 39                                   | 36% | 70     | 64% | 32                                    | 27             | 4                 | 16                                | 1                               | 1                     | 0                    |
| MARCH     | 217                | 181                   | 164                                          | 44                                   | 28% | 113    | 72% | 22                                    | 15             | 4                 | 5                                 | 6                               | 6                     | 0                    |
| APRIL     | 223                | 188                   | 174                                          | 37                                   | 23% | 125    | 77% | 23                                    | 15             | 5                 | 12                                | 4                               | 4                     | 0                    |
| MAY       | 193                | 161                   | 141                                          | 38                                   | 28% | 99     | 72% | 19                                    | 16             | 2                 | 13                                | 2                               | 2                     | 0                    |
| JUNE      | 210                | 174                   | 158                                          | 46                                   | 31% | 104    | 69% | 26                                    | 15             | 4                 | 10                                | 4                               | 4                     | 0                    |
| JULY      | 184                | 149                   | 138                                          | 32                                   | 24% | 100    | 76% | 26                                    | 15             | 5                 | 9                                 | No longer Applicable            | No longer Applicable  | No longer Applicable |
| AUGUST    | 168                | 117                   | 103                                          | 21                                   | 21% | 78     | 79% | 31                                    | 26             | 5                 | 16                                |                                 |                       |                      |
| SEPTEMBER | 167                | 137                   | 128                                          | 33                                   | 27% | 89     | 73% | 24                                    | 17             | 1                 | 6                                 |                                 |                       |                      |
| OCTOBER   | 182                | 149                   | 143                                          | 36                                   | 27% | 97     | 75% | 19                                    | 18             | 1                 | 11                                | No longer Applicable            | No longer Applicable  | No longer Applicable |
| NOVEMBER  | 155                | 125                   | 111                                          | 41                                   | 33% | 79     | 67% | 18                                    | 15             | 3                 | 12                                |                                 |                       |                      |
| DECEMBER  | 197                | 182                   | 171                                          | 38                                   | 23% | 129    | 77% | 14                                    | 10             | 2                 | 1                                 | No longer Applicable            | No longer Applicable  | No longer Applicable |
| TOTALS:   | 2,269              | 1,847                 | 1,683                                        | 507                                  |     | 1,167  |     | 284                                   | 210            | 39                | 119                               |                                 |                       |                      |

AVERAGE APPROVED FOR YEAR: 28%

AVERAGE DENIED FOR YEAR: 72%

PAROLE REVOCATION HEARINGS HELD: 284

TECHNICAL VIOLATIONS - 187 or 51%

NEW ARRESTS/CONVICTIONS 184 or 49%

1,320 (or 70%) OF THOSE HEARD FOR PAROLE ONLY WERE RESIDENTS OF NEVADA

566 (or 30%) OF THOSE HEARD FOR PAROLE ONLY WERE NON-RESIDENTS

888 (or 44%) OF THOSE HEARD FOR PAROLE ONLY HAD A HISTORY OF ALCOHOL ABUSE

1,124 (or 74%) OF THOSE HEARD FOR PAROLE ONLY HAD A HISTORY OF DRUG ABUSE

The committee agreed with the argument by Director Housewright in that the prison should be allowed to control the awarding as well as the removal of good time credits as a management tool. The board of prison commissioners should establish regulations concerning the removal of good time credits. Due process safeguards and disciplinary hearings are subject to judicial review if due process rights are violated. The committee recommends that the board of parole commissioners be removed from the hearing process involving forfeiture of good time credits with the exception of eliminating or reducing the amount of good time credits an inmate may have on the books during parole revocation hearings.

The state board of parole commissioners also conducts hearings for parole revocations. In calendar year 1983, the board conducted 284 parole revocation hearings; down slightly from 301 hearings in 1982. Other information on parole revocation hearings from 1979 through 1983 are contained in Tables 2 through 6 plus additional information comparing northern and southern hearings for calendar years 1981 and 1982 are contained in Tables 7 and 8.

The total number of hearings before the board of parole commissioners has grown steadily from calendar year 1979 when 1,580 hearings of all types were conducted, to 2,269 hearings during calendar year 1983. As was pointed out earlier, this increase in the numbers of hearings has caused the state board of parole commissioners to increasingly rely upon the services of contract hearing officers to assist them in accomplishing their statutory responsibilities. The S.B. 375 committee felt that the reliance upon contract hearings officers appeared to be the only way that the board is able to accomplish its responsibilities with three commissioners currently authorized. The three commissioners are having to travel throughout the state to conduct hearings in conjunction with the contract hearings officers and this is creating time delays and a backlog of cases in front of the board. Mr. Bryn Armstrong indicated in his testimony that he felt additional commissioners would make inroads in meeting the expanding caseload of parole hearings. It is the recommendation of the S.B. 375 committee that the 1985 Legislature give serious consideration to establishing two additional parole commissioners to be housed in southern Nevada to assist the state board of parole commissioners in handling their increasing caseload.

Due to the heavy workload of the state board of parole commissioners and their lack of an automated data system upon which to gather and analyze parole information and decisions, the S.B. 375 committee relied upon the National Council on Crime and Delinquency (NCCD) to collect and computerize a sample of decisions made annually by the board. A roster of all decisions made from January 1, 1983 to March 1, 1984, in chronological order,

Table 7

BOARD OF PAROLE COMMISSIONERS  
TOTAL NUMBER OF HEARINGS/PAROLE, STATUTORY TIME HEARINGS  
AND PAROLE REVOCATION - YEAR OF 1982

| MONTH     | NORTHERN NEVADA                   |     |      |      |               | SOUTHERN NEVADA                 |      |      |               |               |
|-----------|-----------------------------------|-----|------|------|---------------|---------------------------------|------|------|---------------|---------------|
|           | TOTAL #<br>HEARINGS               | NSP | NNCC | NWCC | STAT/<br>P.V. | TOTAL #<br>HEARINGS             | SNCC | SDCC | STAT/<br>P.V. | YEAR<br>TOTAL |
| JANUARY   | 92                                | 9   | 45   | 8    | 30            | 57                              | 35   |      | 22            | 149           |
| FEBRUARY  | 82                                | 20  | 39   | 7    | 16            | 61                              | 41   |      | 20            | 143           |
| MARCH     | 149                               | 45  | 70   | 11   | 23            | 51                              | 38   |      | 13            | 200           |
| APRIL     | 95                                | 14  | 47   | 7    | 27            | 50                              | 32   |      | 18            | 145           |
| MAY       | 120                               | 23  | 64   | 8    | 25            | 39                              | 31   |      | 8             | 159           |
| JUNE      | 118                               | 30  | 67   | 5    | 16            | 54                              | 38   |      | 16            | 172           |
| July      | 111                               | 20  | 50   | 7    | 34            | 53                              | 36   | 9    | 8             | 154           |
| AUGUST    | 102                               | 16  | 49   | 11   | 26            | 82                              | 48   | 22   | 12            | 184           |
| SEPTEMBER | 113                               | 15  | 55   | 13   | 30            | 65                              | 33   | 21   | 11            | 178           |
| OCTOBER   | 101                               | 18  | 55   | 9    | 19            | 81                              | 33   | 26   | 22            | 182           |
| NOVEMBER  | 75                                | 9   | 52   | 5    | 9             | 57                              | 21   | 23   | 13            | 132           |
| DECEMBER  | 92                                | 22  | 51   | 4    | 15            | 78                              | 50   | 30   | 18            | 170           |
| TOTALS    | 1,250 hearings in northern Nevada |     |      |      |               | 728 hearings in southern Nevada |      |      |               |               |

TOTAL NUMBER OF HEARINGS 1,978

Table 8

BOARD OF PAROLE COMMISSIONERS  
TOTAL NUMBER OF HEARINGS/ PAROLE, STATUTORY TIME HEARINGS  
AND PAROLE REVOCATION - YEAR OF 1981

| MONTH                           | NORTHERN NEVADA     |            |            |           |            | SOUTHERN NEVADA               |            |            |               |
|---------------------------------|---------------------|------------|------------|-----------|------------|-------------------------------|------------|------------|---------------|
|                                 | TOTAL #<br>HEARINGS | NSP        | NNCC       | WOMENS    | P-V        | TOTAL #<br>HEARINGS           | SNCC       | P-V        | YEAR<br>TOTAL |
| JANUARY                         | 95                  | 17         | 52         | 5         | 21         | 41                            | 32         | 9          | 136           |
| FEBRUARY                        | 94                  | 26         | 53         | 5         | 10         | 45                            | 39         | 6          | 139           |
| MARCH                           | 94                  | 24         | 51         | 11        | 8          | 38                            | 41         | 17         | 152           |
| APRIL                           | 121                 | 37         | 61         | 6         | 17         | 53                            | 43         | 10         | 174           |
| MAY                             | 71                  | 12         | 45         | 4         | 10         | 38                            | 30         | 8          | 109           |
| JUNE                            | 87                  | 15         | 58         | 7         | 7          | 43                            | 33         | 10         | 130           |
| JULY                            | 91                  | 16         | 48         | 3         | 19         | 38                            | 29         | 9          | 129           |
| AUGUST                          | 87                  | 17         | 56         | 5         | 9          | 47                            | 35         | 12         | 154           |
| SEPTEMBER                       | 96                  | 23         | 54         | 6         | 13         | 55                            | 41         | 14         | 151           |
| OCTOBER                         | 99                  | 18         | 63         | 8         | 10         | 40                            | 30         | 10         | 139           |
| NOVEMBER                        | 102                 | 21         | 65         | 9         | 7          | 47                            | 28         | 19         | 149           |
| DECEMBER                        | 101                 | 23         | 58         | 8         | 12         | 43                            | 31         | 12         | 144           |
| TOTAL FOR<br>NORTHERN<br>NEVADA | <u>1,133</u>        | <u>249</u> | <u>664</u> | <u>32</u> | <u>143</u> | <u>548</u>                    | <u>412</u> | <u>136</u> |               |
|                                 |                     |            |            |           |            | TOTALS FOR<br>SOUTHERN NEVADA |            |            |               |
| TOTAL HEARINGS FOR YEAR         |                     |            |            |           |            |                               |            |            | <u>1,686</u>  |

was provided by the board to NCCD. From this list NCCD collected its sample by selecting every fourth case.

This case file allowed NCCD to provide a systematic analysis of current parole practices and also allowed them to simulate alternate parole release statistics from suggestions developed by the S.B. 375 committee.

The National Council on Crime and Delinquency (NCCD) pointed out to the committee, after doing a statistical analysis of parole decision-making, that the likelihood of an inmate receiving parole in the state of Nevada is quite small. According to Table 9, less than 15 percent of all parole hearings result in the board granting an unconditional parole in Nevada. The total parole grant rate is currently at 34 percent but this statistic includes several options which do not translate into actual release from prison. Seven percent of the hearings result in parole to consecutive sentences. In these instances, the board is simply allowing those inmates serving consecutive sentences for multiple offenses, to begin serving their next sentence and does not reflect the release of the inmate to the community. Similarly, paroles to holds, detainers and other states do not necessarily translate into release from prison. Inmates whose parole is conditioned upon residency in another state must receive the approval of that state's parole authority before release from Nevada can take effect. Similarly, paroles to detainers and holds may mean that an inmate is being transferred to the custody of another state or local jurisdiction. Here again, arrangement of such a transfer must take place prior to release from Nevada's prison system.

The National Council on Crime and Delinquency pointed out that the most predictable decision of the board is denial. Fifty-one percent of all decisions result in a flat denial and an additional 13 percent result in a denial of parole through expiration of the inmate's sentence. The later statistic reflects a situation where the inmate's sentence will expire before another hearing can be scheduled. If the board continues its current trend of granting few paroles, one can expect the frequency of denials to expiration of sentence to increase over the next few years.

The National Council on Crime and Delinquency also conducted an analysis of the reasons cited by the board for the denial of parole. For each case, when parole was denied, the board can cite as many as 13 factors justifying their decision (Table 10). The most common factors cited related to current offense factors, 29 percent; public safety concerns, 26 percent; and the extent of the inmate's prior criminal history 15.5 percent. The board seems to pay less attention to the inmate's progress within the

Table 9  
Parole Board Decisions

|                         | <u>N</u><br><u>(463)</u> | <u>%</u><br><u>(100.0%)</u> |
|-------------------------|--------------------------|-----------------------------|
| <u>DENIED</u>           |                          |                             |
| To Next Hearing         | 235                      | 50.6                        |
| Expiration of Sentence  | 62                       | 13.4                        |
| Inmate's Request        | 8                        | 1.7                         |
| <br><u>GRANTED</u>      |                          |                             |
| To Consecutive Sentence | 30                       | 6.5                         |
| To Other State          | 46                       | 9.9                         |
| To Hold/Detainer        | 13                       | 2.8                         |
| Unconditional Parole    | 69                       | 14.9                        |
| TOTAL Parole Rate       | 158                      | 34.2                        |

Table 10

## Official Reasons for Denying Parole

| <u>Reasons</u>                          | <u>N</u><br><u>(1218)</u> | <u>%</u><br><u>(100.0)</u> |
|-----------------------------------------|---------------------------|----------------------------|
| I. Previous Criminal History            | 189                       | 15.5                       |
| II. Current Offense Factors             |                           |                            |
| Injured Victim With Weapon              | 145                       | 11.9                       |
| Nature and Severity of Crime            | 164                       | 13.5                       |
| Lessen Seriousness of Crime             | 74                        | 6.1                        |
| Multiple Offense with Violence          | 9                         | 0.7                        |
| TOTAL Current Offense Factors           | 392                       | 29.2                       |
| III. Institutional Behavior Factors     |                           |                            |
| Unsatisfactory Institutional Adjustment | 62                        | 5.1                        |
| Inadequate Program Participation        | 12                        | 1.0                        |
| Poor Adjustment                         | 37                        | 3.0                        |
| TOTAL Institutional Factor              | 111                       | 9.1                        |
| IV. Inadequate Parole Plans             | 94                        | 7.7                        |
| V. Public Safety Concerns               |                           |                            |
| Threat to Society                       | 22                        | 1.8                        |
| Public Safety-General                   | 298                       | 24.5                       |
| TOTAL Public Safety                     |                           | 26.3                       |
| VI. Other Factors                       |                           |                            |
| Further Evaluation Necessary            | 84                        | 6.9                        |
| Other                                   | 28                        | 2.3                        |
| TOTAL Other                             | 112                       | 9.2                        |

institution, with this reason stated for 9 percent of all parole denials.

The state board of parole commissioners is currently operating without specific parole guidelines which are in place in many other states and the board has no scientific instruments in place based upon actual experience of Nevada paroles, to guide their predictive based decisions. Many states which desire to use the likelihood of failure or success on parole as a criteria for release have developed empirically based release criteria which identify high and low risk candidates for release.

The S.C.R. 56 subcommittee which developed the Prison Master Plan, was also concerned with the effect that changes in paroling policies have had on the number of inmates incarcerated within the Nevada prison system. The subcommittee believed that there should be some consistency within the system to allow for the orderly flow of offenders and to allow adequate planning for system changes. Therefore, the subcommittee recommended that the parole board adopt objective parole guidelines. These guidelines were to employ factors to which numerical values could be added to provide some consistency in parole decisions and eliminate some of the subjective judgment factors currently being used by the board in their decisions. The state board of parole commissioners have not adopted parole guidelines. Many of the observations put forth by the S.C.R. 56 subcommittee in developing the Prison Master Plan were also observed by the S.B. 375 committee studying the functions of parole.

The S.B. 375 committee examined parole guidelines and the parole decision-making process in a number of other states. It was pointed out to the committee that 14 states, the District of Columbia and the Federal Prison System have had some form of parole guidelines in place. Recently four additional states either adopted parole guidelines or are in the process of doing so.

Information from NCCD contained in Table 11, points out that across all age groups 76 percent of the cases which come before the parole board are denied, 18 percent are granted and 7 percent are paroled to consecutive sentences. Table 12 breaks down the parole dispositions by the number of parole hearings and indicates that probability of parole increases from 10 percent on an inmate's first parole hearing to 32 percent on an inmate's third parole hearing.

Parole rates by institution are shown in Table 13 and parole denial rates by crime are shown on Table 14. The parole denial rates appear high for almost all classes of crime with murder denied 91 percent, armed robbery 83 percent, forgery 62 percent and burglary 73 percent. It appears from Table 15 that having a

Table 11

## NEVADA PAROLE DECISION MAKING

## AGE AT TIME OF REC INTO PRIS

| FREQUENCY<br>PERCENT<br>ROW PCT |   | DENIED | GRANTED | PAROLE<br>TO CS | TOTAL  |
|---------------------------------|---|--------|---------|-----------------|--------|
| UNDER 21                        | 2 | 62     | 12      | 6               | 80     |
|                                 | . | 17.61  | 3.41    | 1.70            | 22.73  |
|                                 | . | 77.50  | 15.00   | 7.50            |        |
| 21 UP TO 25                     | 1 | 66     | 14      | 4               | 84     |
|                                 | . | 18.75  | 3.98    | 1.14            | 23.86  |
|                                 | . | 78.57  | 16.67   | 4.76            |        |
| 25 UP TO 30                     | 1 | 63     | 13      | 4               | 80     |
|                                 | . | 17.90  | 3.69    | 1.14            | 22.73  |
|                                 | . | 78.75  | 16.25   | 5.00            |        |
| 30 UP TO 40                     | 2 | 51     | 15      | 9               | 75     |
|                                 | . | 14.49  | 4.26    | 2.56            | 21.31  |
|                                 | . | 68.00  | 20.00   | 12.00           |        |
| 40 OR MORE                      | 0 | 24     | 8       | 1               | 33     |
|                                 | . | 6.82   | 2.27    | 0.29            | 9.38   |
|                                 | . | 72.73  | 24.24   | 3.03            |        |
| TOTAL                           | . | 266    | 62      | 24              | 352    |
|                                 | . | 75.57  | 17.61   | 6.82            | 100.00 |

Table 12

## NEVADA PAROLE DECISION MAKING

| FREQUENCY<br>PERCENT<br>ROW PCT | HEARING NUMBER |        | PAROLE DISPOSITION |                 |        |
|---------------------------------|----------------|--------|--------------------|-----------------|--------|
|                                 |                | DENIED | GRANTED            | PAROLE<br>TO CS | TOTAL  |
|                                 | 0              | 1      | 0                  | 0               |        |
|                                 | .              | .      | .                  | .               |        |
|                                 | .              | .      | .                  | .               |        |
| 1                               | 4              | 156    | 19                 | 16              | 191    |
|                                 | .              | 44.44  | 5.41               | 4.56            | 54.42  |
|                                 | .              | 81.68  | 9.95               | 8.38            |        |
| 2                               | 2              | 69     | 23                 | 5               | 97     |
|                                 | .              | 19.66  | 6.55               | 1.42            | 27.64  |
|                                 | .              | 71.13  | 23.71              | 5.15            |        |
| 3+                              | 0              | 40     | 20                 | 3               | 63     |
|                                 | .              | 11.40  | 5.70               | 0.85            | 17.95  |
|                                 | .              | 63.49  | 31.75              | 4.76            |        |
| TOTAL                           | .              | 265    | 62                 | 24              | 351    |
|                                 | .              | 75.50  | 17.66              | 6.84            | 100.00 |

previous parole made little or no difference in the probability of being granted parole (75% versus 77%), and even a failed parole seemed to make no difference, as noted in Table 16. It should also be pointed out that whether or not an inmate has disciplinary infractions against him while in prison means very little in terms of being granted parole, as shown on Table 17.

In the warden's recommendation (Table 18), it should be pointed out that wardens tend to recommend parole much more often (63%) than the parole board grants it (19%), but if they do not recommend parole, there is little or no chance the parole board will grant it. Table 19 indicates inmates with a history of administrative segregation result in a slight influence on the parole probability. Approximately 15 percent of the inmates have a disciplinary problem as shown in Table 20, and these have very little chance of parole, which is probably due to the fact that it is tied to the warden's parole recommendation. Table 21 lists the psychologist's recommendation on those cases where it is required. It would appear from the table that when an inmate is rated as having a high probability of parole success, the recommendation has very little influence on the parole board's decision (78% of those rated as excellent are denied parole).

Table 22 points out that 63 percent of the inmates applying for parole have participated in some type of program in prison, while approximately 37 percent have not. Table 23 delineates the types of programs inmates do participate in with educational and vocational training and Alcoholics Anonymous counseling being the most frequent.

The major conclusions drawn by NCCD relative to Nevada's current parole process include:

1. Thirty-four percent of all inmates appearing before the board are granted parole. This rate is substantially below the rate of 60 percent reported in 1979.
2. Only 15 percent of all inmates appearing before the board are paroled directly to Nevada. Over half of the parole grant orders are conditional paroles or paroles to consecutive sentences or detainers and holds from other jurisdictions. The best predictors of an inmate being granted parole is the warden's recommendation and disciplinary record. However, the overall predictability of the board is quite low.
3. Overall, the board has adopted a very conservative parole release policy with an increasing trend toward a general denial policy.

Table 13

## NEVADA PAROLE DECISION MAKING

| LOCATION                        |   | PAROLE DISPOSITION |         |                 |        |
|---------------------------------|---|--------------------|---------|-----------------|--------|
| FREQUENCY<br>PERCENT<br>ROW PCT |   | DENIED             | GRANTED | PAROLE<br>TO CS | TOTAL  |
|                                 | 0 | 0                  | 0       | 1               | .      |
|                                 | . | .                  | .       | .               | .      |
|                                 | . | .                  | .       | .               | .      |
| N N C C                         | 4 | 93                 | 24      | 4               | 121    |
|                                 | . | 26.50              | 6.84    | 1.14            | 34.47  |
|                                 | . | 76.86              | 19.83   | 3.31            |        |
| S N C C                         | 1 | 51                 | 17      | 4               | 72     |
|                                 | . | 14.53              | 4.84    | 1.14            | 20.51  |
|                                 | . | 70.83              | 23.61   | 5.56            |        |
| N W C C                         | 0 | 9                  | 5       | 3               | 17     |
|                                 | . | 2.56               | 1.42    | 0.85            | 4.84   |
|                                 | . | 52.94              | 29.41   | 17.65           |        |
| N S P                           | 1 | 37                 | 0       | 4               | 41     |
|                                 | . | 10.54              | 0.00    | 1.14            | 11.68  |
|                                 | . | 90.24              | 0.00    | 9.76            |        |
| S D C C                         | 0 | 76                 | 16      | 8               | 100    |
|                                 | . | 21.65              | 4.56    | 2.28            | 28.49  |
|                                 | . | 76.00              | 16.00   | 8.00            |        |
| TOTAL                           | . | 266                | 62      | 23              | 351    |
|                                 | . | 75.78              | 17.66   | 6.55            | 100.00 |

Table 14

## NEVADA PAROLE DECISION MAKING

| FIRST OFFENSE (CONTROLLING)     |   | PAROLE DISPOSITION |         |                 |        |
|---------------------------------|---|--------------------|---------|-----------------|--------|
| FREQUENCY<br>PERCENT<br>ROW PCT |   | DENIED             | GRANTED | PAROLE<br>TO CS | TOTAL  |
|                                 | 0 | 2                  | 0       | 0               | .      |
|                                 | . | .                  | .       | .               | .      |
|                                 | . | .                  | .       | .               | .      |
| MURDER                          | 0 | 20                 | 2       | 0               | 22     |
|                                 | . | 5.71               | 0.57    | 0.00            | 6.29   |
|                                 | . | 90.91              | 9.09    | 0.00            |        |
| MANSLAUGHTER                    | 0 | 5                  | 1       | 0               | 6      |
|                                 | . | 1.43               | 0.29    | 0.00            | 1.71   |
|                                 | . | 83.33              | 16.67   | 0.00            |        |
| AG ASSAULT BTRY                 | 0 | 15                 | 3       | 4               | 22     |
|                                 | . | 4.29               | 0.86    | 1.14            | 6.29   |
|                                 | . | 68.18              | 13.64   | 18.18           |        |
| ROBBERY ARMED                   | 2 | 48                 | 9       | 1               | 58     |
|                                 | . | 13.71              | 2.57    | 0.29            | 16.57  |
|                                 | . | 82.76              | 15.52   | 1.72            |        |
| ROBBERY UNARMED                 | 0 | 12                 | 6       | 0               | 18     |
|                                 | . | 3.43               | 1.71    | 0.00            | 5.14   |
|                                 | . | 66.67              | 33.33   | 0.00            |        |
| KIDNAPPING                      | 0 | 6                  | 1       | 0               | 7      |
|                                 | . | 1.71               | 0.29    | 0.00            | 2.00   |
|                                 | . | 85.71              | 14.29   | 0.00            |        |
| OTHER PERSONAL                  | 0 | 5                  | 1       | 0               | 6      |
|                                 | . | 1.43               | 0.29    | 0.00            | 1.71   |
|                                 | . | 83.33              | 16.67   | 0.00            |        |
| TOTAL                           | . | 264                | 62      | 24              | 350    |
|                                 | . | 75.43              | 17.71   | 6.86            | 100.00 |

Table 14

## NEVADA PAROLE DECISION MAKING

## TABLE OF V24 BY DISP3PT

| FIRST OFFENSE (CONTROLLING)     |   | PAROLE DISPOSITION |         |                 |        |
|---------------------------------|---|--------------------|---------|-----------------|--------|
| FREQUENCY<br>PERCENT<br>ROW PCT |   | DENIED             | GRANTED | PAROLE<br>TO CS | TOTAL  |
| LARCENY                         | 1 | 20                 | 9       | 5               | 34     |
|                                 | . | 5.71               | 2.57    | 1.43            | 9.71   |
|                                 | . | 58.82              | 26.47   | 14.71           |        |
| AUTO THEFT                      | 0 | 0                  | 1       | 0               | 1      |
|                                 | . | 0.00               | 0.29    | 0.00            | 0.29   |
|                                 | . | 0.00               | 100.00  | 0.00            |        |
| BURGLARY                        | 0 | 48                 | 8       | 10              | 66     |
|                                 | . | 13.71              | 2.29    | 2.86            | 18.86  |
|                                 | . | 72.73              | 12.12   | 15.15           |        |
| ARSON                           | 0 | 3                  | 0       | 0               | 3      |
|                                 | . | 0.86               | 0.00    | 0.00            | 0.86   |
|                                 | . | 100.00             | 0.00    | 0.00            |        |
| OTHER PROPERTY                  | 0 | 3                  | 0       | 0               | 3      |
|                                 | . | 0.86               | 0.00    | 0.00            | 0.86   |
|                                 | . | 100.00             | 0.00    | 0.00            |        |
| FORCIBLE SEX                    | 0 | 11                 | 1       | 0               | 12     |
|                                 | . | 3.14               | 0.29    | 0.00            | 3.43   |
|                                 | . | 91.67              | 8.33    | 0.00            |        |
| OTHER SEX                       | 0 | 12                 | 1       | 0               | 13     |
|                                 | . | 3.43               | 0.29    | 0.00            | 3.71   |
|                                 | . | 92.31              | 7.69    | 0.00            |        |
| STOLEN PROPERTY                 | 1 | 13                 | 6       | 0               | 19     |
|                                 | . | 3.71               | 1.71    | 0.00            | 5.43   |
|                                 | . | 68.42              | 31.58   | 0.00            |        |
| TOTAL                           | . | 264                | 62      | 24              | 350    |
|                                 | . | 75.43              | 17.71   | 6.86            | 100.00 |

Table 14

## NEVADA PAROLE DECISION MAKING

| FREQUENCY<br>PERCENT<br>ROW PCT | FIRST OFFENSE (CONTROLLING) |        |         | PAROLE DISPOSITION |        |
|---------------------------------|-----------------------------|--------|---------|--------------------|--------|
|                                 |                             | DENIED | GRANTED | PAROLE<br>TO CS    | TOTAL  |
| FORGERY                         | 0                           | 16     | 7       | 3                  | 26     |
|                                 | .                           | 4.57   | 2.00    | 0.86               | 7.43   |
|                                 | .                           | 61.54  | 26.92   | 11.54              |        |
| WEAPONS                         | 0                           | 1      | 1       | 0                  | 2      |
|                                 | .                           | 0.29   | 0.29    | 0.00               | 0.57   |
|                                 | .                           | 50.00  | 50.00   | 0.00               |        |
| LIGUOR VIOL                     | 0                           | 1      | 0       | 0                  | 1      |
|                                 | .                           | 0.29   | 0.00    | 0.00               | 0.29   |
|                                 | .                           | 100.00 | 0.00    | 0.00               |        |
| NARCOTIC VIOL                   | 1                           | 20     | 2       | 1                  | 23     |
|                                 | .                           | 5.71   | 0.57    | 0.29               | 6.57   |
|                                 | .                           | 86.96  | 8.70    | 4.35               |        |
| DUI                             | 0                           | 1      | 3       | 0                  | 4      |
|                                 | .                           | 0.29   | 0.86    | 0.00               | 1.14   |
|                                 | .                           | 25.00  | 75.00   | 0.00               |        |
| OTHER MTR VEHIC                 | 0                           | 1      | 0       | 0                  | 1      |
|                                 | .                           | 0.29   | 0.00    | 0.00               | 0.29   |
|                                 | .                           | 100.00 | 0.00    | 0.00               |        |
| ESCAPE                          | 1                           | 3      | 0       | 0                  | 3      |
|                                 | .                           | 0.86   | 0.00    | 0.00               | 0.86   |
|                                 | .                           | 100.00 | 0.00    | 0.00               |        |
| TOTAL                           | .                           | 264    | 62      | 24                 | 350    |
|                                 | .                           | 75.43  | 17.71   | 6.86               | 100.00 |

# NEVADA PAROLE DECISION MAKING

Table 15

NUMBER OF PRIOR PAROLES

PAROLE DISPOSITION

| FREQUENCY<br>PERCENT<br>ROW PCT |   | DENIED | GRANTED | PAROLE<br>TO CS | TOTAL  |
|---------------------------------|---|--------|---------|-----------------|--------|
| .                               | 0 | 1      | 1       | 0               | .      |
| .                               | . | .      | .       | .               | .      |
| .                               | . | .      | .       | .               | .      |
| 0                               | 3 | 183    | 44      | 17              | 244    |
| .                               | . | 52.29  | 12.57   | 4.86            | 69.71  |
| .                               | . | 75.00  | 18.03   | 6.97            |        |
| 1+                              | 3 | 82     | 17      | 7               | 106    |
| .                               | . | 23.43  | 4.86    | 2.00            | 30.29  |
| .                               | . | 77.36  | 16.04   | 6.60            |        |
| TOTAL                           | . | 265    | 61      | 24              | 350    |
| .                               | . | 75.71  | 17.43   | 6.86            | 100.00 |

# NEVADA PAROLE DECISION MAKING

Table 16

NUMBER OF PRIOR FAILED PAROLES

PAROLE DISPOSITION

| FREQUENCY<br>PERCENT<br>ROW PCT |   | DENIED | GRANTED | PAROLE<br>TO CS | TOTAL  |
|---------------------------------|---|--------|---------|-----------------|--------|
| .                               | 0 | 1      | 1       | 0               | .      |
| .                               | . | .      | .       | .               | .      |
| .                               | . | .      | .       | .               | .      |
| 0                               | 4 | 209    | 52      | 18              | 279    |
| .                               | . | 59.71  | 14.86   | 5.14            | 79.71  |
| .                               | . | 74.91  | 18.64   | 6.45            |        |
| 1+                              | 2 | 56     | 9       | 6               | 71     |
| .                               | . | 16.00  | 2.57    | 1.71            | 20.29  |
| .                               | . | 78.87  | 12.68   | 8.45            |        |
| TOTAL                           | . | 265    | 61      | 24              | 350    |
| .                               | . | 75.71  | 17.43   | 6.86            | 100.00 |

NEVADA PAROLE DECISION MAKING

Table 17

TOTAL DISCIPLINARY TICKETS

PAROLE DISPOSITION

| FREQUENCY  <br>PERCENT  <br>ROW PCT |   | DENIED | GRANTED | PAROLE<br>TO CS | TOTAL  |
|-------------------------------------|---|--------|---------|-----------------|--------|
| .                                   | 0 | 6      | 1       | 0               | .      |
| .                                   | . | .      | .       | .               | .      |
| 0                                   | 2 | 111    | 30      | 12              | 153    |
| .                                   | . | 32.17  | 8.70    | 3.48            | 44.35  |
| .                                   | . | 72.55  | 19.61   | 7.84            |        |
| 1                                   | 0 | 45     | 19      | 4               | 68     |
| .                                   | . | 13.04  | 5.51    | 1.16            | 19.71  |
| .                                   | . | 66.18  | 27.94   | 5.88            |        |
| 2+                                  | 4 | 104    | 12      | 8               | 124    |
| .                                   | . | 30.14  | 3.48    | 2.32            | 35.94  |
| .                                   | . | 83.87  | 9.68    | 6.45            |        |
| TOTAL                               | . | 260    | 61      | 24              | 345    |
| .                                   | . | 75.36  | 17.68   | 6.96            | 100.00 |

NEVADA PAROLE DECISION MAKING

Table 18

WARDENS RECOMMENDATION

PAROLE DISPOSITION

| FREQUENCY  <br>PERCENT  <br>ROW PCT |   | DENIED | GRANTED | PAROLE<br>TO CS | TOTAL  |
|-------------------------------------|---|--------|---------|-----------------|--------|
| .                                   | 1 | 25     | 2       | 1               | .      |
| .                                   | . | .      | .       | .               | .      |
| PAROLE                              | 4 | 121    | 60      | 22              | 203    |
| .                                   | . | 37.35  | 18.52   | 6.79            | 62.65  |
| .                                   | . | 59.61  | 29.56   | 10.84           |        |
| DENY                                | 1 | 120    | 0       | 1               | 121    |
| .                                   | . | 37.04  | 0.00    | 0.31            | 37.35  |
| .                                   | . | 99.17  | 0.00    | 0.83            |        |
| TOTAL                               | . | 241    | 60      | 23              | 324    |
| .                                   | . | 74.38  | 18.52   | 7.10            | 100.00 |

# NEVADA PAROLE DECISION MAKING

Table 19

ADMINISTRATIVE SEGREGATION?

PAROLE DISPOSIT

| FREQUENCY<br>PERCENT<br>ROW PCT |   | DENIED | GRANTED | PAROLE<br>TO CS | TOTAL  |
|---------------------------------|---|--------|---------|-----------------|--------|
|                                 | 0 | 16     | 3       | 0               |        |
|                                 | . | .      | .       | .               | .      |
|                                 | . | .      | .       | .               | .      |
| YES                             | 2 | 73     | 11      | 7               | 91     |
|                                 | . | 21.92  | 3.30    | 2.10            | 27.33  |
|                                 | . | 80.22  | 12.09   | 7.69            |        |
| NO                              | 4 | 177    | 48      | 17              | 242    |
|                                 | . | 53.15  | 14.41   | 5.11            | 72.67  |
|                                 | . | 73.14  | 19.83   | 7.02            |        |
| TOTAL                           | . | 250    | 59      | 24              | 333    |
|                                 | . | 75.08  | 17.72   | 7.21            | 100.00 |

# NEVADA PAROLE DECISION MAKING

Table 20

DISCIPLINARY PROBLEM?

PAROLE DISPOSITION

| FREQUENCY<br>PERCENT<br>ROW PCT |   | DENIED | GRANTED | PAROLE<br>TO CS | TOTAL  |
|---------------------------------|---|--------|---------|-----------------|--------|
|                                 | 0 | 6      | 0       | 0               |        |
|                                 | . | .      | .       | .               | .      |
|                                 | . | .      | .       | .               | .      |
| YES                             | 2 | 47     | 2       | 1               | 50     |
|                                 | . | 13.58  | 0.58    | 0.29            | 14.45  |
|                                 | . | 94.00  | 4.00    | 2.00            |        |
| NO                              | 4 | 213    | 60      | 23              | 296    |
|                                 | . | 61.56  | 17.34   | 6.65            | 85.55  |
|                                 | . | 71.96  | 20.27   | 7.77            |        |
| TOTAL                           | . | 250    | 62      | 24              | 346    |
|                                 | . | 75.14  | 17.92   | 6.94            | 100.00 |

# NEVADA PAROLE DECISION MAKING

Table 21

| PSYCHOLOGISTS RISK/RECOMMEND EVAL |   |        |         |                 | PAROLE DISPOSITION |
|-----------------------------------|---|--------|---------|-----------------|--------------------|
| FREQUENCY<br>PERCENT<br>ROW PCT   |   | DENIED | GRANTED | PAROLE<br>TO CS | TOTAL              |
|                                   | 5 | 168    | 51      | 20              |                    |
|                                   | . | .      | .       | .               | .                  |
|                                   | . | .      | .       | .               | .                  |
| EXCELL GOOD A B                   | 0 | 25     | 5       | 2               | 32                 |
|                                   | . | 22.12  | 4.42    | 1.77            | 28.32              |
|                                   | . | 78.13  | 15.63   | 6.25            |                    |
| FAIR AVE C                        | 0 | 50     | 6       | 2               | 58                 |
|                                   | . | 44.25  | 5.31    | 1.77            | 51.33              |
|                                   | . | 86.21  | 10.34   | 3.45            |                    |
| POOR FAIL D F                     | 1 | 23     | 0       | 0               | 23                 |
|                                   | . | 20.35  | 0.00    | 0.00            | 20.35              |
|                                   | . | 100.00 | 0.00    | 0.00            |                    |
| TOTAL                             | . | 98     | 11      | 4               | 113                |
|                                   | . | 86.73  | 9.73    | 3.54            | 100.00             |

Table 22

## NEVADA PAROLE DECISION MAKING

| PARTICIPATION IN ANY PROGRAM? |           |          |         |             |
|-------------------------------|-----------|----------|---------|-------------|
| ANYPROG                       | FREQUENCY | CUM FREQ | PERCENT | CUM PERCENT |
|                               | 2         |          |         |             |
| YES                           | 225       | 225      | 63.202  | 63.202      |
| NO                            | 131       | 356      | 36.798  | 100.000     |

Table 23

## NEVADA PAROLE DECISION MAKING

| PROGRAM         | PARTICIPATION IN TREATMENT PROGRAMS |          |         |             |
|-----------------|-------------------------------------|----------|---------|-------------|
|                 | FREQUENCY                           | CUM FREQ | PERCENT | CUM PERCENT |
| EDUCATION       | 122                                 | 122      | 33.062  | 33.062      |
| VOCAT TRAINING  | 61                                  | 183      | 16.531  | 49.593      |
| AA COUNSELING   | 48                                  | 231      | 13.008  | 62.602      |
| DRUG COUNSELING | 33                                  | 264      | 8.943   | 71.545      |
| GEN COUNSELING  | 22                                  | 286      | 5.962   | 77.507      |
| PRISON INDUST   | 25                                  | 311      | 6.775   | 84.282      |
| WORK/LIVING EXP | 13                                  | 324      | 3.523   | 87.805      |
| OTHER           | 45                                  | 369      | 12.195  | 100.000     |

The lack of a consistent, definable parole policy on the part of the board of parole commissioners was of great concern to the S.B. 375 committee. The apparent lack of consistency, with the exception of the almost blanket denial policy, seemed inappropriate with what appears to be working in other states throughout the nation.

Mr. Bryn Armstrong cited the possible existence of a liberty interest of being one of the prime reasons for not implementing parole guidelines within the State of Nevada. The committee examined the possibility of liberty interest, especially as it may exist in other states and what court cases have been tested against it. One of the best examples the committee was able to find concerning the liberty interest issue was the parole guidelines adopted by the State of Georgia. A decision in the case of Slocum vs. Georgia state board of pardons and parole, 678f.2d940 U.S. Eleventh Circuit Court., 6/14/82 (rep. 7/5/82) found that Georgia parole statutes did not create a liberty interest calling for due process protection. The court stated that under Georgia law the decision whether to release an inmate on parole is a matter committed to the discretion of the state board of pardons and parole. While many of the provisions structuring the board's exercise of its discretion include mandatory language, there is no critical distinction between "a scheme that requires release unless adverse findings based on specific criteria are made and any scheme that simply obligates the board to consider such criteria in exercising its discretion." The court found that no entitlement to or liberty interest in parole is created by the Georgia statutes.

The S.B. 375 committee also examined in detail the early release mechanism in place in the State of Iowa. The State of Iowa has spent considerable time looking into the problem of recidivism prediction and the associated issue of selective incapacitation. The state has developed a predictive device exhibiting 85 to 90 percent accuracy in predicting violence and serious recidivism among ex-inmates in the state<sup>1</sup>. Basically, the State of Iowa is looking at only four types of information. Those are: (1) age at conviction; (2) substance abuse history; (3) current offense classification; and (4) criminal history. In April 1981, the Iowa board of parole began using its objective parole criteria on nearly 4,000 cases. The result in 1983 showed that parolees released per month increased 52 percent and the rate of new

---

<sup>1</sup> Ref. "The Use of Actuarial Methods In early Release Screening", Daryl Fischer, Statistical Analysis Center, State of Iowa, August 1983.

violent crimes among parolees dropped by 35 percent. This state found that the threat of recidivism posed by the typical parolee dropped by 17 percent.

Most of the states that have developed parole guidelines have done so on a voluntary manner with the parole board taking a lead in establishing objective parole criteria. In two states, however, the States of New York and Florida, the requirement of parole guidelines were written into statute. For example, in the State of New York, the law requires that "the board of parole shall establish written guidelines for its use in making parole decisions as required by law, including the fixing of minimum periods of imprisonment or ranges thereof for different categories of offenders."

In attempting to analyze what the effects of parole guidelines, which have yet to be written, would have upon the inmate population within the State of Nevada, the committee made a number of assumptions for the National Council on Crime and Delinquency to run through their computer simulation models. The philosophy of the committee was that the violent offender, and especially the violent habitual offender, should serve a longer sentence and should have a much less likely chance of parole than the non-violent offender, especially the non-violent offender with a non-extensive prior record. The first scenario grouped offenders into four categories and parole approval probabilities were estimated for each of the five parole hearings. The assumptions made are listed below:

| <u>Non-Violent Offender</u> | <u>Parole Approval Probability</u> |      |       |       |      |
|-----------------------------|------------------------------------|------|-------|-------|------|
|                             | 1st                                | 2nd  | 3rd   | 4th   | 5th  |
| No Prior Record             | .90,                               | .95, | 1.00, | 1.00, | 1.00 |
| Prior Record                | .50,                               | .75, | .90,  | .90,  | 1.00 |
| <br><u>Violent Offender</u> |                                    |      |       |       |      |
| No Prior Record             | .27,                               | .36, | .37,  | .37,  | .37  |
| Prior Record                | .10,                               | .20, | .37,  | .37,  | .37  |

Combined parole approval rate in this parole guidelines scenario is .50, .65, .75, .77, .79. This compares to the current parole approval rate of .26, .41, .42, .42, .50. This parole guidelines alternative indicates that if the guidelines were effective January 1, 1986, that no additional beds would be required during the 1985-87 biennium. The prison population estimate also projects 5,975 inmates by June 1993, which would require construction of 2,301 additional prison beds. This compares with the 2,976 new beds needed by June 30, 1993 if there is no change

in the current sentencing and/or parole system (net difference 675 beds).

A more detailed analysis of what the prison population projection would be with the parole guidelines model in place by fiscal years 1983-84 through 1992-93 is attached as Table 24. Included are the major assumptions made and what effect the guidelines would have upon Nevada's prison population. Also included is data developed by NCCD which depicts applying the parole guidelines already in place in the State of Pennsylvania against Nevada's prison population. The estimated cost to the State of Nevada of adopting the parole guidelines model is outlined in the chapter on fiscal impacts.

#### ABOLITION OF PAROLE

As mandated by Senate Bill 375, the committee examined the possible abolition of parole within the State of Nevada. The committee received testimony from Mr. Anthony P. Travisano, the executive director of the American Correctional Association, who strongly endorsed the concept of parole and reviewed the function of parole for committee members.

The committee reviewed numerous articles and other written material in support of parole, not only as a means of managing the convicted offender in a way that is fair, humane, and best protective of the public safety through the retention of the parole board's authority to affect release from prison, but as a means of managing an ever spiraling prison population nationwide.

The committee also reviewed material which was critical of the parole function as it has existed nationwide. Many of the complaints directed at parole boards included concern about the arbitrariness of some of the decisions, the release of potentially dangerous offenders or else not paroling those offenders who seem to have a great likelihood of success functioning in society. It was pointed out that in the past parole boards nationwide had little or no basis on which to judge whether or not a man was rehabilitated or dangerous. Critics urged that attention be given to the fact that parole board hearings had very limited visibility, and were essentially devoid of review or appeal procedures. Decision norms or guidelines were typically non-existent and those that did exist tended to be informal and unwritten.

In 1979, the parole approval rate in Nevada was 65 percent which declined to an approval rate of only 28 percent in 1983. It is difficult to assess what factors the parole board is currently using which cause such a dramatic reduction in the parole approval rates since parole decisions are currently not based on

Table 24

PRISON POPULATION PROJECTION  
Parole Guideline Models

| <u>Fiscal<br/>Year</u> | <u>Current</u> |                              | <u>Parole Guidelines<br/>Alternative*</u> |                              | <u>Pennsylvania**</u> |                              |
|------------------------|----------------|------------------------------|-------------------------------------------|------------------------------|-----------------------|------------------------------|
|                        | <u>Total</u>   | <u>In House</u> <sup>1</sup> | <u>Total</u>                              | <u>In House</u> <sup>1</sup> | <u>Total</u>          | <u>In House</u> <sup>1</sup> |
| 1983-84                | 3,450          | 3,275                        | 3,450                                     | 3,275                        | 3,450                 | 3,275                        |
| 1984-85                | 3,725          | 3,550                        | 3,725                                     | 3,550                        | 3,725                 | 3,550                        |
| 1985-86                | 4,075          | 3,875                        | 3,875                                     | 3,675                        | 3,875                 | 3,675                        |
| 1986-87                | 4,450          | 4,225                        | 3,825                                     | 3,625                        | 3,675                 | 3,500                        |
| 1987-88                | 4,875          | 4,625                        | 4,100                                     | 3,900                        | 3,900                 | 3,700                        |
| 1988-89                | 5,325          | 5,050                        | 4,475                                     | 4,250                        | 4,225                 | 4,025                        |
| 1989-90                | 5,725          | 5,450                        | 4,975                                     | 4,725                        | 4,700                 | 4,475                        |
| 1990-91                | 6,225          | 5,925                        | 5,475                                     | 5,200                        | 5,125                 | 4,875                        |
| 1991-92                | 6,600          | 6,275                        | 5,900                                     | 5,600                        | 5,500                 | 5,225                        |
| 1992-93                | 7,000          | 6,650                        | 6,300                                     | 5,975                        | 5,975                 | 5,675                        |

## Major Assumptions:

1. Guidelines effective January 1, 1986.
2. Guidelines retroactive to current population.
3. 4 percent Annual Admission Increase.
4. No change in sentencing or good time policies.

\* Parole Guidelines  
Alternative

Parole Probabilities changed to .50, .65, .75, .77, .79 for both new intake and current population.

## \*\* Pennsylvania:

Parole Probabilities changed to .72, .72, .72, .72 for both new intake and current population.

<sup>1</sup>

Projection represents in-house prison population excluding 5% out-counts. U.S. Marshal and Illinois contract inmates not included.

6SB375/2

objective criteria, but "on the board's assessment of them (inmates) as good parole risks and in the board's opinion their release would not be a threat to society." This may have been the reason for public testimony heard during the committee review of parole indicating that parole board decisions were capricious and arbitrary due to the lack of objective criteria on which to base parole decisions.

The abolition of parole did not address many of the committee's concerns regarding modification of Nevada's indeterminate system. First, the committee was interested in eliminating any disparity in sentences imposed by Nevada's district courts for similar crimes involving offenders with similar criminal histories. The abolition of parole without some other modification to the current sentencing system would not address this important issue. In addition, currently the parole board is the "safety valve" for those cases in which an excessive sentence is imposed. With the abolition of parole, there would not be any opportunity to compensate through use of parole for individual cases in which an excessive sentence was imposed by the courts.

The committee also reviewed the financial implications of abolishing parole. Although a more detailed explanation of the cost implications are discussed in the financial chapter, the abolition of parole would prove extremely expensive. NCCD has estimated that the abolition of parole would result in prison population of 8,575 inmates by June 1993. This compares to 6,650 if the current sentencing system was not changed. With the critical operating capacity of the department of prisons at 3,674 beds, this would result in the construction of 4,901 beds by June 1993 which is estimated to cost approximately \$194.8 million. (For a more detailed analysis, refer to the financial chapter.) In addition, the estimated increase in operating costs is approximately \$66.3 million over the current level of expenditure.

The committee felt that the financial impact of abolishing parole was too great and that if parole was abolished, it should be coupled with other modifications to the current indeterminate sentencing system to insure that the cost of such a change would not have such a dramatic effect on the state's resources. While the committee's first concern was to maximize public safety by imprisonment of dangerous offenders, a system must also be devised which is tailored within the fiscal constraints of the limited tax dollars available.

#### RECOMMENDATIONS

1. The committee recommends the 1985 legislature consider the possibility of expanding the parole board from three to five members and the two new members be based in southern Nevada. The parole board currently does not have any members based

in southern Nevada and is attempting to handle an ever increasing workload by having the parole board members travel throughout the state. By having two new members in southern Nevada, the board will be able to better handle its increasing workload and will be able to be more timely in their decision-making.

2. Establishment of a committee to develop formal parole guidelines.
  - A. The committee would consist of five members appointed by the governor and include: the chief parole and probation officer, director of the department of prisons, chairman of the state parole board, a district attorney and a district judge.
  - B. The bill become effective upon passage and approval in order to allow the committee to begin work on the guidelines as soon as possible. The formal guidelines will be effective as of January 1, 1986.
  - C. The guidelines will be voluntary, allowing the parole board to make decisions outside the guidelines.
  - D. Any decisions made outside the guidelines should be detailed in writing and the decisions compiled and reported to the next session of the Nevada legislature.
  - E. The guidelines should take into account that those inmates who commit violent crimes or those who are habitual criminals should serve longer terms than the first time nonviolent offender. Greater parole consideration should be given to first time nonviolent offenders.
  - F. The guidelines committee should examine the possibility of including the setting of an early presumptive parole date for inmates. If the guidelines committee decides to include a presumptive date provision, it should insure that the parole decision is still completely at the discretion of the parole board regardless of an inmate's institutional behavior. If an inmate feels his presumptive parole date is unfair, there should be a one-time petition process to the parole board to reconsider the release date.
  - G. If sentencing guidelines are approved and implemented by the legislature at a later date, then the parole guidelines would continue in effect only for those inmates sentenced under the current indeterminate sentencing system.



## DEPARTMENT OF PAROLE AND PROBATION

### OVERVIEW OF THE DEPARTMENT OF PAROLE AND PROBATION

S.B. 375 required the committee to study "the operation, composition, powers and duties of the department of parole and probation." In conducting its study, the committee received verbal presentations from Mr. Rob Calderone, chief parole and probation officer, and reviewed a great variety of written data dealing with the department, including caseload formulas and statutes.

The state department of parole and probation is authorized pursuant to NRS 213.1071. The department of parole and probation operates separately from the department of prisons and from the state board of parole commissioners.

The department of parole and probation has two primary functions: (1) the preparation of pre-sentence investigations (PSI's) for the district courts, and (2) supervision of the offender in the community. The department operates with five district offices within the state located in Carson City, Reno, Elko, Las Vegas, and Fallon.

| <u>District I</u> | <u>District II</u> | <u>District III</u> | <u>District IV</u> | <u>District V</u> |
|-------------------|--------------------|---------------------|--------------------|-------------------|
| Carson            | Washoe             | Elko                | Clark              | Churchill         |
| Douglas           |                    | Eureka              |                    | Esmeralda         |
| Lyon              |                    | Lincoln             |                    | Humboldt          |
| Storey            |                    | White Pine          |                    | Lander            |
|                   |                    |                     |                    | Mineral           |
|                   |                    |                     |                    | Nye               |
|                   |                    |                     |                    | Pershing          |

The Las Vegas office handles approximately 59 percent of the workload and the Reno office, 27 percent with the other districts handling approximately 14 percent of the total workload. The department staff includes 128 peace officers and 40 clerical positions.

In the two major urban offices, Las Vegas and Reno, parole officers specialize in either the preparation of PSI's or the supervision of offenders. Officers in the rural district offices perform both functions.

Officer positions in the department are budgeted on a work unit formula which dictates the following: supervision officers are to carry 75 caseloads per officer, court services officers (PSI's) are to prepare 16 pre-sentence investigations per month (64 units). According to the formula, each supervision case is worth one unit, while each pre-sentence investigation is worth four units. Officers in the rural offices who perform both functions are expected to handle 65 work units, e.g. 41 supervision cases and 6 PSI's.

## PRE-SENTENCE INVESTIGATIONS

During April 1984, the S.B. 375 committee received testimony from Mr. Rob Calderone, the chief parole and probation officer of the state. At that time, the department of parole and probation was averaging 283 pre-sentence investigations per month. The pre-sentence investigation report begins with a review of the district attorney's file, followed by an in-depth interview with the defendant. The officer then attempts to verify the information received and does a complete prior record check. The final report submitted to the judge contains all of the legal information pertaining to the instant offense, a description of the prior record, social history on the defendant, an evaluation of the defendant, and a recommendation by the department concerning the disposition of the case. Whenever possible, the officer preparing the report will also be present at the sentencing to answer any questions the court may have.

To assist the officers in the preparation of the report, the department of parole and probation uses an instrument known as the Probation Success Probability Form (Table 25). Numerical values are assigned to various characteristics of the defendant and his history. The total score will place the defendant in one of three defendant's score. Those are denial, borderline, or probation. The officer will then make a recommendation for sentencing consistent with the category. Each report is then screened by at least two supervisors in the urban districts and by the district supervisor in the rural areas. Particular attention is paid to those cases which fall into the boarderline category. In the event an officer wishes to deviate from the denial or probation categories, that report must be submitted to the chief or deputy chief of the department with an explanation from the officer delineating the reasons for such a deviation. Such a deviation can only take place with the approval of the chief or the deputy chief.

If the individual falls into the denial category, the officer then utilizes the second instrument called the risk factor score to determine the length of sentence to be recommended (See Tables 26 and 27).

## SUPERVISION

The department, during April 1984, was supervising some 5,300 cases in the State of Nevada, as well as maintaining responsibility for some 1,500 Nevada probationers and parolees being supervised in other states. The breakout of the in-state caseload included 4,050 probationers plus 650 parolees and 600 cases from other states that the department supervises through the interstate compact. Nevada's cases being supervised in other states

fall into the following categories: probationers 1,100, parolees 400.

Each case placed under supervision goes through a 30 day intake process. During that period, the subject is assessed using objective, validated instruments. The first assessment is of the individual's risk and needs (see Table 28). The score derived from this assessment places this individual into a level of supervision. The department uses four levels of supervision. Those are: intensive, maximum, medium and minimum. Each level of supervision then dictates the nature and number of contacts the officer is to have with that individual for any given month. These requirements are as follows:

#### INTAKE LEVEL

One monthly report.  
Strategies for case supervision assessment, as appropriate.  
Risk and needs assessment within 30 days.  
Establishment of case objectives and program referral, when appropriate.  
Verifications of employment/program within 10 working days.  
One home visit within 10 working days.  
Verification of compliance with special conditions.

#### INTENSIVE SUPERVISION

One monthly report.  
One home visit.  
One other face-to-face contact (preferably in the field).  
Monthly employment and/or program verification.  
Four collateral field contacts.  
Verification of special condition compliance as appropriate, but at least monthly.

#### MAXIMUM SUPERVISION

One monthly report.  
One home visit.  
One other face-to-face contact (office or field).  
Verified program and/or employment.  
Verification of compliance with special conditions.

#### MEDIUM SUPERVISION

One monthly report.  
One face-to-face contact.  
One verification of residence.  
One verification of employment and/or program.  
Verification of compliance with special conditions.  
Home visits as deemed appropriate, but at least every 90 days.

Table 25

## PROBATION SUCCESS PROBABILITY

Name \_\_\_\_\_ District \_\_\_\_\_ SCORE \_\_\_\_\_

Writer \_\_\_\_\_ Date \_\_\_\_\_ FY No. \_\_\_\_\_

CC No. \_\_\_\_\_

## OFFENSE DATA: (60%)

## PRIOR CRIMINAL HISTORY (Excluding Minor Traffic Violations):

|                                                                    |                        |                                      |                                           |     |
|--------------------------------------------------------------------|------------------------|--------------------------------------|-------------------------------------------|-----|
| Felony Convictions:                                                | None (1)               | One (0)                              | 2 or more (-1)                            | [ ] |
| Misdemeanor Convictions<br>(Including Gross Misdemeanors):         | None (2)               | 1-3 (1)                              | 4 or more (0)                             | [ ] |
| Pending, Unrelated Cases:                                          | None (2)               | Misd. (1)                            | Felony (0)                                | [ ] |
| Subsequent Criminal History:                                       | None (2)               | Arrest/Pending (1)                   | Convictions (0)                           | [ ] |
| Prior Incarcerations, Times in Prison:                             | None (3)               | One (1)                              | 2 or more (0)                             | [ ] |
| Times in Jail (Actual Sentences):                                  | None (2)               | 2 or less (1)                        | 3 or more (0)                             | [ ] |
| Juvenile Commitments<br>(If defendant under 24):                   | None/or<br>Over 24 (2) | One (1)                              | Two (0)                                   | [ ] |
| Years in the Community Free of Convictions<br>(Juvenile or Adult): | Over 5 (4)             | 1-5 (2)                              | Less than 3 (0)                           | [ ] |
| Prior Formal Supervision<br>(Include Juvenile if under 24):        | None (2)               | One (1)                              | More than 1 (0)                           | [ ] |
| Criminal Patterns:                                                 | None/<br>No Record (2) | Random/<br>Decreased<br>Severity (1) | Same Type or<br>Increased<br>Severity (0) | [ ] |
|                                                                    |                        | History of Violence (-2)             |                                           |     |

## PRESENT OFFENSE:

|                                        |                                     |                                                                |                                                            |     |
|----------------------------------------|-------------------------------------|----------------------------------------------------------------|------------------------------------------------------------|-----|
| Circumstances of Arrest:               | Voluntary (3)                       | Non-prob. (2)<br>Violent (-2)                                  | Resistive (0)                                              | [ ] |
| Type of Offense:                       | Victimless<br>(Excluding Sales) (3) | Property (2)<br>Person (0)<br>Multiple Person 3 or More (-2)   | Sales (1)<br>Mult. Pers. --2 (-1)                          | [ ] |
| Psychological or Medical Crime Impact: | N/A (3)                             | Minor/No<br>Treatment (2)<br>Disability (0)                    | Required Medical<br>Treatment/Psych. (1)<br>Death (-10)    | [ ] |
| Financial Crime Impact:                | N/A (3)                             | Minimal or<br>no loss (2)<br>Excessive (0)                     | Moderate (1)                                               | [ ] |
| Controlled Substances:                 | N/A (3)                             | Simple<br>Possession (2)<br>Sales/Smuggling/Manufacturing (-2) | Possession for Sale/<br>Minor Sales (0)                    | [ ] |
| Sophistication/Premeditation:          | None (2)                            | Moderate (1)                                                   | High (0)                                                   | [ ] |
| Plus Bargaining Benefits to Applicant: | N/A (2)                             | Somewhat (1)                                                   | Significant (0)                                            | [ ] |
| Weapon:                                | N/A (3)                             | Implied/<br>Concealed (0)<br>Used (-4)                         | Brandished (-2)                                            | [ ] |
| Co-Offender:                           | Follower (2)                        | Equal<br>Responsibility (1)                                    | Leader/Controlled<br>Others or None (0)                    | [ ] |
| Motive:                                | Unintentional (3)                   | Situational (2)                                                | Under Influence/<br>Alcohol or Drugs (1)<br>Deliberate (0) | [ ] |

TOTAL OFFENSE SCORE \_\_\_\_\_ POINTS  $\times 1.2 =$

Table 25

Continued

## SOCIAL DATA: (40%)

## SOCIAL HISTORY:

|                                                           |                                               |                                                                 |                                     |     |
|-----------------------------------------------------------|-----------------------------------------------|-----------------------------------------------------------------|-------------------------------------|-----|
| Age:                                                      | 40 or More (3)                                | 25-39 (2)<br>Certified Adult (0)                                | Under 25 (1)                        | [ ] |
| Family Situation (Immediate):                             | Constructive Support (3)                      | Moderately Supportive (2)<br>Disruptive (0)                     | Non-Supportive/<br>Non-Existent (1) | [ ] |
| Education:                                                | College or Technical Program Completion (3)   | High School Diploma/GED/<br>Vocational Training Certificate (2) | Incomplete (1)                      | [ ] |
| Employment/ Program:                                      | Continuous (or Housewife) (4)                 | Sporadic (2)                                                    | Almost Non-Existent (0)             | [ ] |
| Military:                                                 | Honorable Discharge/<br>No Military Serv. (1) | Other (0)                                                       |                                     | [ ] |
| Employability:                                            | Readily/Not Needed (2)                        | Could Be Developed (1)                                          | Unemployable (0)                    | [ ] |
| Financial (Capable of Supporting Self and/or Dependents): | Adequate (4)                                  | Could Be Developed (2)                                          | Inadequate (1)                      | [ ] |

## COMMUNITY IMPACT:

|                                                            |                                   |                                              |                                     |     |
|------------------------------------------------------------|-----------------------------------|----------------------------------------------|-------------------------------------|-----|
| Commitments/Ties:                                          | Local/In-State (2)                | Home State (1)                               | None (0)                            | [ ] |
| Resource Availability<br>(Type of Adequate Programming):   | Pre-Determined/<br>Not Needed (3) | Available (2)                                | Unavailable (0)                     | [ ] |
| Substance Abuse—Alcohol:                                   | Non-Problmic. (3)                 | Problmic. (2)                                | Excessive (0)                       | [ ] |
| Substance Abuse—Drugs:                                     | No Use (3)                        | Occasional (1)<br>Serious Abuser/Addict (-2) | Regular Use (0)                     | [ ] |
| Mental Health or Substance Abuse<br>Program Participation: | N/A (3)                           | Completed (2)<br>Failure (0)                 | Planned/Current (1)<br>Refused (-1) | [ ] |

## PRE-SENTENCE ADJUSTMENT:

|                                 |              |                 |               |     |
|---------------------------------|--------------|-----------------|---------------|-----|
| Honesty/Cooperation with Dept.: | Candid (2)   | Reluctant (1)   | Deceptive (0) | [ ] |
| Attitude Toward Supervision:    | Positive (2) | Indifferent (1) | Negative (0)  | [ ] |
| Attitude Toward Offense:        | Contrite (2) | Indifferent (1) | Denies (0)    | [ ] |

TOTAL SOCIAL SCORE \_\_\_\_\_ POINTS x 1 = \_\_\_\_\_

TOTAL OFFENSE AND SOCIAL SCORE COMBINED

0-54 = DENIAL

55-64 = BORDERLINE

65-100 = PROBATION

Table 26

DEPARTMENT OF PAROLE AND PROBATIONOFFENDER CHARACTERISTICS AND RISK FACTOR TABLE

| <u>LOW</u> | <u>MODERATE</u> | <u>HIGH</u> | <u>VERY HIGH</u> |
|------------|-----------------|-------------|------------------|
| 10-8       | 7-6             | 5-4         | 3-0              |

OFFENDER'S NAME: \_\_\_\_\_ CASE NO. \_\_\_\_\_

- No Prior Convictions..... 2

One Prior Misdemeanor Conviction..... 1.5

One Prior Felony Conviction..... 1.0

Two or more convictions (Combined  
felony and/or misdemeanor, exclusive  
of traffic)..... 0.0
- No Prior incarcerations..... 2.0

No Prior jail sentence (min. 6 mos.)..... 1.5

One Prior Prison sentence..... 1.0

Two or more jail sentences (minimum  
6 mos.)..... 0.5

Two or more prison sentences..... 0.0

(a) If previously incarcerated in  
Prison, offender has remained in community  
for three or more years crime free..... 1.0

Otherwise..... 0
- Age at first commitment - 18 years.....

or older = 1 point

Otherwise = 0
- Offense did not involve personal injury to.....

victim = 1 point

Otherwise = 0
- Offense did not involve use of a weapon = 1 point

Otherwise = 0
- verified employment (or full time school.....

attendance) for a total of at least six months

during the year immediately preceding offense

= 1 point

Otherwise = 0
- Offender has not been previously convicted.....

of same offense = 1 point

Otherwise = 0
- Never had parole or probation revoked.....

or been committed for new offense while on

probation or parole = 1 point

Otherwise = 0

Table 27

| HIGH SEVERITY                                                                                       |                                                     | LOW      | MODERATE  | HIGH       | VERY HIGH  |
|-----------------------------------------------------------------------------------------------------|-----------------------------------------------------|----------|-----------|------------|------------|
| Robbery<br>(with weapon)                                                                            | 1-15                                                | 48(66)84 | 60(84)108 | 72(108)144 | 84(144)180 |
| Mayhem                                                                                              | 1-10                                                | 48(60)72 | 60(78)96  | 72(90)108  | 84(102)120 |
| Controlled Substance:<br>Sales (where value<br>exceeds \$2,5000)                                    |                                                     |          |           |            |            |
| Non-addictive                                                                                       | 1-20-96(103)120-108(120)144-120(144)180-144(192)240 |          |           |            |            |
| Ex-Felon in<br>Possession of Firearm<br>(where previously<br>convicted of crimes<br>against person) | 1-6                                                 | 36(42)48 | 42(54)60  | 48(60)66   | 54(66)72   |
| Manslaughter<br>Voluntary                                                                           | 1-10                                                | 48(60)72 | 60(78)96  | 72(90)108  | 84(102)120 |
| Narcotics: Sales<br>(where by non-user and<br>value exceeds \$500)                                  |                                                     |          |           |            |            |
| Addictive                                                                                           | 1-20-96(106)120-108(120)144-120(144)180-144(192)240 |          |           |            |            |

Table 28

## INITIAL ASSESSMENT OF CLIENT RISK

State of Nevada  
Parole and Probation Form

|                                 |              |            |          |                     |                 |
|---------------------------------|--------------|------------|----------|---------------------|-----------------|
| Case Name                       | Last         | First      | Middle   | File No.            |                 |
| Assessment Date (Mo., Day, Yr.) | Officer Name | PO CID No. | Case No. | DOB (Mo., Day, Yr.) | District & Unit |

Select appropriate answer and enter associated weight in score column. Total all item scores to get total risk score.

|                                                                                                                                                                                                      |                                                                                                                                                                                    |       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| Number of Address Changes in Last 12 Months                                                                                                                                                          | 0 None<br>2 One<br>3 Two or More                                                                                                                                                   | _____ |
| Percentage of Time Employed in Last 12 Months                                                                                                                                                        | 0 60% or More<br>1 40% - 59%<br>2 Under 40%<br>Not Applicable<br>(Acceptable Program)                                                                                              | _____ |
| Alcohol Usage Problems                                                                                                                                                                               | 0 No interference with functioning<br>2 Occasional Abuse;<br>Some disruption of functioning<br>4 Frequent Abuse;<br>Serious disruption; Needs treatment                            | _____ |
| Other Drug Usage Problems<br>(Prior to incarceration for parolees)                                                                                                                                   | 0 No Use<br>1 Occasional Use;<br>No disruption of functioning<br>2 Occasional abuse;<br>Some disruption of functioning<br>4 Frequent abuse;<br>Serious disruption; needs treatment | _____ |
| Attitude                                                                                                                                                                                             | 0 Motivated to change;<br>Receptive to assistance<br>3 Dependent or unwilling to accept responsibility<br>5 Rationalizes behavior; negative;<br>Not motivated to change            | _____ |
| Age at First Arrest<br>(Adult or Juvenile)                                                                                                                                                           | 0 24 or older<br>2 20 - 23<br>4 19 or younger                                                                                                                                      | _____ |
| Number of Prior Periods of Probation/Parole Supervision<br>(Adult or Juvenile)                                                                                                                       | 0 None<br>4 One or More                                                                                                                                                            | _____ |
| Number of Prior Probation/Parole Revocations<br>(Adult or Juvenile)                                                                                                                                  | 0 None<br>4 One or More                                                                                                                                                            | _____ |
| Number of GM/F Convictions                                                                                                                                                                           | 0 None<br>2 One<br>4 Two or More                                                                                                                                                   | _____ |
| Convictions or Juvenile Adjudications for<br>(If applicable, select 2 and 3 for a total of 5)                                                                                                        | 0 None<br>2 Burglary, theft, auto theft or robbery<br>3 Worthless checks or Forgery<br>Both equally -                                                                              | _____ |
| Conviction or Juvenile Adjudication for Offense involving<br>Assaultive Behavior within last five years<br>(An offense which involves the use of a weapon, physical force<br>or the threat of force) | 1 Yes<br>0 No<br>(Do not add to total)                                                                                                                                             | _____ |

TOTAL 5

TOTAL \_\_\_\_\_

Table 28

## Continued

## INITIAL ASSESSMENT OF CLIENT NEEDS

State of Nevada  
Parole and Probation Form

|                                 |      |                 |            |          |
|---------------------------------|------|-----------------|------------|----------|
| Case Name                       | Last | First           | Middle     | File No. |
| Assessment Date (Mo., Day, Yr.) |      | Officer Name    | PO CID No. | Case No. |
| DOB (Mo., Day, Yr.)             |      | District & Unit |            |          |

Select appropriate answer and enter associated weight in score column. Total all item scores to get total needs score.

ACADEMIC/VOCATIONAL  
SKILLS

|                                    |                                                       |                                                      |                                                            |
|------------------------------------|-------------------------------------------------------|------------------------------------------------------|------------------------------------------------------------|
| 1 High School or above skill level | 0 Adequate skill able to handle everyday requirements | +2 Low skill level causing minor adjustment problems | +4 Minimal skill level causing serious adjustment problems |
|------------------------------------|-------------------------------------------------------|------------------------------------------------------|------------------------------------------------------------|

## EMPLOYMENT

|                                                  |                                                                                |                                                                        |                                                          |
|--------------------------------------------------|--------------------------------------------------------------------------------|------------------------------------------------------------------------|----------------------------------------------------------|
| 1 Satisfactory employment for one year or longer | 0 Secure employment; no difficulties reported; or homemaker/student or retired | +3 Unsatisfactory employment or unemployed but has adequate job skills | +6 Unemployed and virtually unemployable; needs training |
|--------------------------------------------------|--------------------------------------------------------------------------------|------------------------------------------------------------------------|----------------------------------------------------------|

## FINANCIAL MANAGEMENT

|                                                                      |                           |                                      |                                                                           |
|----------------------------------------------------------------------|---------------------------|--------------------------------------|---------------------------------------------------------------------------|
| 1 Long standing pattern of self sufficiency, e.g. good credit rating | 0 No current difficulties | +3 Situational or minor difficulties | +5 Severe difficulties; may include garnishment, bad checks or bankruptcy |
|----------------------------------------------------------------------|---------------------------|--------------------------------------|---------------------------------------------------------------------------|

MARITAL/FAMILY  
RELATIONSHIPS

|                                                  |                                   |                                                                 |                                    |
|--------------------------------------------------|-----------------------------------|-----------------------------------------------------------------|------------------------------------|
| 1 Relationships and support exceptionally strong | 0 Relatively stable relationships | +3 Some disorganization or stress but potential for improvement | +5 Major disorganization or stress |
|--------------------------------------------------|-----------------------------------|-----------------------------------------------------------------|------------------------------------|

## COMPANIONS

|                              |                            |                                                  |                                            |
|------------------------------|----------------------------|--------------------------------------------------|--------------------------------------------|
| 1 Good support and influence | 0 No adverse relationships | +2 Associations with occasional negative results | +1 Associations almost completely negative |
|------------------------------|----------------------------|--------------------------------------------------|--------------------------------------------|

## EMOTIONAL STABILITY

|                                                                   |                                                                              |                                                                                    |                                                                                 |
|-------------------------------------------------------------------|------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| 2 Exceptionally well adjusted; accepts responsibility for actions | 0 No symptoms of emotional instability; appropriate emotional responsibility | +4 Symptoms limit but do not prohibit adequate functioning; e.g. excessive anxiety | +7 Symptoms prohibit adequate functioning e.g. lashes out or retreats into self |
|-------------------------------------------------------------------|------------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|

## ALCOHOL USAGE

|                                    |                                                               |                                                                  |
|------------------------------------|---------------------------------------------------------------|------------------------------------------------------------------|
| 0 No interference with functioning | +3 Occasional substance abuse; some disruption of functioning | +6 Frequent substance abuse; serious disruption; needs treatment |
|------------------------------------|---------------------------------------------------------------|------------------------------------------------------------------|

## OTHER DRUG USAGE

|                                    |                                                               |                                              |
|------------------------------------|---------------------------------------------------------------|----------------------------------------------|
| 0 No interference with functioning | +3 Occasional substance abuse; some disruption of functioning | +6 Frequent substance abuse; needs treatment |
|------------------------------------|---------------------------------------------------------------|----------------------------------------------|

## MENTAL ABILITY

|                                  |                                                                                  |                                                                              |
|----------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| 0 Able to function independently | +3 Some need for assistance, potential for adequate adjustment; mild retardation | +6 Deficiencies severely limit independent functioning; moderate retardation |
|----------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------|

## HEALTH

|                                     |                                                                         |                                                                    |
|-------------------------------------|-------------------------------------------------------------------------|--------------------------------------------------------------------|
| 0 Sound physical health; seldom ill | +1 Handicap or illness interferes with functioning on a recurring basis | +2 Serious handicap or chronic illness needs frequent medical care |
|-------------------------------------|-------------------------------------------------------------------------|--------------------------------------------------------------------|

## SEXUAL BEHAVIOR

|                           |                                                    |                                                 |
|---------------------------|----------------------------------------------------|-------------------------------------------------|
| 0 No apparent dysfunction | +3 Real or perceived situational or minor problems | +5 Real or perceived chronic or severe problems |
|---------------------------|----------------------------------------------------|-------------------------------------------------|

AGENT'S IMPRESSION OF  
CLIENT'S NEEDS

|           |       |           |            |
|-----------|-------|-----------|------------|
| 1 Minimum | 0 Low | +3 Medium | +5 Maximum |
|-----------|-------|-----------|------------|

TOTAL

# Table 28

## Continued

### INITIAL ASSESSMENT DATA ENTRY SHEET

State of Nevada  
Parole and Probation Form

|                                 |              |            |          |                     |                 |
|---------------------------------|--------------|------------|----------|---------------------|-----------------|
| Case Name                       | Last         | First      | Middle   | File No.            |                 |
| Assessment Date (Mo., Day, Yr.) | Officer Name | PO CID No. | Case No. | DOB (Mo., Day, Yr.) | District & Unit |

Circle the Appropriate Number:

#### PRIOR SUPERVISION HISTORY

1. Nevada Probation
2. Nevada Probation Revocation
3. Nevada Parole
4. Nevada Parole Revocation
5. Out of State Probation
6. Out of State Probation Revocation
7. Out of State Parole
8. Out of State Parole Revocation

#### GROSS INCOME OVER LAST SIX MONTHS

0. None
1. Under \$2,500
2. \$2,500 to \$5,500
3. \$5,500 to \$7,500
4. \$7,500 to \$10,000
5. Over \$50,000

#### JOB SKILL CLASSIFICATION

1. Professional/Management
2. Skilled
3. Semi-skilled
4. Unskilled
5. N/A

#### CASE TYPE

1. Normal
2. 120 day
3. Street Readiness
4. Waived PSI

#### SUPERVISION LEVEL

1. L.S.U.
2. Minimum
3. Medium
4. Maximum

#### C.M.C. APPROACH

1. Limit Setting
2. Casework/Control
3. Environmental Structuring
4. Selective Intervention Situation
5. Selective Intervention Treatment

#### EMPLOYMENT STATUS

1. Employed full time
2. Employed part time
3. Unemployed
4. N/A

#### EDUCATION STATUS

Enter highest grade completed  
or circle one of the following choices:

13. High School Graduate
14. Some college
15. College graduate
16. Some graduate school
17. Graduate Degree
18. Special education
19. Technical/Vocational
20. G.E.D.
99. Not reported

OVERRIDE . . . . . YES \_\_\_\_\_ NO \_\_\_\_\_

## MINIMUM SUPERVISION

One monthly report to be submitted by mail.  
One face-to-face contact every three months.  
Verified residence and employment/program every three months.  
Home visits, as appropriate.  
Special condition verification, as appropriate.

During testimony before the S.B. 375 committee, Mr. Rob Calderone pointed out that the most recent development in the department of parole and probation is the institution of a case management system which was developed through a grant from the National Institute of Corrections. The system records the classification of offenders, development and treatment approaches, reclassification of the offenders and a management information system to supply data on admissions and termination which gives the department the ability to do comparative studies. The caseload configuration per levels of supervision, both before and after the adoption of the caseload management system is as follows:

|           | <u>Before</u> | <u>After</u> |
|-----------|---------------|--------------|
| Intensive | 5%            | 5%           |
| Maximum   | 12%           | 9%           |
| Medium    | 67%           | 51%          |
| Minimum   | 16%           | 35%          |

The department does not have data from other states on caseload configuration at this time so it is impossible to draw any comparisons.

The department of parole and probation operates a street readiness program which generally can be described as three weeks of instruction for prison inmates who are due for a parole hearing or the 120-day evaluation cases. The program is almost entirely staffed by community volunteers who instruct inmates in a wide range of social skills. The program utilizes prison facilities and staff coverage as well as inmate clerks in its operation. Mr. Calderone pointed out that a similar outside program for probationers who have never been in prison is in the process of being developed in the district offices of the department.

The department also operates a special services unit which attempts to locate local and out-of-state escaped fugitives from parole and probation and looks up those individuals not reporting to their parole officer.

The department of parole and probation has the responsibility of collecting restitution revenue for victims of crimes and last year the department collected roughly \$500,000 in restitution which was returned to victims.

The department is also charged with monitoring the community services program in which judges, as a condition of probation, sentence an offender to a specific number of hours of community service (240 hours maximum for a gross misdemeanor and 1,000 hours for a felony). During April of 1984, the department had 147 offenders statewide involved in community service as a condition of their probation.

Workload indicators of the department are contained in Tables 29 through 36. The workload indicators attached include: Table 29, total dispositions by probation, prison, jail, other and by year; Tables 30 and 31, felony and gross misdemeanor dispositions by probation, prisons/jail, other and by year; Table 32, felony dispositions by probation, prison, other, year and by parole and probation district offices; Table 33, gross misdemeanor dispositions; Table 34, recommendation concurrence; Table 35, sentencing with pre-sentence investigation versus sentencing without pre-sentence investigation by year; and Table 36, parole and probation revocations by year.

#### RECOMMENDATIONS

1. The 1983 session of the Nevada legislature approved funding for the development of a computerized parole case management information system within the department of parole and probation. In the past, decision-makers have been unable to receive timely and detailed information dealing with the criminal justice system. This problem of lack of information is beginning to be rectified and the information already made available by the department of parole and probation was of great value to the S.B. 375 committee. The S.B. 375 committee recommends that funding be continued for the computerized sentencing and parole case management information systems at both the department of parole and probation and the department of prisons.
2. The committee also acknowledged the work done by the department of parole and probation in developing and implementing objective criteria to assist his department in evaluating offenders and parolees. Due to the experience in making objective and measurable criteria, the S.B. 375 committee felt it would be helpful to include the director of the department of parole and probation in assisting in developing both formal parole guidelines as a member of the recommended 5-member committee and one of the 13 members of the recommended sentencing guidelines commission.

Table 29

TOTAL DISPOSITIONS BY PROBATION, PRISON, JAIL, OTHER AND BY YEAR

|            | <u>73/74</u> | <u>74/75</u> | <u>75/76</u> | <u>76/77</u> | <u>77/78</u> | <u>78/79</u> | <u>79/80</u> | <u>80/81</u> | <u>81/82</u> | <u>82/83</u> | Projected<br><u>83/84</u> |
|------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------------------|
| PROBATION  | 973          | 1039         | 1260         | 1489         | 1641         | 1814         | 1999         | 2464         | 2198         | 2398         | 2328                      |
| PRISON     | 319          | 409          | 378          | 603          | 732          | 815          | 796          | 946          | 1201         | 1266         | 1298                      |
| JAIL       | 83           | 116          | 119          | 167          | 223          | 193          | 220          | 238          | 247          | 236          | 261                       |
| OTHER      | 68           | 66           | 124          | 107          | 166          | 117          | 143          | 223          | 464          | 474          | 440                       |
| TOTALS:    | 1443         | 1630         | 1881         | 2368         | 2762         | 2941         | 3160         | 3893         | 4110         | 4374         | 4327                      |
| % INCREASE | 9%           | 13%          | 15%          | 26%          | 17%          | 6.5%         | 7%           | 23%          | 6%           | 6%           | -1%                       |

Table 30

FELONY DISPOSITIONS BY PROBATION, PRISON, OTHER & BY YEAR

|         | PROBATION | PRISON | OTHER | TOTAL |
|---------|-----------|--------|-------|-------|
| FY80/81 | 1432      | 946    | 14    | 2392  |
| FY81/82 | 1330      | 1201   | 37    | 2568  |
| FY82/83 | 1446      | 1266   | 26    | 2738  |
| FY83/84 | 1450      | 1298   | 42    | 2790  |

Table 31

GROSS MISDEMEANOR DISPOSITIONS BY PROBATION, JAIL, OTHER & BY YEAR

|         | PROBATION | JAIL | OTHER | TOTAL |
|---------|-----------|------|-------|-------|
| FY80/81 | 1032      | 258  | 211   | 1501  |
| FY81/82 | 853       | 247  | 442   | 1542  |
| FY82/83 | 952       | 236  | 448   | 1636  |
| FY83/84 | 878       | 261  | 398   | 1537  |

Table 32

FELONY DISPOSITIONS BY PROBATION, PRISON, OTHER, YEAR AND BY PAROLE & PROBATION DISTRICT OFFICES

|               | <u>PROBATION</u> |               |               |               | <u>PRISON</u>  |               |               |                 | <u>OTHER</u> |            |            |              | <u>TOTAL</u> |      |      |       |
|---------------|------------------|---------------|---------------|---------------|----------------|---------------|---------------|-----------------|--------------|------------|------------|--------------|--------------|------|------|-------|
|               | FY81             | FY82          | FY83          | FY84*         | FY81           | FY82          | FY83          | FY84*           | FY81         | FY82       | FY83       | FY84*        | FY81         | FY82 | FY83 | FY84* |
| D-1           | 62(44%)          | 39(28%)       | 63(42%)       | 72(37%)       | 78(56%)        | 97(69%)       | 81(54%)       | 112(57%)        | 0(0%)        | 5(3%)      | 6(4%)      | 13(6%)       | 140          | 141  | 150  | 197   |
| D-2           | 538(67%)         | 561(63%)      | 431(59%)      | 396(54%)      | 261(32%)       | 323(36%)      | 288(40%)      | 327(45%)        | 8(1%)        | 12(1%)     | 9(1%)      | 6(1%)        | 807          | 896  | 728  | 729   |
| D-3           | 42(69%)          | 28(55%)       | 40(53%)       | 49(56%)       | 18(30%)        | 23(45%)       | 35(47%)       | 34(39%)         | 1(1%)        | 0(0%)      | 0(0%)      | 4(5%)        | 61           | 51   | 75   | 87    |
| D-4           | 739(57%)         | 668(48%)      | 847(51%)      | 878(53%)      | 545(42%)       | 705(51%)      | 797(48%)      | 770(46%)        | 4(1%)        | 17(1%)     | 10(1%)     | 19(1%)       | 1288         | 1390 | 1654 | 1667  |
| D-5           | 51(53%)          | 34(38%)       | 65(50%)       | 55(50%)       | 44(46%)        | 53(59%)       | 65(50%)       | 55(50%)         | 1(1%)        | 3(3%)      | 1(0%)      | 0(0%)        | 96           | 90   | 131  | 110   |
| STATE TOTALS: | 1432<br>(60%)    | 1330<br>(57%) | 1446<br>(53%) | 1450<br>(52%) | 946<br>(39.5%) | 1201<br>(47%) | 1266<br>(46%) | 1298<br>(46.5%) | 14<br>(.5%)  | 37<br>(1%) | 26<br>(1%) | 42<br>(1.5%) | 2392         | 2568 | 2738 | 2790  |

Percentages = Percent of Total Dispositions for that Year.

\* Projected

Table 33

GROSS MISDEMEANOR DISPOSITIONS BY PROBATION, JAIL, OTHER, YEAR AND BY P & P DISTRICT OFFICES

|               | <u>PROBATION</u> |              |              |              | <u>JAIL</u>  |              |              |              | <u>OTHER</u> |              |              |              | <u>TOTAL</u> |      |      |     |
|---------------|------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|------|------|-----|
|               | FY81             | FY82         | FY83         | FY84*        | FY81         | FY82         | FY83         | FY84*        | FY81         | FY82         | FY83         | FY84*        | FY81         | FY82 | FY83 | FY8 |
| D-1           | 76(59%)          | 57(66%)      | 93(78%)      | 83(70%)      | 44(34%)      | 22(26%)      | 23(19%)      | 30(25%)      | 10(7%)       | 7(8%)        | 4(3%)        | 6(5%)        | 130          | 86   | 120  | 119 |
| D-2           | 362(77%)         | 365(64%)     | 309(52%)     | 290(48%)     | 65(13%)      | 81(14%)      | 99(17%)      | 102(17%)     | 70(14%)      | 129(22%)     | 184(31%)     | 216(35%)     | 497          | 575  | 592  | 608 |
| D-3           | 29(52%)          | 32(46%)      | 40           | 28           | 16(29%)      | 26(37%)      | 35           | 25           | 11(19%)      | 12(17%)      | 17           | 11           | 56           | 70   | 92   | 64  |
| D-4           | 496(70%)         | 339(49%)     | 443(60%)     | 424(64%)     | 105(15%)     | 79(11%)      | 62(9%)       | 83(12%)      | 111(15%)     | 200(40%)     | 228(31%)     | 161(24%)     | 712          | 698  | 733  | 668 |
| D-5           | 69(65%)          | 60(53%)      | 67(68%)      | 53(68%)      | 28(26%)      | 39(35%)      | 17(17%)      | 21(27%)      | 9(9%)        | 14(12%)      | 15(15%)      | 4(5%)        | 106          | 113  | 99   | 78  |
| STATE TOTALS: | 1032<br>(69%)    | 853<br>(55%) | 952<br>(58%) | 878<br>(57%) | 258<br>(17%) | 247<br>(16%) | 236<br>(14%) | 261<br>(17%) | 211<br>(14%) | 442<br>(29%) | 448<br>(28%) | 398<br>(26%) | 1501         | 1542 | 1636 | 153 |

Percentages - Percent of Total Dispositions for that Year.

\* Projected

Table 34

**\* RECOMMENDATION CONCURRENCE**

|                                              | <u>79/80</u> | <u>80/81</u> | <u>81/82</u> | <u>82/83</u> |
|----------------------------------------------|--------------|--------------|--------------|--------------|
| Dept. Rx Probation, <u>S</u> rec'd same:     | 1224         | 2025         | 1340         | 1585         |
| Dept. Rx NSP/Jail, <u>S</u> rec'd same:      | 804          | 1132         | 1231         | 1243         |
| Dept. Rx Probation, <u>S</u> rec'd NSP/Jail: | 44           | 63           | 44           | 58           |
| Dept. Rx NSP/Jail, <u>S</u> rec'd Probation: | 282          | 314          | 237          | 275          |
| CONCURRENCE RATE:                            | 86%          | 89.3%        | 90.1%        | 89.5%        |

\* The figures presented represent only those cases where the "in-out" decision by the court was the same or different than the Department recommendation.

Table 35

PSI VS. NO PSI BY YEAR

|                      |                                    | FELONY     | GROSS MISDEMEANOR | TOTAL       |
|----------------------|------------------------------------|------------|-------------------|-------------|
| 79/80                | PSI                                | 1879       | 1281              | 3160        |
|                      | NO PSI                             | <u>-0-</u> | <u>-0-</u>        | <u>-0-</u>  |
|                      | TOTAL:                             | 1879       | 1281              | 3160        |
| 80/81                | Data unavailable on PSI vs. No PSI |            |                   |             |
|                      | TOTAL:                             | 2392       | 1501              | 3893        |
| 81/82                | PSI                                | 2442       | 603               | 3067        |
|                      | NO PSI                             | <u>126</u> | <u>939</u>        | <u>1017</u> |
|                      | TOTAL:                             | 2568       | 1542              | 4110        |
| 82/83                | PSI                                | 2528       | 777               | 3305        |
|                      | NO PSI                             | <u>210</u> | <u>859</u>        | <u>1069</u> |
|                      | TOTAL:                             | 2738       | 1636              | 4374        |
| 83/84<br>(Projected) | PSI                                | 2540       | 829               | 3369        |
|                      | NO PSI                             | <u>250</u> | <u>708</u>        | <u>958</u>  |
|                      | TOTAL:                             | 2790       | 1537              | 4327        |

Table 36

PAROLE & PROBATION REVOCATIONS BY YEAR

|                  | <u>78/79</u> | <u>79/80</u> | <u>80/81</u> | <u>81/82</u> | <u>82/83</u> | <u>83/84</u><br>(Projected) |
|------------------|--------------|--------------|--------------|--------------|--------------|-----------------------------|
| PAROLE           | 160          | 183          | 162          | 165          | 193          | 195                         |
| PROBATION        | 181          | 195          | 230          | 306          | 317          | 275                         |
| <hr/>            |              |              |              |              |              |                             |
| TOTALS;          | 341          | 378          | 392          | 471          | 510          | 470                         |
| ENDING CASELOAD; | 3558         | 4249         | 4872         | 5065         | 5297         | ?                           |



## GOOD TIME CREDITS

### OVERVIEW

Senate Bill 375 mandated that the committee examine credits on terms of imprisonment, or as is commonly known, good time credits. Nationally, there are basically two types of good time credits with many states utilizing both variations. The standard type of good time credit, which is commonly called statutory time, is that which must be technically earned by good behavior, but in practice is actually rewarded to all eligible inmates except those who commit serious disciplinary infractions. The second type of allowance commonly known as program time, is one that is awarded for special activities on the part of the inmate which calls for recognition over and above the statutory good time already awarded. Activities such as participation in work or educational programs, blood donation or meritorious conduct trigger these additional reductions from sentences.

Nationally the granting or denial of good time credits is almost completely subject to the discretion of correctional officials, either at the state or institutional level. Many states have statutes specifying the maximum amount of good time credits that can be earned while some leave the schedule of earnings to the discretion of administrators. In many states that specify a schedule, prison officials often have the flexibility to establish other categories for which credits may be awarded. The denial or revocation of credit is also discretionary in many states. In most states the majority of inmates receive most of the good time for which they are eligible.

Table 37 outlines the statutory provisions for parole eligibility and sentence reduction by state. Six states (Arizona, Hawaii, Kansas, Missouri, Pennsylvania and Utah) do not provide for good time allowances.

### Good Time Credit System In Nevada

Nevada currently employs both variations of good time credit allowances, those being: (1) statutory good time--credit awarded as an incentive to abstain from serious misconduct; and (2) program time--credit awarded for satisfactory participation in work or educational programs; and "bonus credits" awarded for such things as donation of blood, fire fighting and flood control.

### STATUTORY TIME

NRS 209.443 (2) requires the department of prisons to award statutory time according to a fixed schedule of credits set by the legislature. All inmates committed to the department are entitled to receive statutory time and credits which are computed automatically for each month of the sentence served. Once

Table 1.100 Statutory provisions for parole eligibility and sentence reduction, by State, as of May 1981

NOTE: See NOTE, Table 1.98. "Good time" is time subtracted from a sentence of imprisonment by prison authorities as a result of good behavior on the part of a prisoner.

| State                | Provisions for parole eligibility                                                                                               |                                                                                                                                                                   | Provisions for sentence reductions                                                                                                                                                                                 |                                                                                                                                                                 |
|----------------------|---------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                      | General                                                                                                                         | Special provisions                                                                                                                                                | Good time                                                                                                                                                                                                          | Other                                                                                                                                                           |
| Alabama              | 1/3 of sentence or 10 years, whichever is less                                                                                  | Death sentence commuted to life; 15 years                                                                                                                         | Class I: 75 days for every 30 days served<br>Class II: 40 days for every 30 days served<br>Class III: 20 days for every 30 days served<br>Class IV: ineligible                                                     | 30 days annually for a blood donor                                                                                                                              |
| Alaska               | 1/3 of term                                                                                                                     |                                                                                                                                                                   | 1 day for every 3 days served                                                                                                                                                                                      | 3 days per month for meritorious conduct for first year; each succeeding year 5 days per month                                                                  |
| Arizona              | 1/2 or 2/3 of sentence, depending on sentence                                                                                   | Life: 25 years                                                                                                                                                    | Class I: 1 day for every 2 days served<br>Class II: 1 day for every 3 days served                                                                                                                                  | All offenders released 120 days prior to expiration of term                                                                                                     |
| Arkansas             | Within discretion of parole board to release any time                                                                           | Unless minimum term mandatory, first offenders released at any time<br>Second offenders: 1/3 of sentence minus good time<br>Subsequent offenders: 1/2 of sentence | Class I: 10 days per month<br>Class II: 5 days per month<br>Class III: ineligible                                                                                                                                  | Meritorious conduct: 10 days per month additional                                                                                                               |
| California           | Expiration of sentence minus good time                                                                                          |                                                                                                                                                                   | 1/3 reduction of term for good conduct or participation in prison programs                                                                                                                                         |                                                                                                                                                                 |
| Colorado             | Term to be served in full minus good time                                                                                       |                                                                                                                                                                   | 15 days per month                                                                                                                                                                                                  | Meritorious performance: additional days per 6 months                                                                                                           |
| Connecticut          | Effective July 1, 1981, parole was abolished                                                                                    |                                                                                                                                                                   | For a sentence up to 5 years: 10 days for each month served;<br>For a sentence greater than 5 years: 12 days for each month served                                                                                 | Prison industry: 1 day for every 1 consecutive days;<br>Meritorious conduct: up to 120 days reduction from term                                                 |
| Delaware             | 1/3 of sentence less good time                                                                                                  | Mandatory minimum must be served in full                                                                                                                          | 1st year of sentence: 5 days per month;<br>2nd year: 7 days per month;<br>3rd year: 9 days per month;<br>Subsequent years: 10 days per month                                                                       | Participation in rehabilitative and programs: additional 5 days per month                                                                                       |
| District of Columbia | Expiration of minimum                                                                                                           |                                                                                                                                                                   | Sentence of 1 to 3 years: 6 days per month;<br>3 to 5 years: 7 days per month;<br>5 to 10 years: 8 days per month;<br>Over 10 years: 10 days per month                                                             |                                                                                                                                                                 |
| Florida              | Parole guidelines have been developed that establish presumptive release date based on seriousness of offense                   | Life: 25 years                                                                                                                                                    | 1st and 2nd year of sentence: 3 days per month;<br>3rd and 4th year: 5 days per month;<br>Subsequent years: 9 days per month                                                                                       | 1 day for every day of productive work; 6 days per month for those unable to work but use time well;<br>1 to 5 days per month for no violation in past 6 months |
| Georgia              | 1/3 of sentence                                                                                                                 |                                                                                                                                                                   | 1st year: 1 month;<br>2nd year: 2 months;<br>Subsequent years: 3 months;<br>Not applicable to life sentences                                                                                                       |                                                                                                                                                                 |
| Hawaii               | Within discretion of parole board                                                                                               |                                                                                                                                                                   | 10 days maximum for every month served (except for life sentences where no good time applies)                                                                                                                      |                                                                                                                                                                 |
| Idaho                | Life terms or terms greater than 30 years: 10 years;<br>Less than life or 30 year terms: 5 years or 1/3 term, whichever is less | Some must serve mandatory minimums                                                                                                                                | 1 to 3 year sentences: 5 days per month;<br>3 to 5 year sentences: 7 days per month;<br>5 to 10 year sentences: 9 days per month;<br>10 years or more: 10 days per month                                           | Additional 5 days per month for meritorious conduct                                                                                                             |
| Illinois             | Service of term in full minus good time                                                                                         |                                                                                                                                                                   | 1 day for each day served                                                                                                                                                                                          |                                                                                                                                                                 |
| Indiana              | Service of term in full minus good time                                                                                         |                                                                                                                                                                   | Class I: 1 day for each day served;<br>Class II: 1 day for every 2 days served;<br>Class III: no good time                                                                                                         |                                                                                                                                                                 |
| Iowa                 | Board may release at any time; individual may be required to serve term in full minus only good time                            | Class A: Governor must commute to a term of years; review within 5 years<br>Forfeiture of release, previous conviction: 1/2 maximum imposed                       | 1st year: 1 month;<br>2nd year: 2 months;<br>3rd year: 3 months;<br>4th year: 4 months;<br>5th year: 5 months;<br>Subsequent years: 6 months                                                                       | Trustee: additional 10 days per month                                                                                                                           |
| Kansas               | Following service of minimum term less good time earned                                                                         | Class A requiring life: 15 years must be served; if firearm is used, must serve minimum term or sentenced as habitual criminal                                    | 1st year of imprisonment: 2 months applied to reduce minimum and maximum;<br>2nd year: 4 months applied to reduce minimum and maximum;<br>3rd and subsequent years: 6 months applied to reduce minimum and maximum | Meritorious good time: additional days                                                                                                                          |
| Kentucky             | Parole board may release offender at any time                                                                                   |                                                                                                                                                                   | Not more than 10 days per month                                                                                                                                                                                    | Additional 5 days per month meritorious conduct or per of cubes                                                                                                 |
| Louisiana            | 1/3 of sentence                                                                                                                 | 1st offenders with less than 5 years sentenced anytime prior to 1/3 of term; Life: ineligible unless term commuted to a fixed period of years                     |                                                                                                                                                                                                                    | Credit for time served in custody                                                                                                                               |

Table 1.100 Statutory provisions for parole eligibility and sentence reductions by state as of July 1, 1979

| State          | Provisions for parole eligibility                                                          |                                                                                                                                | Provisions for sentence reductions                                                                                                                                                                                                                                                                                        |                                                                                                                                                              |
|----------------|--------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                | General                                                                                    | Special provisions                                                                                                             | Good time                                                                                                                                                                                                                                                                                                                 | Other                                                                                                                                                        |
| Maine          | No parole; service of term in full minus good time                                         |                                                                                                                                | 10 days per month                                                                                                                                                                                                                                                                                                         | Additional 2 days per month performance of work duties                                                                                                       |
| Maryland       | 1/3 of term                                                                                | Life: 15 years                                                                                                                 | 5 days for each month                                                                                                                                                                                                                                                                                                     | Additional 5 days per month meritorious conduct and a work; no more than 5 days/month                                                                        |
| Massachusetts  | Violent offenders must serve 2/3 of minimum sentence                                       | Certain crimes require service of a minimum of 2 years                                                                         | 4 months to 364 days: 2.5 days per month;                                                                                                                                                                                                                                                                                 | Work, educational programs reduction of up to 7.5 day/month served                                                                                           |
|                | Non-violent offenders must serve 1/3 of minimum sentence                                   | Offenders serving life terms for crimes other than 1st or 2nd degree murder eligible for parole hearing after serving 15 years | 2 to 3 years: 7.5 days per month;<br>3 to 4 years: 10 days per month;<br>4 or more years: 12.5 days per month                                                                                                                                                                                                             | Confinement in prison camps days per month<br>10 days off sentence for 1 p donation                                                                          |
| Michigan       | Expiration of minimum term minus good time                                                 | Mandatory minimum must be served in full                                                                                       | 1st and 2nd year: 5 days per month;<br>3rd and 4th year: 6 days per month;<br>5th and 6th year: 7 days per month;<br>7th to 9th year: 8 days per month;<br>10th to 14th year: 10 days per month;<br>15th to 19th year: 12 days per month;<br>Over 20 years: 15 days per month                                             |                                                                                                                                                              |
| Minnesota      | Expiration of sentence minus good time                                                     | Life: 20 years;<br>Life with previous murder conviction: 25 years                                                              | 1 day for every 2 days served                                                                                                                                                                                                                                                                                             |                                                                                                                                                              |
| Mississippi    | 1 year after admission to prison system within discretion of parole board                  |                                                                                                                                | 1st year: 3 days per month;<br>2nd year: 4 days per month;<br>3rd year: 5 days per month;<br>4th year: 6 days per month;<br>5th year: 7 days per month;<br>6th year: 8 days per month;<br>7th year: 9 days per month;<br>8th year: 10 days per month;<br>9th year: 11 days per month;<br>Over 10 years: 15 days per month | Additional 30 days per year discretion of superintendent                                                                                                     |
| Missouri       | 1/2 of term; no one shall serve more than 2/3 of term                                      | Nondangerous offenders: 1/4 of term;<br>Life: 30 years                                                                         |                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                              |
| Montana        | 1/3 of sentence or 1 year (nondangerous offenders)                                         | Dangerous offenders: 1/2 of sentence                                                                                           | Medium I: 10 days per month;<br>Medium II: 13 days per month;<br>Medium II (after 1 year): 15 days per month                                                                                                                                                                                                              | Educational programs: 13 month;<br>Self-improvement activities month                                                                                         |
| Nebraska       | Expiration of minimum term minus good time                                                 |                                                                                                                                | 1st year: 2 months;<br>2nd year: 2 months;<br>3rd year: 3 months;<br>Subsequent years: 4 months                                                                                                                                                                                                                           | Additional 5 days per month performance of duties                                                                                                            |
| Nevada         | 1/3 of sentence or 1 year, whichever is greater                                            |                                                                                                                                | 1st 2 years: 2 months<br>2nd 2 years: 4 months<br>Subsequent years: 5 months for each year served                                                                                                                                                                                                                         | Certain credits as parole grant                                                                                                                              |
| New Hampshire  | Service of minimum term minus good time                                                    | Life: 15 years minus good time;<br>Life for murder I: 40 years minus good time                                                 | 90 days for each year of minimum term of service                                                                                                                                                                                                                                                                          | Meritorious conduct: 5 days against minimum and in Additional 4 days against maximum term for each donation                                                  |
| New Jersey     | Anytime within discretion of parole board unless minimum term imposed                      | Offense classes 1 and 2 have a fixed minimum term to be served prior to parole consideration                                   | One day for every 5 days served but cannot reduce a mandatory minimum                                                                                                                                                                                                                                                     |                                                                                                                                                              |
| New Mexico     | Service of term in full minus good conduct                                                 | Life: 30 years                                                                                                                 | None, as of July 1979                                                                                                                                                                                                                                                                                                     | Meritorious conduct: 10 d month;<br>Support-service work: 0.1 month;<br>Industrial good time: 0 to month;<br>Extra-industrial good time additional day/month |
| New York       | Following expiration of minimum term                                                       |                                                                                                                                | Up to 1/3 reduction of maximum term                                                                                                                                                                                                                                                                                       |                                                                                                                                                              |
| North Carolina | For felony committed after July 1, 1961: 90 days before expiration of term minus good time |                                                                                                                                | 1 day for each day in custody                                                                                                                                                                                                                                                                                             | Additional reductions may for work, education, or                                                                                                            |
| North Dakota   | Anytime within discretion of parole board                                                  |                                                                                                                                | Sentence of 1 to 3 years: 6 days per month;<br>Sentence of 3 to 5 years: 7 days per month;<br>Sentence of 3 to 10 years: 8 days per month;<br>Sentence of 10 years or more: 10 days per month                                                                                                                             | Meritorious conduct: add per month                                                                                                                           |
| Ohio           | Expiration of minimum term minus good time                                                 | Capital offenses: 15 years                                                                                                     | 1 year: 5 days per month;<br>2 years: 6 days per month;<br>3 years: 8 days per month;<br>4 years: 9 days per month;<br>5 years: 10 days per month                                                                                                                                                                         |                                                                                                                                                              |

Table 1.100 Statutory provisions for parole eligibility and sentence reduction, by State, as of May 1981—Continued

TABLE 31

| State          | Provisions for parole eligibility                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                      | Provisions for sentence reductions                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                  |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                | General                                                                                                                                                                                                                                               | Special provisions                                                                                                                                                                                                                                   | Good time                                                                                                                                                                                                                                                                    | Other                                                                                                                                                                                                                                                                                                                                                            |
| Oklahoma       | 1/3 of minimum term of an indeterminate sentence (or determinate if applicable)                                                                                                                                                                       |                                                                                                                                                                                                                                                      | No automatic statutory good time                                                                                                                                                                                                                                             | 1 day for every day enrolled in educational or vocational training programs; 20 days off of sentence for every blood donation (4 donations maximum per year)                                                                                                                                                                                                     |
| Oregon         | Anytime within discretion of parole board                                                                                                                                                                                                             | For those convicted of "aggravated murder" 20 to 30 year service of term as specified by statute; Judge may recommend for any felony a minimum term to be served and parole board must respect this, except with affirmative vote of 4 board members | 1 day for every 2 days served                                                                                                                                                                                                                                                | Prison industry or certified educational programs: 1st year: 1 day for every 15 days; 1st to 5th year: 1 day for every 7 days; subsequent years: 1 day for every 5 days; Prison agriculture: 1st year: 1 day for every 10 days; subsequent years: 1 day for every 6 days; Work camps: 1st year: 1 day for every 6 days; subsequent years: 1 day for every 4 days |
| Pennsylvania   | Maximum term of confinement greater than 2 years: eligible following expiration of minimum term; Maximum term of confinement less than 2 years: eligible any time prior to expiration of minimum term                                                 |                                                                                                                                                                                                                                                      | No statutory good time.                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                  |
| Rhode Island   | Following service of 1/3 of term                                                                                                                                                                                                                      | Life term or designated habitual criminal: service of at least 10 years                                                                                                                                                                              | No statutory good time                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                  |
| South Carolina | Sentence less than 30 years: service of 1/3 of term; Sentence greater than 30 years: service of at least 10 years; Review after 1/4 of term                                                                                                           | First offenders: service of minimum (1/4 of term)                                                                                                                                                                                                    | Permitted by statute                                                                                                                                                                                                                                                         | Earned work credits: up to 1 day for every 2 days, with a maximum of 1 days per year                                                                                                                                                                                                                                                                             |
| South Dakota   | 1st offender: 1/4 of term; 2nd offender: 1/2 of term; Subsequent offender: 3/4 of term (not applicable to life sentences)                                                                                                                             |                                                                                                                                                                                                                                                      | To be determined within discretion of Governor and on recommendation of parole board                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                  |
| Tennessee      | Minimum term of at least 1 year                                                                                                                                                                                                                       | Class X: following service of 40 percent of mandatory sentence                                                                                                                                                                                       | Class I: 30 days per month; Class II: 22 days per month; Class III: 10 days per month; Class IV: no credit (Class X and repeat offenders)                                                                                                                                    | Participation in prison programs: var from 1 to 15 days per month                                                                                                                                                                                                                                                                                                |
| Texas          | For offenders sentenced after Aug. 29, 1977: 1/3 of maximum term or minimum of 2 years                                                                                                                                                                | No offender serves more than 20 years without parole consideration                                                                                                                                                                                   | Trustee: 30 days for every 30 days served; Class I: 20 days for every 30 days served; Class II: 10 days for every 30 days served; Class III: none                                                                                                                            | Deductions apply to reduce the 1/3 maximum term to be served prior parole consideration; 30 day commutation of sentence every donation allowed (maximum one per year)                                                                                                                                                                                            |
| Utah           | Determination of parole eligibility after 6 months of confinement                                                                                                                                                                                     |                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                  |
| Vermont        | Anytime within discretion of parole board                                                                                                                                                                                                             |                                                                                                                                                                                                                                                      | 10 days per month                                                                                                                                                                                                                                                            | Additional 5 days per month for so services rendered                                                                                                                                                                                                                                                                                                             |
| Virginia       | 1st offenders: 12 years or 1/4 sentence, whichever is less; 2nd offenders: 13 years or 1/3 sentence, whichever is less; 3rd offenders: 14 years or 1/2 sentence, whichever is less; Subsequent offenders: 15 years or 2/3 sentence, whichever is less | Life: 15 years; Two or more life sentences: 20 years                                                                                                                                                                                                 | Class I: 30 days for every 30 days served; Class II: 20 days for every 30 days served; Class III: 10 days for every 30 days served; Class IV: no good time                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                  |
| Washington     | Anytime within the discretion of the parole board                                                                                                                                                                                                     | Mandatory minimums must be served prior to parole considerations; Life term: following service of 20 years minus good time                                                                                                                           | Up to 1/3 reduction of sentence, at discretion of parole board                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                  |
| West Virginia  | Following service of minimum term of sentence; Armed robbery: 1/3 of definite term                                                                                                                                                                    | Life sentence, 1st conviction: service of 10 years; Life sentence, 2nd conviction: service of 15 years                                                                                                                                               | Term of sentence 1 to 3 years: 6 days per month served; Term of sentence 3 to 5 years: 7 days per month served; Term of sentence 5 to 10 years: 8 days per month served; Term greater than 10 years: 10 days per month served; Life term: not subject to good time reduction |                                                                                                                                                                                                                                                                                                                                                                  |
| Wisconsin      | Following service of 1/2 of term                                                                                                                                                                                                                      | Life term: service of 20 years minus good time                                                                                                                                                                                                       | 1st year: 1 month; 2nd year: 2 months; 3rd year: 3 months; 4th year: 4 months; 5th year: 5 months; Subsequent years: 6 months                                                                                                                                                | Outstanding work or educational performance: additional 1 day every 5 days of such conduct                                                                                                                                                                                                                                                                       |
| Wyoming        | Anytime within the discretion of the parole board                                                                                                                                                                                                     |                                                                                                                                                                                                                                                      | Discretionary according to parole board—no automatic statutory good time                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                  |

earned, statutory time credits may only be revoked upon the finding of the board of parole commissioners that an inmate has engaged in misconduct which warrants forfeiture as a sanction. Substantial due process requirements must be met by both the prison and the parole board during the revocation process. Once revoked, statutory time may be reinstated by the parole board, upon recommendation of the prison following a subsequent period of at least six months sustained good behavior. Statutory time is awarded at the rate of five days per month for the first two years of the sentence served, 10 days per month for the second two years served, and 12 1/2 days per month for each succeeding year after the fourth year.

#### PROGRAM TIME

NRS 209.443 (3) provides the department of prisons with authority to adopt regulations, subject to the approval of the board of prison commissioners, allowing inmates to earn program time. Credits are awarded monthly as earned according to criteria which includes: (1) the nature of the work/education assignment; (2) the amount of time per month the inmate satisfactorily works, attends school or is involved in other approved programs; (3) the amount of blood donated; and (4) the amount of time the inmate spends in fire fighting or flood control status.

Under present regulations, program time credits become vested as they are earned and cannot be revoked. Inmates who are not involved in the approved work or other programs receive no credit and program time is awarded pro rata to those who do not meet established full time levels of attendance and/or performance.

Program time is awarded at a maximum rate of 10 days per month for full time performance or attendance in all assignments. An additional award of 10 days per month is available to inmates working full time on assignment to the Nevada division of forestry or residing in a restitution center. Bonus credits of a day earned for a day worked basis may be awarded to inmates assigned to the division of forestry for hazardous duty involving fire fighting or flood control. Bonus credits are also available at the maximum rate of four days per month to inmates who donate blood.

For the majority of Nevada's inmate population, both statutory and program time operate to reduce parole eligibility as well as expiration of sentence. Inmates whose crimes occurred prior to July 1, 1979 are eligible for parole after serving one-quarter of their sentence less good time, and on the average, become eligible for parole at 17 percent of total sentence or one calendar year, whichever is longer. Again, excluding bonus credits,

inmates sentenced under the present one-third law become eligible for parole, on the average, at 22 percent of sentence or one calendar year, whichever is longer.

Across all non-life terms the average minimum length of time to be served to expiration, for those inmates who do not receive parole, is 61 percent of the total sentence imposed. As with paroles, this percentage average is computed with maximum allowable credits excluding bonus credits.

Under Nevada's law, certain specified offenses carry parole eligibility quoted in calendar year minimums of 10 or 5 years. Prior to the Nevada supreme court ruling in Demosthenes vs. Williams (1981) good time was not applied to reduce these minimum terms. Subsequent to the court's ruling, parole eligibility of all then current inmates affected by the decision and all similarly situated inmates subsequently entering the system were computed with benefits of credit. In 1983, with passage of A.B. 324, the legislature corrected ambiguities and clarified the law concerning statutory minimum terms and inmates in this category whose crimes were committed subsequent to June 30, 1983, must serve the full calendar minimum prior to reaching parole eligibility.

#### COMMITTEE CONCERNS AND ALTERNATIVES

The S.B. 375 committee was concerned with the complexity of the good time credit system which currently exists within the State of Nevada. Testimony revealed great confusion on the part of not only the public, but the inmate population and some individuals in corrections on how the current system actually works. The committee felt very strongly that any system of good time credits should be clear and understandable, not only to those working with it on a daily basis, but to the public in general. The committee felt that the public had the right to know when an individual is sentenced, exactly when that individual would probably be released from prison if the offender was not a disciplinary problem while incarcerated.

The S.B. 375 committee felt that good time credit should be generally earned and not entitled and there should be real, tangible incentive for inmates to be productive and provide meaningful services while incarcerated.

The committee examined and studied in detail two basic modification plans to the current good time credit system in Nevada. The first possibility the committee looked at was a 5/10/15 system which is a revision as follows:

1. Five days statutory credit per month earned for good behavior.
2. An additional 10 days credit per month for good behavior and participation in work or educational related activities inside the prison for a maximum of 15 days credit per month.
3. An additional 15 days credit per month for good behavior and work outside the prison, for a maximum eligibility of 30 days credit per month with good behavior and work outside the prison for a maximum of 30 days good time credit per month.

The committee, at the request of the director of the department of prisons, also examined the possibility of granting the director the ability to grant not more than 30 days per year of what is commonly called meritorious good time to any offender who engages in service which includes fire fighting, saving the life or property of another or exemplary services to the citizens of the State of Nevada.

The committee also examined in detail the possibility of modifying the system to a 10/10/10 system which would simply modify the days earned under the prior recommendations. If the 10/10/10 good time system were adopted, it was estimated by the National Council on Crime and Delinquency through use of their computer simulation model; that this would have an effect of reducing the projected increase in the prison population by 150 beds by fiscal year 1992-93. The National Council on Crime and Delinquency estimated that the 5/10/15 system plus the 30 days per year for meritorious service would increase the prison population projection by approximately 350 beds by fiscal year 1992-93 when compared to the existing good time credit system.

The S.B. 375 committee felt that, even with the financial attractiveness of the 10/10/10 system, the granting of 10 days per month rather than the 5 days of, in effect, statutory good time for simply not getting in trouble, was too much. The committee felt that a real incentive needed to be provided to inmates to participate in work and education programs. The 5/10/15 system provides an increasing incentive for participation in work and education programs. In addition, the 5/10/15 system will provide more days credit to minimum and medium security inmates and less credit to those inmates in a maximum security setting. Therefore, for inmates earning the full amount of good time credit, a maximum security inmate will serve a longer portion of his sentence than the inmate classified as a minimum security risk.

The attached chart (Table 38) lists the effect by year on the prison population projection if the current system of good time credits was modified to the 5/10/15 plus 30 days meritorious good time.

As part of the committee's responsibility of looking into the length of time offenders must serve before becoming eligible for parole, the committee also had the National Council on Crime and Delinquency run population projections on the various good time credit modification possibilities including whether the good time should be off of the minimum or the maximum sentence. As demonstrated in Table 39, applying good time credit to only the maximum sentence has a dramatic effect of increasing the projected inmate population by fiscal year 1992-93. The current system applies the good time credit off the minimum and maximum sentence and the committee felt this policy should continue.

#### RECOMMENDATIONS

1. Inmates should receive 5 days statutory credit per month for good behavior.
2. An additional 10 days credit per month could be earned for good behavior and participation in work or educational related programs inside the prison for a maximum of 15 days credit per month.
3. An additional 15 days credit per month could be earned for good behavior and work outside the prison for a maximum of 30 days good time credit per month.
4. A maximum of 30 days meritorious good time credit per year for such services as firefighting, saving the life or property of another or exemplary service to the citizens of Nevada.
5. The board of prison commissioners should adopt regulations concerning the earning, forfeiture and restoration of good time credit.
6. The parole board should be removed from the formal process of revoking good time credits except that the parole board would have authority to revoke statutory good time at a parole revocation hearing.

Table 38  
PRISON POPULATION PROJECTION  
Good Time Reform

| <u>Fiscal<br/>Year</u> | <u>Current</u> | <u>5/10/15 +<br/>30 MGT Days</u> |
|------------------------|----------------|----------------------------------|
| 1983-84                | 3,275          | 3,275                            |
| 1984-85                | 3,550          | 3,550                            |
| 1985-86                | 3,875          | 3,925                            |
| 1986-87                | 4,225          | 4,275                            |
| 1987-88                | 4,625          | 5,675                            |
| 1988-89                | 5,050          | 5,175                            |
| 1989-90                | 5,450          | 5,600                            |
| 1990-91                | 5,925          | 6,100                            |
| 1991-92                | 6,275          | 6,475                            |
| 1992-93                | 6,650          | 7,000                            |

Assumptions:

1. 4% Annual Admission Growth Rate.
2. Effective July 1, 1985.
3. Not Retroactive to Existing Population.
4. Parole Probability of .26, .41, .42, .42, .50.
5. Restricted Use of 30 MGT Authority.
6. Projections represent in-house population excluding 5% out-counts.

Table 39

PRISON POPULATION PROJECTION  
Good Time Provision

| FY    | Current | A     | B     | C     | D     | NDP   |
|-------|---------|-------|-------|-------|-------|-------|
| 83-84 | 3,275   | 3,275 | 3,275 | 3,275 | 3,275 | 3,275 |
| 84-85 | 3,550   | 3,550 | 3,550 | 3,550 | 3,550 | 3,550 |
| 85-86 | 3,875   | 3,875 | 3,925 | 3,950 | 4,100 | 3,750 |
| 86-87 | 4,225   | 4,225 | 4,325 | 4,325 | 4,525 | 4,050 |
| 87-88 | 4,625   | 4,625 | 4,750 | 4,825 | 5,050 | 4,400 |
| 88-89 | 5,050   | 5,050 | 5,275 | 5,300 | 5,575 | 4,775 |
| 89-90 | 5,450   | 5,450 | 5,750 | 5,775 | 6,100 | 5,275 |
| 90-91 | 5,925   | 5,925 | 6,175 | 6,300 | 6,700 | 5,650 |
| 91-92 | 6,275   | 6,275 | 6,725 | 6,725 | 7,275 | 6,125 |
| 92-93 | 6,650   | 6,650 | 7,125 | 7,375 | 7,825 | 6,500 |

Assumptions:

1. 4% annual admission growth rate.
2. Effective July 1, 1985.
3. Not retroactive.
4. Parole probability of .26, .41, .42, .42, .50
5. Projections represent in-house population excluding 5% out counts.

A. 10/10/10 Good time off minimum (.21) and maximum (.61).

B. 10/10/10 Good time off maximum only (.33) (.61).

C. 5/10/10 Good time off minimum (.23) and maximum (.68).

D. 5/5/5 Good time off minimum (.26) and maximum (.79).

NDP: 10/10/10 Good time off minimum (.21) and maximum (.61) plus 30 days MGT per year for 25% of existing and incoming population.

## SENTENCING

### INTRODUCTION

Senate Bill 375 required an in-depth examination into Nevada's sentencing system as well as a review of various alternatives including sentencing for fixed terms and sentencing guidelines. The committee accomplished this task by contracting with the National Council on Crime and Delinquency to collect and analyze data concerning all court convictions from July 1983 to March 1984. With this information, the committee evaluated how sentencing decisions are being made and the impact of these decisions on the criminal justice system. In addition, the committee invited correctional experts in the fields of determinate sentencing and sentencing guidelines to review the experience of other states with these alternative sentencing systems.

In the area of determinate sentencing, the committee was fortunate to receive testimony from Brian Taugher, from the State of California, and Laurel Rans, from the State of Illinois. For the committee's review of sentencing guidelines, testimony was received from Steven Rathke, chairman of the Minnesota sentencing guidelines commission and Roxanna Park, executive director of the sentencing guidelines commission in the State of Washington.

### SENTENCING PRACTICES

The committee was interested in two specific types of information concerning current sentencing practices. First, what factors are associated with the decision to commit an offender to prison versus granting probation. Second, is there significant disparity in the sentence length imposed by the district courts for similar crimes (reviewed in a later section). With this information a determination could be made if Nevada courts are sentencing offenders in a fair and consistent manner. This information was collected by NCCD by utilizing data from the department of parole and probation's new automated information system. All court convictions for felony offenses between July 1983 and March 1984 were collected and analyzed.

An examination of the prison disposition rate (Table 40) indicates that statewide 41.5 percent of all felony convictions are sentenced to prison, 56 percent are granted probation (includes jail time) and 2.5 percent are given another sentencing consisting of a fine, restitution or a jail only sentence. Although no national data exists on how states rank nationally, data available from a few states where similar statistics are recorded indicates that this rate is higher when compared to those other states. Specifically, the prison disposition rates for the States of California, Minnesota and Washington are 33 percent, 22 percent and 20 percent respectively. This table also indicates that 59 percent of felony convictions are from Clark County, 26

percent from Washoe County, and 15 percent from all other counties.

Table 41 indicates the prison disposition rate for each of Nevada's nine district courts. This information indicates that Washoe County has a significantly lower rate of sending offenders to prison than does Clark or other counties. The rural counties generally have higher commitment rates but this could be due to rural districts handling different types of cases. The possibility of going to prison based on the offender's disposition at the time of sentencing is depicted on Table 42. It should be noted that a person's chances of going to prison are much higher if he is in prison or jail at the time of sentencing versus being on bail or his own recognizance.

An offender has a much greater chance of being sent to prison if he is not a Nevada resident, as indicated in Table 43. Offenders who are Nevada residents are sentenced to prison in 38 percent of the cases while non-residents are sentenced to prison in 52 percent of the cases. This may be due to the judge not having anywhere to place the person in the community because he has no family in the state.

Table 44 indicates the prison disposition rate for persons who have completed a probation sentence successfully. If a person has not previously been placed on probation, he has a 39 percent chance of being sentenced to prison, but for a person who has successfully completed one probation, the prison disposition rate increases to 50 percent and for a person with two or more successful probations, the prison disposition rate climbs to 69 percent. It should be noted that data from this table indicates that almost 83 percent of persons convicted of felonies in Nevada at the time of sentencing have never previously been on probation.

For persons who have failed probation, the prison disposition rate increases dramatically as illustrated on Table 45. Persons who have failed once on probation were sentenced to prison 77 percent of the time and the prison disposition rate rose to 96 percent for persons who have failed probation twice.

Table 46 outlines information gathered on felony offenders who have previously served time in prison. For persons with no prior prison sentence, 31 percent are sentenced to prison. This percentage rises dramatically to 73 percent for one prior prison sentence and 90 percent for two prior prison sentences. It is important to note that 79 percent of all persons convicted of a felony have never previously served time in prison.

Table 40

## NEVADA SENTENCING ANALYSIS

| COUNTY                              | COUNTY 3 PART | ACTDISP         | DISPOSITION (ACTUAL) |       |        |
|-------------------------------------|---------------|-----------------|----------------------|-------|--------|
| FREQUENCY  <br>PERCENT  <br>ROW PCT |               | PRISON<br>(NDP) | PROBATH              | OTHER | TOTAL  |
| CLARK                               | 2             | 377             | 504                  | 23    | 904    |
|                                     | .             | 24.69           | 33.01                | 1.51  | 59.20  |
|                                     | .             | 41.70           | 55.75                | 2.54  |        |
| OTHER                               | 0             | 112             | 109                  | 10    | 231    |
|                                     | .             | 7.33            | 7.14                 | 0.65  | 15.13  |
|                                     | .             | 48.48           | 47.19                | 4.33  |        |
| WASHOE                              | 0             | 144             | 243                  | 5     | 392    |
|                                     | .             | 9.43            | 15.91                | 0.33  | 25.67  |
|                                     | .             | 36.73           | 61.99                | 1.28  |        |
| TOTAL                               | .             | 633             | 856                  | 38    | 1527   |
|                                     | .             | 41.45           | 56.06                | 2.49  | 100.00 |

Table 41

## NEVADA SENTENCING ANALYSIS

| V8                                         | COUNT NUMBER | ACTDISP         | DISPOSITION (ACTUAL) |       |        |
|--------------------------------------------|--------------|-----------------|----------------------|-------|--------|
| FREQUENCY  <br>PERCENT  <br>ROW PCT        |              | PRISON<br>(NDP) | PROBATION            | OTHER | TOTAL  |
| .                                          | 0            | 0               | 59                   | 0     | .      |
| .                                          | .            | .               | .                    | .     | .      |
| .                                          | .            | .               | .                    | .     | .      |
| 1                                          | 0            | 26              | 33                   | 2     | 61     |
| Carson City County                         | .            | 1.77            | 2.25                 | 0.14  | 4.16   |
| Storey County                              | .            | 42.62           | 54.10                | 3.28  |        |
| 2                                          | 0            | 144             | 219                  | 5     | 368    |
| Washoe County                              | .            | 9.81            | 14.92                | 0.34  | 25.07  |
| .                                          | .            | 39.13           | 59.51                | 1.36  |        |
| 3                                          | 0            | 17              | 20                   | 5     | 42     |
| Churchill County                           | .            | 1.16            | 1.36                 | 0.34  | 2.86   |
| Lyon County                                | .            | 40.48           | 47.62                | 11.90 |        |
| 4                                          | 0            | 11              | 23                   | 0     | 34     |
| Elko County                                | .            | 0.75            | 1.57                 | 0.00  | 2.32   |
| .                                          | .            | 32.35           | 67.65                | 0.00  |        |
| 5                                          | 0            | 11              | 8                    | 0     | 19     |
| Mineral, Nye and<br>Esmeralda Counties     | .            | 0.75            | 0.54                 | 0.00  | 1.29   |
| .                                          | .            | 57.89           | 42.11                | 0.00  |        |
| 6                                          | 0            | 9               | 10                   | 0     | 19     |
| Lander, Pershing<br>and Humboldt Counties  | .            | 0.61            | 0.68                 | 0.00  | 1.29   |
| .                                          | .            | 47.37           | 52.63                | 0.00  |        |
| 7                                          | 0            | 7               | 5                    | 0     | 12     |
| Eureka, White Pine<br>and Lincoln Counties | .            | 0.48            | 0.34                 | 0.00  | 0.82   |
| .                                          | .            | 58.33           | 41.67                | 0.00  |        |
| 8                                          | 2            | 377             | 471                  | 23    | 871    |
| Clark County                               | .            | 25.68           | 32.08                | 1.57  | 59.33  |
| .                                          | .            | 43.28           | 54.08                | 2.64  |        |
| 9                                          | 0            | 31              | 8                    | 3     | 42     |
| Douglas County                             | .            | 2.11            | 0.54                 | 0.20  | 2.86   |
| .                                          | .            | 73.81           | 19.05                | 7.14  |        |
| TOTAL                                      | .            | 633             | 797                  | 38    | 1468   |
| .                                          | .            | 43.12           | 54.29                | 2.59  | 100.00 |

Table 42

## NEVADA SENTENCING ANALYSIS

V12 CUSTODY STATUS CODE ACTDISP DISPOSITION (ACTUAL)

| FREQUENCY<br>PERCENT<br>ROW PCT |   | PRISON<br>(NOP) | PROBATH | OTHER | TOTAL  |
|---------------------------------|---|-----------------|---------|-------|--------|
|                                 | 0 | 0               | 59      | 0     | .      |
|                                 | . | .               | .       | .     | .      |
|                                 | . | .               | .       | .     | .      |
| BAIL                            | 0 | 40              | 148     | 6     | 194    |
|                                 | . | 2.72            | 10.08   | 0.41  | 13.22  |
|                                 | . | 20.62           | 76.29   | 3.09  |        |
| BOND                            | 0 | 37              | 102     | 3     | 142    |
|                                 | . | 2.52            | 6.95    | 0.20  | 9.67   |
|                                 | . | 26.06           | 71.83   | 2.11  |        |
| JAIL                            | 1 | 410             | 108     | 7     | 525    |
|                                 | . | 27.93           | 7.36    | 0.48  | 35.76  |
|                                 | . | 78.10           | 20.57   | 1.33  |        |
| OR                              | 1 | 90              | 432     | 21    | 543    |
|                                 | . | 6.13            | 29.43   | 1.43  | 36.99  |
|                                 | . | 16.57           | 79.56   | 3.87  |        |
| PRIS                            | 0 | 56              | 7       | 1     | 64     |
|                                 | . | 3.81            | 0.48    | 0.07  | 4.36   |
|                                 | . | 87.50           | 10.94   | 1.56  |        |
| TOTAL                           | . | 633             | 797     | 38    | 1468   |
|                                 | . | 43.12           | 54.29   | 2.59  | 100.00 |

# NEVADA SENTENCING ANALYSIS

Table 43

STATE STATE 3 PART ACTDISP DISPOSITION (ACTUAL)

| FREQUENCY<br>PERCENT<br>ROW PCT |   | PRISON<br>(NOP) | PROBATH | OTHER | TOTAL  |
|---------------------------------|---|-----------------|---------|-------|--------|
| CALIF                           | 0 | 85              | 76      | 1     | 162    |
|                                 | . | 5.57            | 4.98    | 0.07  | 10.61  |
|                                 | . | 52.47           | 46.91   | 0.62  |        |
| NEVADA                          | 2 | 437             | 680     | 34    | 1151   |
|                                 | . | 28.62           | 44.53   | 2.23  | 75.38  |
|                                 | . | 37.97           | 59.08   | 2.95  |        |
| OTHER                           | 0 | 111             | 100     | 3     | 214    |
|                                 | . | 7.27            | 6.55    | 0.20  | 14.01  |
|                                 | . | 51.87           | 46.73   | 1.40  |        |
| TOTAL                           | . | 633             | 856     | 38    | 1527   |
|                                 | . | 41.45           | 56.06   | 2.49  | 100.00 |

Table 44

# NEVADA SENTENCING ANALYSIS

PROBCOMP PROBATIONS COMPLETED 3 PART ACTDISP DISPOSITION (ACTUAL)

| FREQUENCY<br>PERCENT<br>ROW PCT |   | PRISON<br>(NOP) | PROBATH | OTHER | TOTAL  |
|---------------------------------|---|-----------------|---------|-------|--------|
| 0                               | 1 | 490             | 745     | 28    | 1263   |
|                                 | . | 32.09           | 48.79   | 1.83  | 82.71  |
|                                 | . | 38.80           | 58.99   | 2.22  |        |
| 1                               | 1 | 101             | 93      | 9     | 203    |
|                                 | . | 6.61            | 6.09    | 0.59  | 13.29  |
|                                 | . | 49.75           | 45.81   | 4.43  |        |
| 2+                              | 0 | 42              | 18      | 1     | 61     |
|                                 | . | 2.75            | 1.18    | 0.07  | 3.99   |
|                                 | . | 68.85           | 29.51   | 1.64  |        |
| TOTAL                           | . | 633             | 856     | 38    | 1527   |
|                                 | . | 41.45           | 56.06   | 2.49  | 100.00 |

NEVADA SENTENCING ANALYSIS

Table 45

PROBFAIL PROBATIONS FAILED 4 PART ACTDISP DISPOSITION (ACTUAL)

| FREQUENCY<br>PERCENT<br>ROW PCT |   | PRISON<br>(NDP) | PROBATN | OTHER | TOTAL  |
|---------------------------------|---|-----------------|---------|-------|--------|
| 0                               | 2 | 480             | 826     | 31    | 1337   |
|                                 | . | 31.43           | 54.09   | 2.03  | 87.56  |
|                                 | . | 35.90           | 61.78   | 2.32  |        |
| 1                               | 0 | 119             | 29      | 6     | 154    |
|                                 | . | 7.79            | 1.90    | 0.39  | 10.09  |
|                                 | . | 77.27           | 18.83   | 3.90  |        |
| 2                               | 0 | 24              | 0       | 1     | 25     |
|                                 | . | 1.57            | 0.00    | 0.07  | 1.64   |
|                                 | . | 96.00           | 0.00    | 4.00  |        |
| 3+                              | 0 | 10              | 1       | 0     | 11     |
|                                 | . | 0.65            | 0.07    | 0.00  | 0.72   |
|                                 | . | 90.91           | 9.09    | 0.00  |        |
| TOTAL                           | . | 633             | 856     | 38    | 1527   |
|                                 | . | 41.45           | 56.06   | 2.49  | 100.00 |

NEVADA SENTENCING ANALYSIS

Table 46

PRISSENT PRIOR PRISON SENTENCES ACTDISP DISPOSITION (ACTUAL)

| FREQUENCY<br>PERCENT<br>ROW PCT |     | PRISON<br>(NDP) | PROBATN | OTHER | TOTAL  |
|---------------------------------|-----|-----------------|---------|-------|--------|
| 0                               | 2   | 371             | 804     | 26    | 1201   |
|                                 | .   | 24.30           | 52.65   | 1.70  | 78.65  |
|                                 | .   | 30.89           | 66.94   | 2.16  |        |
| 1                               | 0   | 129             | 38      | 9     | 176    |
|                                 | .   | 8.45            | 2.49    | 0.59  | 11.53  |
|                                 | .   | 73.30           | 21.59   | 5.11  |        |
| 2                               | 0   | 63              | 6       | 1     | 70     |
|                                 | .   | 4.13            | 0.39    | 0.07  | 4.58   |
|                                 | .   | 90.00           | 8.57    | 1.43  |        |
| 3+                              | 0   | 70              | 8       | 2     | 80     |
|                                 | .   | 4.58            | 0.52    | 0.13  | 5.24   |
|                                 | .   | 87.50           | 10.00   | 2.50  |        |
| TOTAL                           | 77. | 633             | 856     | 38    | 1527   |
|                                 |     | 41.45           | 56.06   | 2.49  | 100.00 |

The offense to which an offender is convicted is a powerful determinate of whether someone will be sentenced to prison. Table 47 indicates that for violent crimes such as murder (91.7 percent) and rape (93.6 percent) almost all offenders are sentenced to prison. However, for non-violent or property offenses such as forgery (28 percent), fraud (29.4 percent) or theft (34.3 percent) the prison disposition rate is much lower. If a weapon is involved in an offense, the likelihood of going to prison is 66 percent versus 35 percent for offenders who did not use a weapon. Table 48 also indicates that approximately 20 percent of all felony offenders use a weapon when committing a felony.

Table 49 indicates that 68 percent of offenders use drug or alcohol or it was involved in their offense. A total of 43 percent of the offenders who used drugs or alcohol were sentenced to prison versus 38 percent for those offenders who did not. It should be pointed out that the data illustrated in this table may be underestimated because these figures are chiefly self-reported by the offender to the department of parole and probation and, unless there are obvious needle marks or some other easily recognized sign, the information provided by the offender is not changed.

Table 50 depicts the chance of going to prison according to race. Based on these statistics, an offender convicted of a felony who is an American Indian has a 31 percent chance of being incarcerated, hispanic 33.8 percent, black 53.6 percent and white, 37.4 percent chance of going to prison. It would appear from the statistics that, if you were black, you would have a higher percentage chance of going to prison, however, NCCD determined this is related to blacks being convicted of more serious charges or use of a weapon in their crime and have more prior arrests.

Table 51 indicates the sentence given by the court compared to the recommendation made by the department of parole and probation. In 83 percent of the cases where the department of parole and probation recommended a prison term, the court agrees. However, when the department of parole and probation recommends probation, the court agrees in 95 percent of the cases. This is an important statistic because the court is granting probation or another sentence in 17 percent of the cases that the department of parole and probation is recommending a prison term. This seems to indicate that the department of parole and probation recommendations in some cases are too restrictive and should review those borderline cases in which the department recommendation to incarcerate is not particularly strong.

# NEVADA SENTENCING ANALYSIS

Table 47

| OFFENSE                         | ACTDISP | DISPOSITION (ACTUAL) |         |       |        |
|---------------------------------|---------|----------------------|---------|-------|--------|
| FREQUENCY<br>PERCENT<br>ROW PCT |         | PRISON<br>(NDP)      | PROBATH | OTHER | TOTAL  |
|                                 | 0       | 74                   | 37      | 1     | .      |
|                                 | .       | .                    | .       | .     | .      |
|                                 | .       | .                    | .       | .     | .      |
| MURDER                          | 0       | 22                   | 1       | 1     | 24     |
|                                 | .       | 1.55                 | 0.07    | 0.07  | 1.70   |
|                                 | .       | 91.67                | 4.17    | 4.17  |        |
| MANSIGHT                        | 0       | 18                   | 10      | 0     | 28     |
|                                 | .       | 1.27                 | 0.71    | 0.00  | 1.98   |
|                                 | .       | 64.29                | 35.71   | 0.00  |        |
| RAPE                            | 0       | 44                   | 2       | 1     | 47     |
|                                 | .       | 3.11                 | 0.14    | 0.07  | 3.32   |
|                                 | .       | 93.62                | 4.26    | 2.13  |        |
| ROBBERY                         | 0       | 100                  | 25      | 0     | 126    |
|                                 | .       | 7.07                 | 1.84    | 0.00  | 8.90   |
|                                 | .       | 79.37                | 20.63   | 0.00  |        |
| AG ASLT                         | 0       | 8                    | 7       | 0     | 15     |
|                                 | .       | 0.57                 | 0.49    | 0.00  | 1.06   |
|                                 | .       | 53.33                | 46.67   | 0.00  |        |
| BURGLRY                         | 0       | 65                   | 119     | 5     | 189    |
|                                 | .       | 4.59                 | 8.41    | 0.35  | 13.36  |
|                                 | .       | 34.39                | 62.96   | 2.65  |        |
| LRC/THFT                        | 1       | 74                   | 133     | 9     | 216    |
|                                 | .       | 5.23                 | 9.40    | 0.64  | 15.27  |
|                                 | .       | 34.26                | 61.57   | 4.17  |        |
| ARSON                           | 0       | 2                    | 5       | 0     | 7      |
|                                 | .       | 0.14                 | 0.35    | 0.00  | 0.49   |
|                                 | .       | 28.57                | 71.43   | 0.00  |        |
| KID ASLT                        | 0       | 19                   | 20      | 1     | 40     |
|                                 | .       | 1.34                 | 1.41    | 0.07  | 2.83   |
|                                 | .       | 47.50                | 50.00   | 2.50  |        |
| OTH SEX                         | 0       | 12                   | 22      | 0     | 34     |
|                                 | .       | 0.85                 | 1.55    | 0.00  | 2.40   |
|                                 | .       | 35.29                | 64.71   | 0.00  |        |
| TOTAL                           | .       | 559                  | 819     | 37    | 1415   |
|                                 | .       | 39.51                | 57.88   | 2.61  | 100.00 |

# NEVADA SENTENCING ANALYSIS

Table 47

| OFFENSE                         | ACTDISP | DISPOSITION (ACTUAL) |         |       |        |
|---------------------------------|---------|----------------------|---------|-------|--------|
| FREQUENCY<br>PERCENT<br>ROW PCT |         | PRISON<br>(NDP)      | PROBATN | OTHER | TOTAL  |
| FORGERY                         | 0       | 21                   | 51      | 3     | 75     |
|                                 | .       | 1.48                 | 3.60    | 0.21  | 5.30   |
|                                 | .       | 28.00                | 68.00   | 4.00  |        |
| FRAUD                           | 0       | 5                    | 12      | 0     | 17     |
|                                 | .       | 0.35                 | 0.85    | 0.00  | 1.20   |
|                                 | .       | 29.41                | 70.59   | 0.00  |        |
| STL PRP                         | 0       | 29                   | 42      | 1     | 72     |
|                                 | .       | 2.05                 | 2.97    | 0.07  | 5.09   |
|                                 | .       | 40.28                | 58.33   | 1.39  |        |
| WEAPONS                         | 0       | 6                    | 5       | 0     | 11     |
|                                 | .       | 0.42                 | 0.35    | 0.00  | 0.78   |
|                                 | .       | 54.55                | 45.45   | 0.00  |        |
| DRUGS                           | 1       | 71                   | 281     | 5     | 357    |
|                                 | .       | 5.02                 | 19.86   | 0.35  | 25.23  |
|                                 | .       | 19.89                | 78.71   | 1.40  |        |
| GAMBLNG                         | 0       | 9                    | 33      | 2     | 44     |
|                                 | .       | 0.64                 | 2.33    | 0.14  | 3.11   |
|                                 | .       | 20.45                | 75.00   | 4.55  |        |
| DUI                             | 0       | 28                   | 8       | 8     | 44     |
|                                 | .       | 1.98                 | 0.57    | 0.57  | 3.11   |
|                                 | .       | 63.64                | 18.18   | 18.18 |        |
| OTH TRF                         | 0       | 2                    | 3       | 0     | 5      |
|                                 | .       | 0.14                 | 0.21    | 0.00  | 0.35   |
|                                 | .       | 40.00                | 60.00   | 0.00  |        |
| ESCAPE                          | 0       | 8                    | 2       | 0     | 10     |
|                                 | .       | 0.57                 | 0.14    | 0.00  | 0.71   |
|                                 | .       | 80.00                | 20.00   | 0.00  |        |
| OTHER                           | 0       | 16                   | 37      | 1     | 54     |
|                                 | .       | 1.13                 | 2.61    | 0.07  | 3.82   |
|                                 | .       | 29.63                | 68.52   | 1.85  |        |
| TOTAL                           | .       | 559                  | 819     | 37    | 1415   |
|                                 | .       | 39.51                | 57.88   | 2.61  | 100.00 |

Table 48

## NEVADA SENTENCING ANALYSIS

V54 WEAPONS INVOLVED? ACTDISP DISPOSITION (ACTUAL)

| FREQUENCY  <br>PERCENT  <br>ROW PCT |   | PRISON<br>  (NDP) | PROBATN | OTHER | TOTAL  |
|-------------------------------------|---|-------------------|---------|-------|--------|
| YES                                 | 0 | 206               | 86      | 18    | 310    |
|                                     | . | 13.49             | 5.63    | 1.18  | 20.30  |
|                                     | . | 66.45             | 27.74   | 5.81  |        |
| NONE                                | 2 | 427               | 770     | 20    | 1217   |
|                                     | . | 27.96             | 50.43   | 1.31  | 79.70  |
|                                     | . | 35.09             | 63.27   | 1.64  |        |
| TOTAL                               | . | 633               | 856     | 38    | 1527   |
|                                     | . | 41.45             | 56.06   | 2.49  | 100.00 |

# NEVADA SENTENCING ANALYSIS

Table 49

V72 DRUG/ALCOHOL? ACTDISP DISPOSITION (ACTUAL)

| FREQUENCY<br>PERCENT<br>ROW PCT |   | PRISON<br>(NDP) | PROBATH | OTHER | TOTAL  |
|---------------------------------|---|-----------------|---------|-------|--------|
| YES                             | 2 | 450             | 566     | 30    | 1046   |
|                                 | . | 29.47           | 37.07   | 1.96  | 68.50  |
|                                 | . | 43.02           | 54.11   | 2.87  |        |
| NONE                            | 0 | 183             | 290     | 8     | 481    |
|                                 | . | 11.98           | 18.99   | 0.52  | 31.50  |
|                                 | . | 38.05           | 60.29   | 1.66  |        |
| TOTAL                           | . | 633             | 856     | 38    | 1527   |
|                                 | . | 41.45           | 56.06   | 2.49  | 100.00 |

Table 50

# NEVADA SENTENCING ANALYSIS

TABLE OF V127 BY ACTDISP

V127 RACE ACTDISP DISPOSITION (ACTUAL)

| FREQUENCY<br>PERCENT<br>ROW PCT |   | PRISON<br>(NDP) | PROBATH | OTHER | TOTAL  |
|---------------------------------|---|-----------------|---------|-------|--------|
|                                 | 0 | 18              | 2       | 0     | .      |
|                                 | . | .               | .       | .     | .      |
|                                 | . | .               | .       | .     | .      |
| AMERICAN INDIAN                 | 0 | 9               | 18      | 2     | 29     |
|                                 | . | 0.60            | 1.19    | 0.13  | 1.92   |
|                                 | . | 31.03           | 62.07   | 6.90  |        |
| HISPANIC                        | 0 | 22              | 40      | 3     | 65     |
|                                 | . | 1.46            | 2.65    | 0.20  | 4.31   |
|                                 | . | 33.85           | 61.54   | 4.62  |        |
| BLACK                           | 0 | 183             | 150     | 8     | 341    |
|                                 | . | 12.14           | 9.95    | 0.53  | 22.63  |
|                                 | . | 53.67           | 43.99   | 2.35  |        |
| WHITE                           | 2 | 401             | 646     | 25    | 1072   |
|                                 | . | 26.61           | 42.87   | 1.66  | 71.13  |
|                                 | . | 37.41           | 60.26   | 2.33  |        |
| TOTAL                           | . | 615             | 854     | 38    | 1507   |
|                                 | . | 40.81           | 56.67   | 2.52  | 100.00 |

Table 51

## NEVADA SENTENCING ANALYSIS

| RECDISP                         | RECOMMENDED DISPOSITION |                 |         | ACTDISP | DISPOSITION (ACTUAL) |  |
|---------------------------------|-------------------------|-----------------|---------|---------|----------------------|--|
| FREQUENCY<br>PERCENT<br>ROW PCT |                         | PRISON<br>(NOP) | PROBATH | OTHER   | TOTAL                |  |
|                                 | 59                      | 0               | 0       | 0       |                      |  |
|                                 |                         |                 |         |         |                      |  |
|                                 |                         |                 |         |         |                      |  |
| PRISON (NOP)                    | 0                       | 604             | 101     | 24      | 729                  |  |
|                                 |                         | 41.14           | 6.88    | 1.63    | 49.66                |  |
|                                 |                         | 82.85           | 13.85   | 3.29    |                      |  |
|                                 |                         |                 |         |         |                      |  |
| PROBATH                         | 2                       | 23              | 675     | 13      | 711                  |  |
|                                 |                         | 1.57            | 45.98   | 0.89    | 48.43                |  |
|                                 |                         | 3.23            | 94.94   | 1.83    |                      |  |
|                                 |                         |                 |         |         |                      |  |
| 120 DAY                         | 0                       | 6               | 21      | 1       | 28                   |  |
|                                 |                         | 0.41            | 1.43    | 0.07    | 1.91                 |  |
|                                 |                         | 21.43           | 75.00   | 3.57    |                      |  |
|                                 |                         |                 |         |         |                      |  |
| TOTAL                           |                         | 633             | 797     | 38      | 1468                 |  |
|                                 |                         | 43.12           | 54.29   | 2.59    | 100.00               |  |

It is necessary to determine which of these variables are most important in the court's decision on whether to incarcerate an offender. In this way a determination can be made concerning whether the courts are sentencing persons in a fair and consistent manner. Of all of the variables in determining if an offender will be sent to prison, the National Council on Crime and Delinquency has listed a total of 13 significant variables that affect the court's decision on whether to incarcerate. These variables are separated into three categories and are listed below:

#### Current Charge Variables

1. Type of offense committed
2. Criminal court status at arrest
3. Pre-trial release status at arrest
4. Weapon used in crime

#### Prior Record Variables

5. Prior arrests
6. Prior convictions
7. Prior probations
8. Prior jail sentences
9. Prior prison sentences
10. Prior paroles

#### Personal Characteristic Variables

11. Sex
12. Race
13. Nevada versus other state residency

To further clarify the importance of these variables, NCCD performed a multiple step-wise regression analysis, which is a statistical technique used, to sort out the relative affects of all of the variables found to be associated with the court disposition variable. The results of this regression analysis indicate that the best predictors of court dispositions are all legal variables, specifically these are: (1) type of offense committed; (2) criminal court status of offender at time of arrest; (3) number of prior arrests; (4) number of prior convictions; and (5) weapon used in current offense.

NCCD indicated that sex and race are much less important as predictors of court disposition. For blacks this is related to the fact that they tend to be convicted of more serious charges or use a weapon in their crime and have more prior arrests.

NCCD's analysis of the variables most important as a predictor of court disposition would seem to indicate the courts are utilizing appropriate criteria in determining whether to incarcerate an offender. One would expect judges to sentence to prison a higher proportion of persons who are convicted of violent crimes, have more serious prior records and/or used a weapon in the commission of their crimes; however, with Nevada having the highest incarceration rate of any state in the nation, at 354 individuals per 100,000 population, and with the high prison disposition rate of 42 percent, it appears that Nevada courts tend to incarcerate offenders who might not receive a prison sentence in many other states. This fact in conjunction with the low parole approval rate would support the fact that the prison population has increased over 300 percent during the past 10 years.



## SENTENCING DISPARITY

The second factor the committee wanted to evaluate was whether the sentence length imposed by each of the nine district courts for similar crimes for offenders with similar criminal histories was consistent.

The average sentence length by each of Nevada's district courts is outlined in Table 52 which indicates that there is considerable range among the district courts. However, this could be attributable to different district courts handling different types of cases. To further analyze if sentencing disparity was present in Nevada, NCCD divided the nine district courts into low sentence district courts and high sentence district courts. (First District Court - Carson City/Storey; Second District Court - Washoe; Third - Churchill/Lyon; Fourth - Elko; Fifth - Mineral/Esmeralda/Nye; Sixth - Lander/Pershing/Humboldt; Seventh - Eureka/White Pine/Lincoln; Eighth - Clark; and Ninth - Douglas) Districts where the median sentence length was below the statewide median sentence length are defined as low sentence district courts and include: the counties of Washoe; Churchill, Lyon; Elko; Mineral, Esmeralda Nye; Eureka, White Pine, Lincoln; and Douglas. Districts where the median sentence length was higher than the statewide median sentence length are defined as high sentence district courts and include the counties of: Carson City, Storey; Lander, Pershing, Humboldt; and Clark. The median sentence length for major criminal offenses was then tabulated for the low and high districts. This analysis indicates that in most cases the high districts generally impose longer sentences. For example, a person convicted of robbery, the median sentence is 72 months for the low districts and 120 months for the high districts while the median sentence for rape in the low districts was 84 months and in the high districts it was 120 months. This trend is found in 16 of the 20 major offenses outlined in Table 53.

In addition, the median sentence imposed by the high and low districts in some cases did not seem equitable. In the low districts the median sentence for robbery was 72 months while murder received a median sentence of 60 months. In the high districts the same median sentence was imposed for murder, rape and robbery of 120 months.

One additional factor needed to be analyzed in order to determine if significant sentencing disparity existed in Nevada. One factor which could cause a significant difference in the median sentence for major criminal offenses could be that the high district courts are processing offenders with more extensive prior criminal histories which would justify the differences in sentence length. To analyze this factor, NCCD calculated a prior record index score for the criminal offenses of rape, robbery,

Table 52  
Nevada Prison Sentence Lengths  
By District Court

| <u>District</u> <sup>1</sup> | <u>N</u> | <u>Median</u><br>(Mos.) | <u>Mean</u><br>(Mos.) | <u>Mode</u><br>(Mos.) | <u>Death/Life</u> |     |
|------------------------------|----------|-------------------------|-----------------------|-----------------------|-------------------|-----|
|                              |          |                         |                       |                       | N                 | %   |
| 1                            | 26       | 54                      | 78                    | 36                    | (2)               | 8%  |
| 2                            | 144      | 36                      | 57                    | 36                    | (3)               | 1%  |
| 3                            | 17       | 36                      | 48                    | 36                    | (0)               | -   |
| 4                            | 11       | 24                      | 51                    | 24                    | (1)               | 9%  |
| 5                            | 11       | 36                      | 53                    | 36                    | (2)               | 18% |
| 6                            | 9        | 60                      | 83                    | 60                    | (0)               | -   |
| 7                            | 7        | 37                      | 44                    | 12                    | (1)               | 14% |
| 8                            | 377      | 60                      | 81                    | 36                    | (31)              | 8%  |
| 9                            | 31       | 24                      | 51                    | 12                    | (2)               | 6%  |
| TOTAL                        | 633      | 48                      | 72                    | 36                    | (42)              | 7%  |

Median - The midpoint of all sentence lengths

Mean - The arithmetic average of all sentence lengths

Mode - The most frequent sentence length.

- <sup>1</sup> District 1--Carson City & Storey Counties  
 District 2--Washoe County  
 District 3--Churchill & Lyon Counties  
 District 4--Elko County  
 District 5--Mineral, Nye & Esmeralda Counties  
 District 6--Lander, Pershing & Humboldt Counties  
 District 7--Eureka, White Pine & Lincoln Counties  
 District 8--Clark County  
 District 9--Douglas County

Table 53  
Sentence Length By Court District  
By Offense

|                 | Low Districts <sup>1</sup> |        |            | High Districts <sup>2</sup> |        |             |
|-----------------|----------------------------|--------|------------|-----------------------------|--------|-------------|
|                 | N*                         | Median | Life/Death | N*                          | Median | Life/Death* |
| Murder          | 5                          | 60     | 2          | 17                          | 120    | 10          |
| Manslaughter    | 9                          | 120    | 0          | 9                           | 72     | 0           |
| Rape            | 13                         | 84     | 4          | 31                          | 120    | 16          |
| Robbery         | 27                         | 72     | 0          | 73                          | 120    | 0           |
| Assault         | 4                          | 54     | 0          | 4                           | 60     | 1           |
| Kidnapping      | 6                          | 60     | 0          | 13                          | 72     | 0           |
| Other Sex       | 7                          | 36     | 1          | 4                           | 54     | 0           |
| Arson           | 0                          | 0      | 0          | 2                           | 66     | 0           |
| Burglary        | 19                         | 42     | 0          | 46                          | 60     | 1           |
| Larceny/Theft   | 20                         | 24     | 0          | 54                          | 39     | 0           |
| Forgery         | 7                          | 36     | 0          | 14                          | 48     | 0           |
| Fraud           | 2                          | 42     | 0          | 1                           | 60     | 0           |
| Stolen Property | 20                         | 36     | 0          | 9                           | 36     | 0           |
| Weapons         | 1                          | 30     | 0          | 5                           | 36     | 0           |
| Drugs           | 32                         | 36     | 1          | 38                          | 48     | 0           |
| Gambling        | 4                          | 36     | 0          | 5                           | 60     | 0           |
| DUI             | 19                         | 24     | 0          | 9                           | 36     | 0           |
| Other Traffic   | 1                          | 24     | 0          | 1                           | 36     | 0           |
| Escape          | 4                          | 12     | 0          | 4                           | 30     | 0           |
| Other           | 4                          | 30     | 0          | 12                          | 42     | 0           |
| Missing         | 14                         | 54     | 1          | 59                          | 48     | 5           |

<sup>1</sup> Districts 2, 3, 4, 5, 7, 9

<sup>2</sup> Districts 1, 6, 8

\* Includes Life/Death Sentences

Locations of District Courts listed on Table 52.

burglary, larceny/theft, and drugs. These offenses were chosen because they represent the major offense groups and provide a mix of property and person crimes. Prior record index represents the average (mean) number of prior arrests, misdemeanor convictions, felony convictions, jail sentences and prison sentences. This index will artificially inflate the mean prior record since a person arrested, convicted of a misdemeanor crime and receiving a jail sentence will have a score of three for a single crime. However, the index does provide a means for controlling for the effects of the prior record on sentence length. As observed in NCCD's report to the committee,

"It appears that, overall, the high district courts do process offenders with more extensive prior records (see Tab 54). However, this difference is neither large (a 2.5 difference in prior record scores for all offenses) nor consistent. For example, both robbery and larceny/theft cases processed by the low district courts have prior index scores greater than or about equal to the high district courts. Yet the low district courts hand out prison terms 15-48 months less than those given by the high district courts for these two crimes. The major conclusion to be drawn from these data is that substantial disparity in setting prison sentence lengths exists even after controlling for type of offense and the prior records of offenders."

The major conclusions drawn by NCCD relative to Nevada's current sentencing process include:

1. Forty-two percent of all persons convicted of felony crimes are sentenced to prison. This rate is higher than other states capable of reporting disposition rates.
2. In making their decisions to sentence an offender to prison versus probation, the judges tend to sentence disproportionate numbers of offenders charged with person crimes, under criminal court status at arrest, have histories of arrest and convictions and who have used a weapon in a crime.
3. Considerable disparity exists among the district courts in their sentence length. These differences in sentence lengths among the district courts persist after controlling for offense type and prior record characteristics.

Table 54

**Prior Record Index Score of Prison Commitments  
By Selected Offense Groups <sup>1</sup>**

| <u>Offense</u> | <u>Low Districts</u> <sup>2</sup> | <u>High Districts</u> <sup>3</sup> |
|----------------|-----------------------------------|------------------------------------|
| Rape           | 8.0                               | 10.0                               |
| Robbery        | 13.0                              | 10.0                               |
| Burglary       | 8.0                               | 14.0                               |
| Larceny/Theft  | 16.5                              | 17.5                               |
| Drugs          | 9.0                               | 20.5                               |
| All Offenses   | 11.5                              | 14.0                               |

<sup>1</sup> Prior record index score consists of total number of prior arrests, prior misdemeanors convictions, prior felony convictions, prior jail sentences, and prior prison. Life and death sentences excluded.

<sup>2</sup> Districts 2, 3, 4, 5, 7, 9

<sup>3</sup> Districts 1, 6, 8

District 1--Carson City & Storey Counties

District 2--Washoe County

District 3--Churchill & Lyon Counties

District 4--Elko County

District 5--Mineral, Nye & Esmeralda Counties

District 6--Lander, Pershing & Humboldt Counties

District 7--Eureka, White Pine & Lincoln Counties

District 8--Clark County

District 9--Douglas County



## DETERMINATE SENTENCING

In addition to evaluating how sentencing decisions are currently being made by the courts, the committee also reviewed alternatives to Nevada's indeterminate sentencing system. One of the alternatives examined in depth by the committee was determinate sentencing. Under a determinate sentencing system, the offender is given a fixed sentence which is reduced only by time off for good behavior; therefore, a date of release is determined by the court at the time of sentencing rather than by a paroling authority as is done under an indeterminate sentencing system. A determinate sentencing system is designed to deliver a fair in proportion sentence for a particular crime, and in addition, there is a desire to punish similar offenders who commit similar crimes in a consistent manner.

Determinate sentencing first appeared in the State of Maine in 1976. Currently, there are a total of nine states that have adopted some form of determinate sentencing. The committee decided to conduct an in-depth examination into two states with different determinate sentencing systems. The determinate sentencing system adopted by the State of Illinois allows the courts broad judicial discretion and the judge has great power to determine the time served in prison. By contrast, California is one of five states which has adopted a determinate sentencing system where judicial discretion is much more narrowly defined.

The committee invited Laurel Rans, private consultant and former deputy director of the department of corrections for the State of Illinois, to testify before the committee concerning the determinate sentencing system adopted by the State of Illinois. In the determinate sentencing system adopted by Illinois, the judiciary plays a primary role in the sentencing process. The discretionary powers of the judiciary was restructured and control over release decisions by the parole and pardons board was abolished. The Illinois law sets limits for different categories of crimes within minimum and maximum terms in which a judge may impose a sentence. In addition, the judge may impose an extended term if the defendant is a repeat felony offender or if the crime was accompanied by exceptionally brutal or heinous behavior. Table 55 outlines the different categories of crimes and the sentence the judge may impose.

TABLE 55

| <u>Felony Category</u> | <u>Regular Terms</u> | <u>Extended Terms</u> | <u>Examples</u>                                                  |
|------------------------|----------------------|-----------------------|------------------------------------------------------------------|
| Murder*                | Life or 20-40 years  |                       |                                                                  |
| Habitual criminal      | Mandatory life       |                       |                                                                  |
| Class X                | 6-30 years           | 30-60 years           | Rape; armed robbery; aggravated kidnapping                       |
| Class 1                | 4-15 years           | 15-60 years           | Dealing in major narcotics                                       |
| Class 2                | 3-7 years            | 7-14 years            | Burglary; arson; robbery                                         |
| Class 3                | 2-5 years            | 5-10 years            | Theft (over \$150); involuntary manslaughter; aggravated battery |
| Class 4                | 1-3 years            | 3-6 years             | Possession of cannabis (30-50 grams); sale of child pornography  |

The Illinois system also requires that a defendant be classified as a Class X offender upon the third conviction for certain felonies. The Class X designation prohibits a judge from sentencing to probation. When imposing sentence a judge must specify the reasons used to determine the sentence, thus making sentences applicable to appellate court review. A judge must clearly state the reasons behind the sentencing decision and may add additional years for certain categories of offenses.

The determinate sentencing in Illinois was not applied retroactively and the power to release inmates from prison for inmates sentenced under the prior law still rests with the paroling authority. Prison officials retain the power to reduce sentences through the use of good time credit on a day for day basis. Thus, an offender that is sentenced to 10 years in prison would be released in five years if he maintains good behavior while incarcerated.

Illinois currently houses approximately 14,000 inmates and has a severe overcrowding problem. This problem has resulted in approximately 9,500 inmates being released early from prison since 1980 through the use of meritorious good time. However, the Illinois supreme court ruled in December of 1983 that the

department of corrections discontinue the awarding of meritorious good time. Testimony indicated that one of the chief reasons Illinois adopted a determinate sentencing system was to try to eliminate the disparity in sentencing and that it was hoped determinate sentencing would alleviate unrest and prison violence because inmates would know when they were actually going to be released from prison.

Furthermore, there has been a shift in prison population due to the effect of determinate sentencing. The percentage of prison population incarcerated for murder, Class X and class I offenses has increased from 53 percent of the prison population in 1978 to 61 percent at the present time and the effect of more inmates with long-term sentences will show up dramatically in a few years in the prison population. In addition, there seems to be a tendency to increase sentence lengths after a sentencing system is adopted and it was suggested this should be controlled and sentence lengths changed only when absolutely necessary to insure a fair and just system.

Brian Taugher, special assistant to the attorney general of the State of California, reviewed the determinate sentencing system adopted by the State of California. The California system provides for a presumptive system where the judge is required to impose a selected sentence, which while usually fixed, can vary when mitigating or aggravating circumstances are present. Table 56 outlines category of offenses in the sentencing ranges allowed for each. In each category the court has a choice of three definite sentences. The judge is required by law to select the middle term unless mitigating or aggravating factors are present. When the court selects any of the three prison terms, the judge must set forth in writing the reasons for the selection and inform the defendant of such reasons. This requirement opens the sentence to appeal by the defendant by making it part of the trial record. The law so provides for enhancements or additions to determinate sentences if certain factors (violence, habitual criminal) are present. The sentence imposed can be reduced by one-third through the use of good time credit. Although the parole release function has been abolished, parole supervision has been retained. All inmates are required upon completion of their prison term to undergo at least one year of parole supervision.

TABLE 56

| <u>Felony Category</u> | <u>Sentencing Range</u>           | <u>Examples</u>                                                                                                      |
|------------------------|-----------------------------------|----------------------------------------------------------------------------------------------------------------------|
| Class A                | 5-6-7 years                       | Murder in the second degree; rape with force or violence; exploding a destructive device to cause bodily harm.       |
| Class B                | 3-4-5 years                       | Robbery in the first degree by a person armed with a firearm; safecracking; kidnapping; burglary in the first degree |
| Class C                | 2-3-4 years                       | Robbery in the second degree; arson; assault with a deadly weapon; bribery of a public officer                       |
| Class D                | 16 months-<br>2 years-<br>3 years | Grand theft; burglary in the second degree; forgery; car theft                                                       |

Testimony indicated the object of the determinate sentencing law in California was to transform the sentencing process in order to reduce the discretionary power of the courts and parole board in determining the number of years served by convicted felons. The legislature now determines the length of sentence for crimes.

California's sentencing system was described as more rigid and fixed in statute than any of the other states that have adopted determinate sentencing. The California system evolved due to widespread disenchantment with parole board policies and decisions. One of the original fears that has been borne out is that the penalty for crimes has increased. This is due to a number of mandatory sentences enacted by the legislature over the past few years independent of determinate sentencing.

California currently has an extreme overcrowding problem with the prison population doubling in the past six years. The prison system is now operating at 149 percent of capacity and a bond issue was recently approved by the citizens for \$498 million which has been used for a 25 percent down payment on six prisons and commits future legislatures to come up with the remaining 75 percent of the money needed. Program and administrative space at each prison are currently being utilized at night for additional bedspace. The State of California, in the past, has solved overcrowding problems by paroling more inmates; however, this flexibility is no longer available with the change to a determinate sentencing system.

Although the committee examined determinate sentencing in depth, this alternative was not supported when committee recommendations were finalized. Determinate sentencing, if designed correctly, could address one of the committee's concerns involving disparity in sentences imposed for similar crimes. However, with the total abolition of parole and with the tendency to increase the sentence imposed for certain crimes, prison overcrowding could result without the flexibility needed to adjust to that situation.

#### SENTENCING GUIDELINES

Another alternative to Nevada's current sentencing system reviewed in detail by the committee was sentencing guidelines. Under a sentencing guidelines system, a commission is created which develops a range of sentences for offenses structured on a two dimensional grid based on the severity of the offense and the offender's prior criminal record. Normally, the judge is only allowed to sentence outside the guidelines for compelling reasons which must be justified in writing. In most sentencing guidelines systems the sentence imposed by the judge is fixed and can only be reduced by time off for good behavior. Therefore, the parole release decision is eliminated, but parole supervision upon release from prison is normally retained. Sentencing commissions have been created in the states of Minnesota, Pennsylvania and Washington which have developed statewide sentencing guidelines. Voluntary sentencing guidelines have also been developed by the judiciary in a number of other states.

The committee felt that to thoroughly review this subject, it was necessary to invite representatives from those states that have developed sentencing guidelines in order to review the guidelines process and to discuss the impact of the guidelines on each states' criminal justice system. The committee was fortunate in receiving detailed testimony from Steven Rathke, chairman of the Minnesota sentencing guidelines commission and Roxanna Park, executive director of the sentencing guidelines system in the State of Washington.

The State of Minnesota, prior to sentencing guidelines, utilized an indeterminate sentencing system. The penalty for most felonies was established at a range of zero to a statutory maximum of generally 5, 10 or 20 years. The actual date of release was determined by the parole board. The sentencing guidelines commission, created in 1978, was a result of a compromise between those who wanted determinate sentencing and those who wanted more flexibility in sentencing. In addition, it was pointed out that the establishment of sentencing guidelines in Minnesota was not a reaction to overcrowding, but rather the issue of disparity and disenchantment with the old indeterminate sentencing system. The

commission was required to submit sentencing guidelines for legislative review by January 1, 1980. Sentencing guidelines became effective for crimes committed on or after May 1, 1980.

The sentencing guidelines commission was composed of nine members including a justice of the supreme court, two trial court judges appointed by the chief justice of the supreme court, a prosecutor, a defense attorney, the commissioner of corrections, the chairman of the corrections board and two citizens appointed by the governor.

The commission took into account a number of factors in determining the sentencing guidelines which were adopted. First, the past sentencing practices utilized in Minnesota were not used in setting the severity level for offenses. Instead, the commission ranked all felony offenses into 10 severity levels excluding first degree murder which is excluded from the guidelines by law and has a mandatory life sentence. The commission members used their experience and judgment in ranking the severity of each offense; therefore, their sentencing guidelines are termed presumptive guidelines versus descriptive guidelines which utilize past sentencing practices as a basis for determining severity levels.

The commission, after some debate, decided the goal of imprisonment should be punishment, not rehabilitation as is the case in an indeterminate sentencing system. The commission also felt uniformity in sentencing was very important to eliminate disparity. Finally, the commission decided through direction in the legislation passed creating the commission, to adopt guidelines which would not exceed the state's prison capacity.

The commission developed a sentencing guidelines grid (Table 57) in which the vertical axis represents the severity level of the offense. The commission ranked all felony offenses into 10 severity levels, excluding first degree murder. The horizontal axis of the grid measures the offender's prior criminal history. By lining up the severity of the offense and the offender's criminal history score, the appropriate sentence range can be determined. The dark line across the grid is the dispositional line. All cases that fall in cells below the line receive prison sentences and cases that fall above the line receive non-imprisonment or stayed sentences. Therefore, the sentencing guidelines utilized by the State of Minnesota address the important in/out decision or whether or not to incarcerate an offender.

A person convicted of a felony must be sentenced within the range outlined in the sentencing guidelines grid unless a judge provides a written explanation for the departure of the guidelines. All sentences are appealable to the appellate court. The actual

Table 57

# Sentencing Guidelines Grid

Minnesota's guide to presumptive sentencing lengths, in months, tells judges at a glance what their options are for various crimes. Offenders above the heavy dispositional line receive alternative sentences; italicized numbers below the line denote the prison term range within which a judge may sentence without the sentence being deemed a departure from the guidelines. Some sentences above the dispositional line are subject to mandatory minimums.

## Severity Levels of Conviction Offense

## Criminal History Score

|                                                    |      | 0       | 1       | 2       | 3       | 4       | 5       |         |
|----------------------------------------------------|------|---------|---------|---------|---------|---------|---------|---------|
|                                                    |      |         |         |         |         |         |         | 6/more  |
| Unauthorized Use of Motor Vehicle                  | I    | 12*     | 12*     | 12*     | 13      | 15      | 17      | 19      |
| Possession of Marijuana                            |      |         |         |         |         |         |         | 18-20   |
| Theft Related Crimes (\$250-\$2500)                | II   | 12*     | 12*     | 13      | 15      | 17      | 19      | 21      |
| Aggravated Forgery (\$250-\$2500)                  |      |         |         |         |         |         |         | 20-22   |
| Theft Crimes (\$250-\$2500)                        | III  | 12*     | 13      | 15      | 17      | 19      | 22      | 25      |
|                                                    |      |         |         |         |         | 18-20   | 21-23   | 24-26   |
| Nonresidential Burglary Theft Crimes (over \$2500) | IV   | 12*     | 15      | 18      | 21      | 25      | 32      | 41      |
|                                                    |      |         |         |         |         | 24-26   | 30-34   | 37-45   |
| Residential Burglary Simple Robbery                | V    | 18      | 23      | 27      |         | 30      | 38      | 46      |
|                                                    |      |         |         |         |         | 29-31   | 36-40   | 43-49   |
| Assault, 2nd Degree                                | VI   | 21      | 26      | 30      |         | 34      | 44      | 54      |
|                                                    |      |         |         |         |         | 33-35   | 42-46   | 50-58   |
| Aggravated Robbery                                 | VII  | 24      | 32      | 41      | 49      | 65      | 81      | 97      |
|                                                    |      | 23-25   | 30-34   | 38-44   | 45-53   | 60-70   | 75-87   | 90-104  |
| Criminal Sexual Conduct, 1st Degree                | VIII | 43      | 54      | 65      | 76      | 95      | 113     | 132     |
| Assault, 1st Degree                                |      | 41-45   | 50-58   | 60-70   | 71-81   | 89-101  | 106-120 | 124-140 |
| Murder, 3rd Degree                                 |      | 105     | 119     | 127     | 149     | 176     | 205     | 230     |
| Murder, 2nd Degree (felony murder)                 | IX   | 102-108 | 116-122 | 124-130 | 143-155 | 168-184 | 195-215 | 218-242 |
| Murder, 2nd Degree (with intent)                   | X    | 120     | 140     | 162     | 203     | 243     | 284     | 324     |
|                                                    |      | 116-124 | 133-147 | 153-171 | 192-214 | 231-255 | 270-298 | 309-339 |

1st Degree Murder is excluded from the guidelines by law and continues to have a mandatory life sentence one year and one day.

Source: Minnesota Sentencing Guidelines Commission

sentence served can be reduced by one-third for good time earned. For example, an offender sentenced to six years would be eligible for release in four years. The remainder of the sentence is served under a supervised release program. Revocations of supervised release are limited to the amount of time left on the inmate's original sentence. Although prison population dropped slightly after the implementation of the guidelines, more recently the commissioners estimated that prison capacity would be exceeded by 1985. Therefore, to insure that prison capacity would not be exceeded, the sentence ranges contained in the sentencing grid for severity levels one through three (non-violent crimes) were reduced to relieve this potential prison overcrowding problem.

The committee was informed that law enforcement personnel were generally pleased with the guidelines and, even though some felt the sentences were too lenient, they put a high premium on certainty. Although the terms seem rather short compared to the sentences under the indeterminate sentencing system, under the guidelines there is truth in sentencing with an offender serving his sentence less time off for good behavior rather than possibly receiving parole after serving a minimum time in prison on a long sentence. It was pointed out that a state wishing to establish guidelines could assign any sentencing length it wanted to various offenses.

Testimony indicated crime rates in Minnesota have gone down which has been the trend for some time now, however, it does not appear that the new sentencing system has had much impact on crimes committed on the street.

The committee was told the sentencing guidelines system has adjusted the length of time inmates serve in prison with violent offenders with no criminal history and those serving time for very serious crimes serving more time while those convicted of property crimes getting more lenient sentences when compared to the old indeterminate sentencing system.

The State of Washington, until July 1, 1984, utilized an indeterminate sentencing system. Judges imposed the maximum statutory sentence for felony offenses although they could recommend minimum terms. If an offender was sentenced to 12 months or less, the sentence was served in the county jail. An offender sentenced to more than 12 months served their sentence in the state prison. The actual amount of time served in prison was determined by the state board of prison terms and parole and parole guidelines were utilized to establish the length of incarceration.

The State of Washington began looking at its sentencing structure in the late 1970's because of the growing dissatisfaction with rehabilitation being the focus of punishment. Part of the problem involved a few controversial cases concerning some offenders being released on parole and subsequently committing violent crimes which caused a public outcry. There was also growing dissatisfaction with justice by geography with stiff sentences imposed in one part of the state for a crime which would have few consequences in another part of the state. In addition, with prison crowding (130 percent of capacity) and state fiscal problems, it became necessary to make decisions on which offenders should be occupying prison bedspace.

Legislation creating the sentencing guidelines commission was passed in 1981. The legislature has reviewed the sentencing guidelines developed by the commission which became effective July 1, 1984. The sentencing guidelines commission is composed of four non-voting legislative members and 15 voting members, including four superior court judges, two prosecutors, two defense attorneys, one law enforcement director, three members of the public and the directors of the department of corrections, parole board and the office of financial management.

The commission was instructed to adopt guidelines which emphasized confinement of the violent offender and alternatives to the total confinement of the non-violent offender. The commission was also directed to develop standards with respect to plea bargaining. The commission has discussed revising plea bargaining guidelines after the state has more experience with its sentencing guidelines. Finally, the commission was directed to determine whether implementation of its recommended sentencing guidelines would exceed prison capacity. If the initial recommendations were estimated to result in prison overcrowding, the commission was instructed to develop a second set of recommendations consistent with prison capacity. The commission has concluded that its recommended guidelines are within correctional system capacity, and therefore, submitted a single set of guidelines to the legislature.

The commission developed a sentencing grid (Tables 58, 59 & 60) in which the vertical axis represents the severity of the offense. The commission ranked all felony offenses into 14 severity levels. The horizontal axis of the grid measures the offender's prior criminal record. By lining up the severity level of the offense and the offender's criminal history score, the appropriate sentence range can be determined. The sentencing grid does not address who should be incarcerated or the important in/out decision. The judge decides if a defendant should be incarcerated.

Table 58

## Sentencing Grid

1/3/1

SERIOUSNESS  
SCORE

OFFENDER SCORE

|      | 0                                          | 1                   | 2                   | 3                   | 4                   | 5                   | 6                   | 7                    | 8                   | 9 or more          |
|------|--------------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------|---------------------|--------------------|
| XIV  | Life Sentence without Parole/Death Penalty |                     |                     |                     |                     |                     |                     |                      |                     |                    |
| XIII | 23y 4m<br>240 - 320                        | 24y 4m<br>250 - 333 | 25y 4m<br>261 - 347 | 26y 4m<br>271 - 361 | 27y 4m<br>281 - 374 | 28y 4m<br>291 - 388 | 30y 4m<br>312 - 416 | 32y 10m<br>338 - 450 | 36y<br>370 - 493    | 40y<br>411 - 54    |
| XII  | 12y<br>123 - 164                           | 13y<br>134 - 178    | 14y<br>144 - 192    | 15y<br>154 - 203    | 16y<br>165 - 219    | 17y<br>175 - 233    | 19y<br>195 - 260    | 21y<br>216 - 288     | 23y<br>237 - 342    | 29y<br>298 - 39    |
| XI   | 6y<br>62 - 82                              | 6y 9m<br>69 - 92    | 7y 6m<br>77 - 102   | 8y 3m<br>85 - 113   | 9y<br>93 - 123      | 9y 9m<br>100 - 133  | 12y 6m<br>129 - 171 | 13y 6m<br>139 - 185  | 15y 6m<br>159 - 212 | 17y 6m<br>180 - 24 |
| X    | 3y<br>31 - 63                              | 3y 6m<br>37 - 73    | 4y<br>42 - 82       | 4y 6m<br>47 - 89    | 5y<br>52 - 96       | 5y 6m<br>57 - 102   | 7y 6m<br>78 - 130   | 8y 6m<br>108 - 144   | 10y 6m<br>129 - 171 | 12y 6m<br>149 - 19 |
| IX   | 3y<br>31 - 41                              | 3y 6m<br>36 - 48    | 4y<br>41 - 54       | 4y 6m<br>46 - 61    | 5y<br>51 - 68       | 5y 6m<br>57 - 73    | 7y 6m<br>77 - 102   | 8y 6m<br>87 - 116    | 10y 6m<br>108 - 144 | 12y 6m<br>129 - 17 |
| VIII | 2y<br>21 - 27                              | 2y 6m<br>26 - 34    | 3y<br>31 - 41       | 3y 6m<br>36 - 48    | 4y<br>41 - 54       | 4y 6m<br>46 - 61    | 6y 6m<br>67 - 89    | 7y 6m<br>77 - 102    | 8y 6m<br>87 - 116   | 10y 6m<br>108 - 14 |
| VII  | 18m<br>15 - 20                             | 2y<br>21 - 27       | 2y 6m<br>26 - 34    | 3y<br>31 - 41       | 3y 6m<br>36 - 48    | 4y<br>41 - 54       | 5y 6m<br>57 - 73    | 6y 6m<br>67 - 89     | 7y 6m<br>77 - 102   | 8y 6m<br>87 - 11   |
| VI   | 13m<br>12 - 14                             | 18m<br>15 - 20      | 2y<br>21 - 27       | 2y 6m<br>26 - 34    | 3y<br>31 - 41       | 3y 6m<br>36 - 48    | 4y 6m<br>46 - 61    | 5y 6m<br>57 - 73     | 6y 6m<br>67 - 89    | 7y 6m<br>77 - 10   |
| V    | 9m<br>6 - 12                               | 13m<br>12 - 14      | 15m<br>13 - 17      | 18m<br>15 - 20      | 2y 2m<br>22 - 29    | 3y 2m<br>33 - 43    | 4y<br>41 - 54       | 5y<br>51 - 68        | 6y<br>62 - 82       | 7y<br>72 - 9       |
| IV   | 6m<br>3 - 9                                | 9m<br>6 - 12        | 13m<br>12 - 14      | 15m<br>13 - 17      | 18m<br>15 - 20      | 2y 2m<br>22 - 29    | 3y 2m<br>33 - 43    | 4y 2m<br>43 - 57     | 5y 2m<br>53 - 70    | 6y 2m<br>63 - 8    |
| III  | 2y<br>1 - 3                                | 3m<br>3 - 8         | 8m<br>4 - 12        | 11m<br>9 - 12       | 14m<br>12 - 16      | 20m<br>17 - 22      | 2y 2m<br>22 - 29    | 3y 2m<br>33 - 43     | 4y 2m<br>43 - 57    | 5y<br>51 - 6       |
| II   | 0 - 90<br>Days                             | 4m<br>2 - 6         | 6m<br>3 - 9         | 8m<br>4 - 12        | 13m<br>12 - 14      | 16m<br>14 - 18      | 20m<br>17 - 22      | 2y 2m<br>22 - 29     | 3y 2m<br>33 - 43    | 4y 2m<br>43 - 5    |
| I    | 0 - 60<br>Days                             | 0 - 90<br>Days      | 3m<br>2 - 3         | 4m<br>2 - 6         | 5m<br>3 - 8         | 8m<br>4 - 12        | 13m<br>12 - 14      | 16m<br>14 - 18       | 20m<br>17 - 22      | 2y 2m<br>22 - 3    |

NOTE: Numbers represent presumptive sentence ranges in months. Midpoints are in bold type (y = years, m = months). 12+ equals one year and one day. For a few crimes, the presumptive sentences in the high offender score columns exceed the statutory maximums. In these cases, the statutory maximum applies.

Additional time added to the presumptive sentence if the offender was armed with a deadly weapon:

24 months (Rape 1, Robbery 1, Kidnapping 1)

18 months (Burglary 1)

12 months (Assault 2, Escape 1, Kidnapping 2, Commercial Burglary 2)

Table 59

## CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

|      |                                                                                                                                                                                         |                                                  |
|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| XIV  | Aggravated Murder 1                                                                                                                                                                     |                                                  |
| XIII | Murder 1 (v)                                                                                                                                                                            | v = violent offense (as defined<br>by RCW 9.94A) |
| XII  | Murder 2 (v)                                                                                                                                                                            |                                                  |
| XI   | Assault 1 (v)                                                                                                                                                                           |                                                  |
| X    | Kidnapping 1 (v)<br>Rape 1 (v)                                                                                                                                                          |                                                  |
| IX   | Robbery 1 (v)<br>Manslaughter 1 (v)<br>Statutory Rape 1 (v)                                                                                                                             |                                                  |
| VIII | Arson 1 (v)<br>Rape 2 (v)<br>Promoting Prostitution 1                                                                                                                                   |                                                  |
| VII  | Burglary 1 (v)<br>Negligent Homicide<br>Introducing Contraband 1                                                                                                                        |                                                  |
| VI   | Bribery<br>Manslaughter 2 (v)<br>Intimidating a Juror/Witness                                                                                                                           |                                                  |
| V    | Statutory Rape 2<br>Kidnapping 2 (v)<br>Extortion 1 (v)<br>Indecent Liberties (v)                                                                                                       |                                                  |
| IV   | Robbery 2 (v)<br>Assault 2 (v)<br>Escape 1<br>Arson 2 (v)<br>Bribing a Witness/Bribe Received by Witness<br>Malicious Harassment<br>Willful Failure to Return from Furlough<br>Incest 1 |                                                  |

- III
  - Rape 3
  - Statutory Rape 3
  - Incest 2
  - Extortion 2
  - Unlawful Imprisonment
  - Assault 3
  - Promoting Prostitution 2
  - Introducing Contraband 2
  - Communicating with a Minor for Immoral Purposes
  - Escape 2
  - Perjury 2
  - Intimidating a Public Servant
  - Tampering with a Witness
  
- II
  - Malicious Mischief 1
  - Possession of Stolen Property 1
  - Theft 1
  - Welfare Fraud
  - Burglary 2
  
- I
  - Theft 2
  - Possession of Stolen Property 2
  - Forgery
  - Auto Theft (Taking and Riding)
  - Vehicle Prowl 1
  - Eluding a Police Vehicle
  - Malicious Mischief 2
  - Reckless Burning
  - Unlawful Issuance of Bank Checks

NOTE: Drug crimes are not ranked at this time because they are still under consideration by the Commission.

Sentencing Guidelines  
Commission 1/83

Table 60  
OFFENDER SCORE MATRIX

Sentencing Guidelines Commission  
January, 1983

Prior Adult Convictions\*

|                    | Serious Violent | Burglary 1 | Other Violent | Negligent Homicide | Escape | Burglary 2 | Felony Hit-and-Run | Non-Felonies | Other Non-Violent |
|--------------------|-----------------|------------|---------------|--------------------|--------|------------|--------------------|--------------|-------------------|
| Serious Violent    | 3               | 2          | 2             | 1                  | 1      | 1          | 1                  | 0            | 1                 |
| Burglary 1         | 2               | 2          | 2             | 1                  | 1      | 2          | 1                  | 0            | 1                 |
| Other Violent      | 2               | 2          | 2             | 1                  | 1      | 1          | 1                  | 0            | 1                 |
| Negligent Homicide | 0               | 0          | 0             | 1                  | 0      | 0          | 1                  | 1            | 0                 |
| Escape             | 0               | 0          | 0             | 0                  | 1      | 0          | 0                  | 0            | 0                 |
| Burglary 2         | 1               | 2          | 1             | 1                  | 1      | 2          | 1                  | 0            | 1                 |
| Other Non-Violent  | 1               | 1          | 1             | 1                  | 1      | 1          | 1                  | 0            | 1                 |

Prior Juvenile Convictions\*\*

|                    | Serious Violent | Burglary 1 | Other Violent | Negligent Homicide | Escape | Burglary 2 | Felony Hit-and-Run | Non-Felonies | Other Non-Violent |
|--------------------|-----------------|------------|---------------|--------------------|--------|------------|--------------------|--------------|-------------------|
| Serious Violent    | 3               | 2          | 2             | 1                  | 1      | 1          | 1                  | 0            | 1                 |
| Burglary 1         | 2               | 2          | 2             | 1                  | 1      | 1          | 1                  | 0            | 1                 |
| Other Violent      | 2               | 2          | 2             | 1                  | 1      | 1          | 1                  | 0            | 1                 |
| Negligent Homicide | 0               | 0          | 0             | 1                  | 0      | 0          | 1                  | 1            | 0                 |
| Escape             | 0               | 0          | 0             | 0                  | 1      | 0          | 0                  | 0            | 0                 |
| Burglary 2         | 1               | 2          | 1             | 1                  | 1      | 1          | 1                  | 0            | 1                 |
| Other Non-Violent  | 1               | 1          | 1             | 1                  | 1      | 1          | 1                  | 0            | 1                 |

Definitions: Serious Violent: Murder 1, Murder 2, Assault 1, Kidnapping 1, Rape 1  
Escapes: Escape 1, Escape 2, Willful Failure to Return From Work Release or Furlough  
Non-Felonies: DWI, Reckless Driving, Hit and Run

\*Prior B level felonies are not counted if 10 years (crime free) have elapsed in the community before the current offense was committed.  
Prior C level felonies are not counted after 3 years (crime free).

\*\*Prior juvenile adjudications are counted only if the current offense was committed on or before the offender's 23rd birthday and the juvenile offense was committed on or after the defendant's 13th birthday.

Notes: In the case of multiple prior offenses, all adult offenses served concurrently count as one offense, and all juvenile adjudications imposed on the same date count as one offense for the purposes of computing the offender score.

A person convicted of a felony must be sentenced within the range outlined within the sentencing grid unless the judge provides a written explanation for departure from the guidelines. All sentences outside the guidelines are appealable. The actual sentence served can be reduced by one-third for good time earned. There is currently no provision for supervised release after the offender has served his presumptive sentence less good time. The state currently has three mandatory sentences. Persons convicted of murder I, assault I and rape I are required to serve a minimum of 25, 5 and 3 years respectively. There is also a provision in the Washington law that allows the governor to call the commission into session if prison overcrowding occurs and asked the commission to revise its sentence ranges within a sentencing grid to alleviate any prison overcrowding problem. The impact of the sentencing guidelines system in Washington will not be determined for some time due to the guidelines being effective July 1, 1984.

Sentencing guidelines addressed many of the committee's concerns regarding modification of Nevada's current sentencing system. Under a guidelines system a judge would sentence an offender within a specified range based on the severity of the current and the offender's prior criminal history. The judge would have the authority to sentence an offender outside the guidelines only if there were compelling reasons which must be justified in writing. Therefore, a sentencing guidelines system addresses the committee's concern regarding sentencing disparity while allowing flexibility for the courts to sentence outside the guidelines if there is sufficient justification. The committee felt it was very important for persons convicted of similar crimes with similar criminal histories to receive like sentences.

A sentencing guidelines system also addresses the committee's concern regarding "truth in sentencing." Under Nevada's indeterminate sentencing system, an offender may be sentenced to a very long prison term by the court but could be paroled after serving a small portion of the original sentence. Under a sentencing guidelines system, an offender would be sentenced to a fixed term which could only be reduced for good behavior or participating in work or educational activities. Therefore, the public, prosecutors, the courts and the inmate will know the actual length of time a criminal offender will be incarcerated.

The committee also felt it was important that any modification to Nevada's current sentencing system deal with the in/out decision or whether or not to incarcerate an offender as is the case with the sentencing guidelines system adopted by the State of Minnesota.

The S.B. 375 committee endorsed the creation of a commission to develop statewide sentencing guidelines. However, the committee did not unanimously approve this recommendation. Committee members not voting in favor of this recommendation were not opposed to sentencing guidelines, but felt that parole guidelines would address many of the committee's concerns more quickly and with less expense. It was also suggested that the judiciary establish sentencing guidelines voluntarily on their own.

The majority of the committee agreed that sentencing guidelines could not be implemented immediately, but felt that sentencing guidelines was the alternative which addressed the majority of concerns outlined by the committee. The committee also recommended the implementation of parole guidelines which addressed the concern of developing recommendations which would provide more immediate relief to some of the problems outlined by the S.B. 375 committee. Finally, it was felt that sentencing guidelines should be developed with input from all elements of the criminal justice system, not just the judiciary.

NCCD's report to the prison master plan committee indicated that data suggested an admission population which is relatively light or has a non-extensive criminal history. In terms of custody needs in classification, many of these prisoners are probable candidates for a low security setting. NCCD, in updating statistics concerning Nevada's inmate population in 1983, from a random sample of 448 cases, indicated that 57.4 percent of Nevada inmates had no prior felony convictions, 58.1 percent did not have prior probation experience and well over 80 percent of Nevada inmates had no prior prison sentences. As indicated in Table 61, all of these percentages are higher when compared to statistics for the 1979-81 Nevada inmate population. This area should be reviewed by the sentencing commission in order to assess whether some of these offenders with light criminal histories who have not committed violent crimes would be acceptable risks for probation or other alternative sentences, thereby easing the dramatic increase in Nevada's prison population.

The committee felt strongly that those inmates who commit violent crimes or those who are habitual criminals should serve longer terms than those offenders with light criminal histories or those offenders who have committed property or non-violent offenses. To gauge the effect of this premise on the prison population, the committee requested NCCD to calculate a prison population projection based on increasing the average sentence for violent offenders (murder, manslaughter, rape, kidnapping, arson, robbery, battery, assault and other sex crimes) by 25 percent and reducing the average sentence for non-violent offenses (all other offenses not listed above) by 25 percent. The effect of this modification is outlined on Table 62 and results in an estimated

Table 61

SOCIO-ECONOMIC AND CRIMINAL CHARACTERISTICS  
OF THE ADMISSION POPULATION\*

| Background Variable            | 1979-1981 | 1983 | Background Variable                | 1979-1981 | 1983 |
|--------------------------------|-----------|------|------------------------------------|-----------|------|
| <u>Place of Residence</u>      |           |      | <u>Prior Felon Convictions</u>     |           |      |
| Washoe                         | 21.7      | 13.4 | None                               | 44.5      | 57.4 |
| Clark                          | 42.5      | 54.4 | One or more                        | 55.5      | 42.6 |
| Other Nevada                   | 9.8       | 12.3 | <u>Prior Probation Experiences</u> |           |      |
| California                     | 13.8      | 8.9  | None                               | 45.7      | 58.1 |
| Other States                   | 12.2      | 11.0 | One or more                        | 54.3      | 41.9 |
| <u>Type of Admission</u>       |           |      | <u>Prior Parole Experiences</u>    |           |      |
| New Commitment                 | 69.4      | 64.6 | None                               | 66.8      | 81.0 |
| Parole Violator - Tech         | 10.0      | 3.8  | One or more                        | 33.2      | 19.0 |
| Parole Violator - New Off      | 2.4       | 3.4  | <u>Prior Jail Commitments</u>      |           |      |
| Probation Violator - Tech      | 7.5       | 11.5 | None                               | 63.6      | 60.0 |
| Probation Violator - New Off   | 4.2       | 5.6  | None or more                       | 36.4      | 20.0 |
| Inter-State Compact            | 0.3       | -    | <u>Prior NDP Sentences</u>         |           |      |
| 120 Day Diagnostic             | 6.1       | 11.1 | None                               | 81.9      | 88.9 |
| Other                          | 0.1       | -    | One or more                        | 13.1      | 11.1 |
| <u>Maximum Sentence Length</u> |           |      | <u>Prior Non-NDP Sentences</u>     |           |      |
| 1 Year                         | 10.3      | 16.4 | None                               | 74.9      | 82.0 |
| 2 Years                        | 11.9      | 9.2  | One or more                        | 25.1      | 18.0 |
| 3 Years                        | 15.3      | 13.5 | <u>Sex</u>                         |           |      |
| 4 Years                        | 11.7      | 9.4  | Male                               | 91.9      | 91.3 |
| 5 Years                        | 12.0      | 10.3 | Female                             | 8.1       | 8.7  |
| More than 5 years              | 38.8      | 41.3 | <u>Age</u>                         |           |      |
| <u>Total Charges or Counts</u> |           |      | Less than 18                       | 1.9       | 1.8  |
| 1                              | 72.0      | 72.3 | 18-20                              | 15.7      | 16.8 |
| 2                              | 20.5      | 17.4 | 21-24                              | 24.2      | 25.7 |
| 3 or more                      | 7.5       | 10.3 | 25-29                              | 24.1      | 23.9 |
| <u>Was Plea Negotiated?</u>    |           |      | 30-34                              | 13.9      | 10.1 |
| Yes                            | 82.7      | 80.0 | 35-39                              | 8.0       | 8.5  |
| No                             | 17.3      | 20.0 | 40-49                              | 7.7       | 9.2  |
| <u>Weapon Used?</u>            |           |      | 49 and above                       | 4.7       | 3.9  |
| No                             | 72.1      | 70.5 | <u>Ethnic Group</u>                |           |      |
| Gun                            | 16.3      | 18.0 | White                              | 68.4      | 53.7 |
| Knife                          | 8.7       | 5.4  | Black                              | 25.9      | 31.3 |
| Gun and Knife                  | 0.3       | -    | Hispanic                           | 3.2       | 5.4  |
| Other                          | 2.6       | 6.1  | Other                              | 2.5       | 4.6  |

Table 61 Continued

| Background Variable        | 1979-1983 | 1983 | Background Variable             | 1979-1981 | 1983 |
|----------------------------|-----------|------|---------------------------------|-----------|------|
| <u>Completed Education</u> |           |      | <u>History of Alcohol Abuse</u> |           |      |
| 0-9 Grade                  | 13.5      | 11.7 | None                            | 55.1      | 62.1 |
| 10th Grade                 | 13.4      | 12.8 | Yes                             | 44.9      | 37.9 |
| 11th Grade                 | 19.9      | 21.8 |                                 |           |      |
| 12th Grade or GED          | 42.5      | 28.6 | <u>History of Heroin Abuse</u>  |           |      |
| College or Above           | 10.7      | 25.9 | None                            | 81.9      | 90.8 |
|                            |           |      | Yes                             | 18.1      | 9.2  |

Note: Not all categories tally to 100% due to rounding.

1979-1981 data based on 1,026 random sample.

1983 data based on 448 random sample.

\* SKEs Included

prison population in fiscal year 1992-93 of 6,450 inmates compared to 6,650 inmate if the current sentencing system were not modified. This results in a decrease of 200 inmates while significantly increasing the punishment for violent offenders. A 20-year projection of the effect of this modification, while less reliable, indicates a net increase of only 25 inmates would be expected if this modification were adopted. Based on these statistics, the committee felt that serious consideration be given to increasing the punishment for the violent offender and offsetting the impact of this change by reducing the terms served by non-violent offenders who represent less of a danger to the public safety.

The committee requested prison population projections for two sentencing guidelines scenarios. Although each of these projections will be discussed briefly, a more detailed analysis is provided in the chapter on fiscal impacts.

First, the committee was interested in projecting the impact on the prison population in Nevada if the Minnesota sentencing guidelines were adopted effective July 1, 1987. NCCD projected that by June 30, 1993 the Nevada prison population would reach 4,800 inmates compared to 6,650 inmates if the current indeterminate sentencing system were not modified. The net result is a reduction of 1,850 inmates by June 1993 when compared to the existing sentencing system. This reduction is caused mainly due to Minnesota sentencing to prison only 27 percent of all persons convicted of a felony while Nevada has a prison disposition rate of 42 percent. (The average sentence length currently imposed by Nevada courts was used to estimate how long offenders would be incarcerated.) The committee felt that a change in the prison disposition rate from 42 percent to 27 percent might be too great a change and requested that the disposition line on the Minnesota sentencing guidelines grid be adjusted to reflect a percentage between these two figures. The dispositional line was adjusted upward basically one cell which resulted in a prison disposition rate of 35 percent. NCCD projected the prison population in Nevada from this scenario would reach 5,800 inmates by June 30, 1993 compared to 6,650 inmates if the current indeterminate sentencing system was not modified. This results in a reduction of 850 inmates by June 1993 when compared to the existing sentencing system. The estimated cost to the State of Nevada of adopting a modified Minnesota sentencing system is outlined in the chapter on fiscal impacts.

The estimated prison population for these two sentencing guidelines scenarios indicate that Nevada's increasing prison population could be slowed by adopting a sentencing guidelines system. Nevada's high prison disposition rate combined with many offenders being admitted to prison with relatively light or non-extensive criminal history would support that some offenders

who are currently sentenced to prison might qualify for probation, restitution to the victim or other alternative sentence.

TABLE 62  
Twenty Years  
PRISON POPULATION PROJECTION  
Sentence Length Revision

| <u>FY</u> | <u>Current</u> | <u>25/25</u> <sup>1</sup> |
|-----------|----------------|---------------------------|
| 83-84     | 3,275          | 3,275                     |
| 84-85     | 3,550          | 3,550                     |
| 85-86     | 3,875          | 3,925                     |
| 86-87     | 4,225          | 4,200                     |
| 87-88     | 4,625          | 4,525                     |
| 88-89     | 5,050          | 4,900                     |
| 89-90     | 5,450          | 5,325                     |
| 90-91     | 5,925          | 5,725                     |
| 91-92     | 6,275          | 6,125                     |
| 92-93     | 6,650          | 6,450                     |
| 93-94     | 6,975          | 6,775                     |
| 94-95     | 7,350          | 7,100                     |
| 95-96     | 7,700          | 7,450                     |
| 96-97     | 8,075          | 7,850                     |
| 97-98     | 8,475          | 8,225                     |
| 98-99     | 8,825          | 8,625                     |
| 99-00     | 9,250          | 9,050                     |
| 00-01     | 9,650          | 9,500                     |
| 01-02     | 10,025         | 9,975                     |
| 02-03     | 10,425         | 10,450                    |

<sup>1</sup> Assumes 25 percent increase in sentence lengths for persons convicted of the following crimes: murder, manslaughter, rape, kidnapping, arson, robbery, battery, assault, and all other sex crimes. All other crimes have sentence lengths reduced by 25 percent.

- Assumptions:
1. 4% annual admission growth rate.
  2. Parole probabilities of .26, .41, .42, .42, .50
  3. Legislation takes effect July 1, 1985
  4. Six month time lag before first admission to prison affected by new law
  5. Not retroactive to existing prison population
  6. Projections represent in-house prison population excluding 5% out counts. U.S. Marshal and Illinois contract inmates not included.

### SUMMARY OF FINDINGS AND RECOMMENDATIONS

1. Creation of a 13-member commission appointed by the governor to develop statewide sentencing guidelines. The composition of the commission should include a Supreme Court justice, two district court judges (one from northern Nevada and one from southern Nevada), a justice of the peace, one senator, an assemblyman, a defense attorney, a prosecutor, two private citizens, one law enforcement representative, the director of the department of prisons and the chief parole and probation officer.
2. The commission should develop a series of recommended sentence ranges for all felony offenses based on the severity of the offense and the offender's prior criminal history.
3. The guidelines should provide a presumptive fixed sentence with only good time credit earned reducing the term of imprisonment.
4. The guidelines should determine which felony offenders should be incarcerated and those who should be placed on probation, provide restitution, fined or be punished by some other alternative sentence.
5. The sentencing guidelines recommended by the commission will allow judges to sentence outside the guidelines if there are compelling reasons justifying an exceptional sentence. However, a written explanation for departure from the guidelines is required.
6. The commission should develop its recommended sentencing ranges without consideration to the impact on the prison population. However, should the commission estimate that its recommended guidelines will exceed the prison population projection developed by the National Council on Crime and Delinquency of 6,650 inmates by June 1993, assuming the current indeterminate sentencing system is not modified, the committee recommends that the commission prepare an additional list of sentencing ranges which will not exceed that limit. This will insure that if the recommended sentencing ranges are more restrictive than the current sentencing system, an alternative proposal will also be available for review by the 1987 legislature.

FINANCIAL IMPACT OF ALTERNATIVES TO NEVADA'S  
CURRENT SENTENCING AND PAROLE SYSTEM

Senate Bill 375 required the committee to examine the fiscal effects of abolition or any proposed modification of parole upon the department of prisons, the department of parole and probation and the state board of parole commissioners. NCCD, in its report, outlined a number of trends which have caused the substantial increase in Nevada's prison population. These trends include:

1. High prison commitment rates.
2. Low parole approval rates.
3. High crime rates.
4. Increasing state population (4 percent annual growth).

These factors substantiate the fact that Nevada currently has the highest incarceration rate in the nation. The committee was concerned that any recommended sentencing or parole modification, while insuring public safety, would not place an excessive financial burden on the state.

The committee began its analysis by requesting NCCD to update the prison population projection made in 1982 which is part of the Prison Master Plan interim study. A number of factors have taken place since 1982 which has had an affect on the prison population. The most dramatic change is the decrease in the parole approval rate from 65 percent approval in 1979 to 28 percent approval in 1983. In addition, changes in the sentencing laws and court practices had to be assessed and reflected in the prison population projection model.

Table 63 compares NCCD's 1982 and 1984 projection of the prison population through 1993 assuming Nevada's indeterminate sentencing system is not modified. The key assumptions made by NCCD in its updated 1984 projection are: (1) annual admission growth of 4 percent for new prison commitments from the court; (2) parole probability of 26 percent approval at first parole hearing, 41 percent at second hearing, 42 percent at third and fourth hearing, and 50 percent at fifth hearing. NCCD's projection, based on Nevada's current sentencing system, estimates that the prison population will increase to 7,000 inmates by June 1993. However, this figure reflects total prison population including "out counts" which historically represent 5 percent of the total prison population. "Out counts" are inmates who are under the control of the department of prisons but who are not occupying prison bedspace because of a number of reasons which include but are not limited to: (1) they are confined to the hospital, (2) have been transferred to other states or (3) have escaped. By reducing the prison projection by 5 percent for "out counts" a

true picture of the future bedspace needs can be calculated. Therefore, NCCD's projection estimates an in-house prison population of 6,650 inmates by June 1993. This represents a substantial increase from NCCD's original projection and is driven mainly by the decrease in the current parole approval rate when compared to the rate between 1979 and 1981 versus 1983 as outlined in Table 64.

TABLE 63  
NEVADA PRISON POPULATION PROJECTION  
NCCD 1982 and 1984

| Fiscal Year | 1982 Projection |                  | 1984 Projection |                  |
|-------------|-----------------|------------------|-----------------|------------------|
|             | <u>Total</u>    | <u>In-House*</u> | <u>Total</u>    | <u>In-House*</u> |
| 1983-84     | 3,400           | 3,225            | 3,450           | 3,275            |
| 1984-85     | 3,625           | 3,450            | 3,725           | 3,550            |
| 1985-86     | 4,025           | 3,825            | 4,075           | 3,875            |
| 1986-87     | 4,450           | 4,225            | 4,450           | 4,225            |
| 1987-88     | 4,750           | 4,525            | 4,875           | 4,625            |
| 1988-89     | 4,975           | 4,725            | 5,325           | 5,050            |
| 1989-90     | 5,350           | 5,100            | 5,725           | 5,450            |
| 1990-91     | 5,575           | 5,300            | 6,225           | 5,925            |
| 1991-92     | N/A             | N/A              | 6,600           | 6,275            |
| 1992-93     | N/A             | N/A              | 7,000           | 6,650            |

\* Projection represents in-house population at June 30 of each fiscal year excluding 5% out-counts.

TABLE 64  
PAROLE APPROVAL

| <u>Parole<br/>Hearing</u> | <u>1979-81</u> | <u>1983</u> |
|---------------------------|----------------|-------------|
| 1st hearing               | 30%            | 26%         |
| 2nd hearing               | 60%            | 41%         |
| 3rd hearing               | 90%            | 42%         |
| 4th hearing               | 95%            | 42%         |
| 5th hearing               | 99%            | 50%         |

NCCD points out in its report that two factors could reduce the projected growth of Nevada's inmate population. First, the parole board could return to the practices of 1979-81 when the parole approval rate was much higher. Second, the number of new admissions to prison from court may not increase at the projected annual rate of 4 percent. In the last four months of fiscal year 1983-84, admissions leveled off to a 1 percent growth rate. If this trend continues, the prison population projection would need to be reduced. However, due to Nevada's population growing at an annual rate of 4 percent, NCCD feels the reduced prison admission growth rate is probably temporary. These, as well as other factors, will have to be watched closely and the projection model will have to be updated periodically with the most current and accurate data to ensure that the most up-to-date prison population projections are available.

The committee was able to invite a number of correctional experts to testify at committee meetings on how other states reformed their criminal justice systems. After this review, the committee examined in greater detail, a number of alternatives to Nevada's current sentencing system including abolition of parole, parole guidelines, sentencing guidelines, modifying the length of sentences imposed for violent and non-violent offenders and revision and simplification of the current good time credit system. The committee members developed "what if" scenarios for each of these alternatives and prison population projections were calculated which were used to estimate the fiscal impact of each alternative. Once it was determined how many additional beds would be needed for each alternative, it was necessary to determine how many beds would be needed in each security level (maximum, medium and minimum).

A complete review of how Nevada inmates should be classified by security level was undertaken by an earlier legislative committee which developed the Prison Master Plan. In the plan, a formal inmate classification system was endorsed and a profile of the Nevada prison population indicated inmates should be classified as follows: maximum 10.5 percent; medium 51 percent and minimum 38.5 percent. The S.B. 375 committee, during their review,

requested Dr. Jim Austin to update information contained in the Prison Master Plan concerning the characteristics of Nevada's inmate population. Dr. Austin testified that the characteristics of the 1983 inmate population had not changed dramatically from the 1979-81 inmate population. Therefore, the committee felt the classification percentages outlined in the Prison Master Plan were still valid. However, due to lack of appropriate bedspace, the prison is assigning inmates as follows: maximum 23 percent; medium 62.2 percent; and minimum 14.8 percent. (These percentages will change when the 372 honor camp beds authorized by the 1983 Legislature become operational.) This is a very important point because the higher the classification level the inmate is assigned, the higher the cost for the construction of new beds. In addition, the cost for staffing and operating a prison facility increases based on the security level of the institution.

NCCD informed the S.B. 375 committee that, if Nevada's current sentencing and/or parole system is modified, it should anticipate changes in the percentage of inmates classified at different security levels. For example, once sentencing guidelines are implemented on July 1, 1987, the makeup of inmates within Nevada's prison system will begin to change. NCCD projected the change in classification percentages based on the implementation of the modified Minnesota sentencing guidelines scenario. This scenario would result in fewer minimum security inmates being incarcerated, resulting in the makeup of the prison population based on NCCD's projection changing to 12.4 percent maximum security, 59.7 percent medium security and 27.9 percent minimum security within two years of implementation of the sentencing guidelines scenario.

Although it is anticipated that the prison population will grow at a slower rate under this sentencing guidelines scenario, future growth is anticipated to be inevitable. As this growth occurs, long-term violent offenders would make up a greater percentage of the inmate population. Since maximum and medium security beds are considerably more expensive to construct and operate than minimum security beds, an important part of future budget development will involve projecting the percentage makeup of inmates at the various classification levels.

Once parole guidelines are implemented, it is anticipated that the parole grant rate will increase. NCCD has projected that the parole guidelines alternative discussed earlier in the parole decision-making chapter would not dramatically change the current classification of inmates. The makeup of the prison population, based on NCCD's projections, indicates that 11.1 percent of the inmate population would be classified maximum security, 51.0 percent medium security and 37.9 percent minimum security.

At this point it was necessary for the committee to determine the current number of beds by security level available within the department of prisons. An inventory of existing bedspace by security level, by institution, developed by the department of prisons, is outlined in Table 65. Three different types of prison capacity are outlined. Design capacity is the number of inmates a facility is currently designed to house. Critical capacity represents the maximum number of inmates that can be housed in an institution on a continuing basis without the development of unacceptable security risks. Emergency capacity represents the number of inmates that could be housed on a short term basis (up to 90 days) at each institution.

Since the 1983 legislature used critical operating capacity in determining the number of beds available within the department of prisons for the 1983-85 biennium, the committee used this figure when calculating future bedspace needs. Including the 372 new honor camp beds authorized by the 1983 legislature and 55 beds at the Southern Restitution Center, all of which are expected to be operational by the fall of 1984, the department of prisons has indicated that 3,674 beds are currently available, of which 694 are maximum security, 2,206 are medium security and 774 are minimum security.

In addition, the committee requested the department of prisons to estimate the number of additional honor camp beds which could be built during the 1985-87 biennium. The department of prisons has indicated that 744 new minimum security beds could be built by June 1988. This includes 20 additional restitution center beds and 724 new honor camp beds to be located throughout the state. Specifically, the department of prisons has indicated three new 150-man honor camps could be built in Humboldt County, Washoe County and in central Nevada; one new 200-bed forestry training center in Jean, Nevada; and a 74-bed expansion to existing honor camps. The department of prisons has also indicated that, if the division of forestry is unable to accommodate this level of expansion, that the department would assume responsibility for the operation of the inmate work centers.

As part of the Prison Master Plan interim study, an inventory of existing prison space was made through a contract awarded to the firm Dolven Larson Daniels. In addition, cost estimates were made for expansion of existing prison facilities and the construction of new facilities in each security level.

The committee requested the public works board to update these construction estimates for fiscal year 1985 (predicated on construction beginning in 1986) which are outlined in Table 66. These figures indicate that to construct a new 706 bed (critical operating capacity) maximum security facility, the cost in 1985 capital improvement project dollars is estimated at \$58,605 per

Table 65

## NEVADA DEPARTMENT OF PRISONS CAPACITY LEVELS

| <u>Institution</u>                          | <u>Design</u> | <u>Critical</u> | <u>Emergency</u> | <u>Critical Capacity Classification Level</u> |            |            |
|---------------------------------------------|---------------|-----------------|------------------|-----------------------------------------------|------------|------------|
|                                             |               |                 |                  | <u>Max</u>                                    | <u>Med</u> | <u>Min</u> |
| <u>Nevada State Prison:</u>                 |               |                 |                  |                                               |            |            |
| Unit 1                                      | 48            | 91              | 96               | 91                                            | ---        |            |
| Unit 2                                      | 48            | 72              | 96               | ---                                           | 72         |            |
| Unit 3                                      | 48            | 72              | 96               | ---                                           | 72         |            |
| Unit 4                                      | 48            | 72              | 96               | ---                                           | 72         |            |
| Unit 5                                      | 48            | 48              | 48               | 48                                            | ---        |            |
| Unit 6                                      | 48            | 48              | 48               | 48                                            | ---        |            |
| Unit 7                                      | 40            | 40              | 40               | 40                                            | ---        |            |
| Cellhouse A & B                             | 77            | 103             | 107              | ---                                           | 103        |            |
| Cellhouse C                                 | 24            | 24              | 41               | 24                                            | ---        |            |
| Shortline                                   | ---           | 11              | 15               | ---                                           | 11         |            |
| Boilerhouse                                 | ---           | 1               | 1                | ---                                           | 1          |            |
| CMU                                         | 8             | 8               | 8                | 8                                             | ---        |            |
| Totals                                      | 437           | 590             | 692              | 259                                           | 331        | 0          |
| <u>Nevada Women's Correctional Center</u>   |               |                 |                  |                                               |            |            |
| Comstock Hall (Unit 1)                      | 40            | 66              | 83               | 2                                             | 64         |            |
| Sierra Hall (Unit 2)                        | 54            | 77              | 92               | 23                                            | 54         |            |
| Cottage 1                                   | 5             | 5               | 5                | ---                                           | ---        | 5          |
| Cottage 2                                   | 5             | 5               | 5                | ---                                           | ---        | 5          |
| Cottage 3                                   | 5             | 5               | 5                | ---                                           | ---        | 5          |
| Cottage 4                                   | 5             | 5               | 5                | ---                                           | ---        | 5          |
| Cottage 5                                   | 3             | 3               | 3                | ---                                           | ---        | 3          |
| Cottage 6                                   | ---           | ---             | 5                | ---                                           | ---        | ---        |
| Totals                                      | 117           | 166             | 203              | 25                                            | 118        | 23         |
| <u>Northern Nevada Correctional Center:</u> |               |                 |                  |                                               |            |            |
| Unit 1                                      | 144           | 171             | 189              | ---                                           | 171        |            |
| Unit 2                                      | 144           | 171             | 189              | ---                                           | 171        |            |
| Unit 3                                      | 144           | 171             | 189              | ---                                           | 171        |            |
| Unit 4                                      | 82            | 102             | 123              | 102                                           | ---        |            |
| Unit 5                                      | 82            | 102             | 123              | 102                                           | ---        |            |
| Psychiatric Unit                            | 30            | 54              | 54               | 54                                            | ---        |            |
| Dental Clinic                               | ---           | 1               | 1                | ---                                           | 1          |            |
| Over 40 Dorm                                | ---           | 15              | 15               | ---                                           | 15         |            |
| Gymnasium                                   | ---           | 2               | 10               | ---                                           | 2          |            |
| Boiler Room                                 | ---           | 1               | 1                | ---                                           | 1          |            |
| Hospital                                    | ---           | 5               | 10               | ---                                           | 5          |            |
| Totals                                      | 626           | 795             | 904              | 258                                           | 537        | 0          |

Table 65  
NEVADA DEPARTMENT OF PRISONS CAPACITY LEVELS  
(Continued)

| <u>Institution</u>                              | <u>Design</u>    | <u>Critical</u>  | <u>Emergency</u> | <u>Critical Capacity Classification Level</u> |                |                  |
|-------------------------------------------------|------------------|------------------|------------------|-----------------------------------------------|----------------|------------------|
|                                                 |                  |                  |                  | <u>Max</u>                                    | <u>Med</u>     | <u>Min</u>       |
| <u>Nevada State Prison:</u>                     |                  |                  |                  |                                               |                |                  |
| <u>Southern Nevada Correctional Center:</u>     |                  |                  |                  |                                               |                |                  |
| Unit 1                                          | 50               | 66               | 76               | ---                                           | 66             |                  |
| Unit 2                                          | 50               | 66               | 76               | ---                                           | 66             |                  |
| Unit 3                                          | 50               | 66               | 76               | ---                                           | 66             |                  |
| Unit 4                                          | 50               | 66               | 76               | ---                                           | 66             |                  |
| Unit 5                                          | 50               | 66               | 76               | ---                                           | 66             |                  |
| Unit 6                                          | 50               | 66               | 76               | ---                                           | 66             |                  |
| Unit 7                                          | 40               | 50               | 50               | 50                                            | ---            |                  |
| Totals                                          | 340              | 446              | 506              | 50                                            | 396            | 0                |
| <u>Southern Desert Correctional Center:</u>     |                  |                  |                  |                                               |                |                  |
| Unit 1                                          | 92               | 136              | 153              | 68                                            | 68             |                  |
| Unit 2                                          | 102              | 136              | 153              |                                               | 136            |                  |
| Unit 3                                          | 102              | 136              | 153              |                                               | 136            |                  |
| Unit 4                                          | 102              | 136              | 153              |                                               | 136            |                  |
| Unit 5                                          | 102              | 136              | 153              |                                               | 136            |                  |
| Unit 6                                          | 102              | 136              | 153              |                                               | 136            |                  |
| Unit 7                                          | 102              | 110              | 110              | 34                                            | 76             |                  |
| Totals                                          | 704              | 926              | 1,028            | 102                                           | 824            |                  |
| <u>Honor Camps:</u>                             |                  |                  |                  |                                               |                |                  |
| Northern Nevada Honor Camp                      | 168 <sub>b</sub> | 168 <sub>b</sub> | 168 <sub>b</sub> |                                               |                | 168 <sub>b</sub> |
| Lincoln County Honor Camp <sup>a</sup>          | 72 <sub>b</sub>  | 72 <sub>b</sub>  | 72 <sub>b</sub>  |                                               |                | 72 <sub>b</sub>  |
| Southern Desert Honor Camp                      | 108              | 108              | 108              |                                               |                | 108              |
| White Pine County Honor Camp <sup>a</sup>       | 144              | 144              | 144              |                                               |                | 144              |
| Elko County Honor Camp <sup>a</sup>             | 144              | 144              | 144              |                                               |                | 144              |
| Totals                                          | 636              | 636              | 636              | 0                                             | 0              | 636              |
| <u>Restitution Centers:</u>                     |                  |                  |                  |                                               |                |                  |
| Southern Nevada Restitution Center <sup>b</sup> | 55               | 55               | 55               |                                               |                | 55               |
| Northern Nevada Restitution Center              | 60               | 60               | 60               |                                               |                | 60               |
| Totals                                          |                  |                  |                  |                                               |                |                  |
| Department Totals                               | 2,975            | 3,674            | 4,084            | 694<br>18.9%                                  | 2,206<br>60.0% | 774<br>21.1%     |

<sup>a</sup> Per presentation to 6/29/84 IFC

<sup>b</sup> Tentative

Revised June 29, 1984.

Table 66

## Maximum Security Facility Options

|                                                                                                                                                                                                                                                                                                                                                                | Design<br>Capacity | Critical<br>Operating<br>Capacity | Cost with<br>Development<br>Costs | 1985<br>CIP<br>Costs |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------------------------|-----------------------------------|----------------------|
| <u>NEVADA STATE PRISON:</u>                                                                                                                                                                                                                                                                                                                                    |                    |                                   |                                   |                      |
| Convert:                                                                                                                                                                                                                                                                                                                                                       |                    |                                   |                                   |                      |
| Cell Block A (48 cells) and<br>3rd and 4th Floors Cell Block B<br>(44 cells - 26 in use = 18):                                                                                                                                                                                                                                                                 | 66                 | 66                                | \$ 2,874,184                      | \$3,162,000          |
| <u>Alternate Proposal - Convert:</u>                                                                                                                                                                                                                                                                                                                           |                    |                                   |                                   |                      |
| 4th Floor & half of 3rd Floor<br>Cell Block A & 4th Floor<br>Cell Block B:                                                                                                                                                                                                                                                                                     | 47                 | 47                                | \$ 1,424,000                      | \$1,566,000          |
| <u>NEW FACILITY:</u>                                                                                                                                                                                                                                                                                                                                           |                    |                                   |                                   |                      |
| Totals:<br>(if completed in one phase)                                                                                                                                                                                                                                                                                                                         | 504                | 706                               | \$37,613,928                      | \$41,375,000         |
| <u>Phase 1: Construction of 2 housing<br/>units, Administration, Custody<br/>Administration, Health Services, Food<br/>Service, Laundry/Commissary,<br/>Maintenance Shops, Central Plant,<br/>Visiting, Towers, Armory, Perimeter<br/>Security, Interior Fencing, Entry<br/>Tunnel, Water Tanks System, Sewer/<br/>Lagoon System, Roads, Site Development:</u> |                    |                                   |                                   |                      |
| 144                                                                                                                                                                                                                                                                                                                                                            |                    | 202                               | \$17,213,544                      | \$18,935,000         |
| *Phased Construction Impacts** (5%):                                                                                                                                                                                                                                                                                                                           |                    |                                   | + 860,677                         | 947,000              |
|                                                                                                                                                                                                                                                                                                                                                                |                    |                                   | \$18,074,221                      | \$19,882,000         |
| <u>Phase 2: Add:</u>                                                                                                                                                                                                                                                                                                                                           |                    |                                   |                                   |                      |
| 2 additional housing units, Central<br>Warehouse, Property Storage/Mail:                                                                                                                                                                                                                                                                                       | 144                | 202                               | \$ 7,694,400                      | \$ 8,464,000         |
| + Phased Construction Impacts** (2%):                                                                                                                                                                                                                                                                                                                          |                    |                                   | + 153,888                         | 169,000              |
|                                                                                                                                                                                                                                                                                                                                                                |                    |                                   | \$ 7,848,288                      | \$ 8,633,000         |
| <u>Phase 3: Add:</u>                                                                                                                                                                                                                                                                                                                                           |                    |                                   |                                   |                      |
| 2 more housing units,<br>Vocational/Industrial Bldg.,<br>Education Building and<br>Religion:                                                                                                                                                                                                                                                                   | 144                | 202                               | \$ 9,269,184                      | \$10,196,000         |
| + Phased Construction Impacts** (2%):                                                                                                                                                                                                                                                                                                                          |                    |                                   | + 185,384                         | 204,000              |
|                                                                                                                                                                                                                                                                                                                                                                |                    |                                   | \$ 9,454,568                      | \$10,400,000         |
| <u>Phase 4: Add:</u>                                                                                                                                                                                                                                                                                                                                           |                    |                                   |                                   |                      |
| 1 housing unit:                                                                                                                                                                                                                                                                                                                                                | 72                 | 100                               | \$ 3,436,800                      | \$ 3,780,000         |
| + Phased Construction Impacts** (1%):                                                                                                                                                                                                                                                                                                                          |                    |                                   | + 34,368                          | 38,000               |
|                                                                                                                                                                                                                                                                                                                                                                |                    |                                   | \$ 3,471,168                      | \$ 3,818,000         |
| Totals if Phased:                                                                                                                                                                                                                                                                                                                                              | 504                | 706                               | \$38,848,245                      | \$42,733,000         |

\*\*Phased Construction Impacts: Allowance for costs of temporary fencing,  
roads, sidewalks, security construction aids,  
utility connections, etc.

Table 66  
Continued

Medium Security Facility Options

|                                                                                                                                                                                                                                                                                                                                           | Design<br>Capacity | Critical<br>Operating<br>Capacity | Cost with<br>Development<br>Costs | 1<br>C  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------------------------|-----------------------------------|---------|
| <u>SOUTHERN DESERT CORRECTIONAL CENTER:</u>                                                                                                                                                                                                                                                                                               |                    |                                   |                                   |         |
| Expand - Step 1:                                                                                                                                                                                                                                                                                                                          | 306                | 408                               | \$25,821,142                      | \$28,40 |
| Expand - Step 2:                                                                                                                                                                                                                                                                                                                          | 204                | 272                               | \$ 7,638,004                      | 8,40    |
| Expand - Step 3:                                                                                                                                                                                                                                                                                                                          | 306                | 408                               | \$24,656,092                      | 27,12   |
| <u>SOUTHERN NEVADA CORRECTIONAL CENTER:</u>                                                                                                                                                                                                                                                                                               |                    |                                   |                                   |         |
| Convert 6 housing units:                                                                                                                                                                                                                                                                                                                  | 36                 | 50                                | \$ 320,544                        | \$ 35   |
| Add 3 new housing units                                                                                                                                                                                                                                                                                                                   | 168                | 235                               | \$ 7,253,198                      | \$ 7,97 |
| <u>NORTHERN NEVADA CORRECTIONAL CENTER:</u>                                                                                                                                                                                                                                                                                               |                    |                                   |                                   |         |
| Add to Housing Unit #6:                                                                                                                                                                                                                                                                                                                   | 11                 | 11                                | \$ 335,885                        | \$ 36   |
| <u>NEW FACILITY</u>                                                                                                                                                                                                                                                                                                                       |                    |                                   |                                   |         |
| Totals:                                                                                                                                                                                                                                                                                                                                   | 500                | 700                               | \$31,408,128                      | \$34,5  |
| <u>Phase 1: Construction of: 1 housing unit, Administration, Custody Administration, Health Services, Kitchen Dining, Laundry/Commissary, Maintenance, Central Plant, Visiting, Towers, Armory, Perimeter Security, Interior Fencing, Entry Tunnel, Wells/Tanks Primary System, Sewer/Water Distrib./Lagoon, Roads, Site Development:</u> |                    |                                   |                                   |         |
|                                                                                                                                                                                                                                                                                                                                           | 100                | 140                               | \$13,100,448                      | \$14,4  |
| + Phased Construction Impacts* (5%):                                                                                                                                                                                                                                                                                                      |                    |                                   | + 655,022                         | 7       |
|                                                                                                                                                                                                                                                                                                                                           |                    |                                   | \$13,755,470                      | \$15,1  |
| <u>Phase 2: Add:</u>                                                                                                                                                                                                                                                                                                                      |                    |                                   |                                   |         |
| 1 housing unit, Central Warehouse, Property Storage/Mail, Physical Education, Barber Shop/Canteen:                                                                                                                                                                                                                                        | 100                | 140                               | \$ 5,945,568                      | \$ 6,5  |
| + Phased Construction Impacts* (2%):                                                                                                                                                                                                                                                                                                      |                    |                                   | + 118,911                         | 1       |
|                                                                                                                                                                                                                                                                                                                                           |                    |                                   | \$ 6,064,479                      | \$ 6,6  |
| <u>Phase 3: Add:</u>                                                                                                                                                                                                                                                                                                                      |                    |                                   |                                   |         |
| 1 housing unit, Vocational Education Facility, Education Building, Religion, Industrial Facility:                                                                                                                                                                                                                                         | 100                | 140                               | \$ 6,174,528                      | \$ 6,7  |
| + Phased Construction Impacts* (2%):                                                                                                                                                                                                                                                                                                      |                    |                                   | + 123,491                         | 1       |
|                                                                                                                                                                                                                                                                                                                                           |                    |                                   | \$ 6,298,019                      | \$ 6,9  |
| <u>Phase 4: Add:</u>                                                                                                                                                                                                                                                                                                                      |                    |                                   |                                   |         |
| 1 housing unit:                                                                                                                                                                                                                                                                                                                           | 100                | 140                               | \$ 3,093,792                      | \$ 3,4  |
| + Phased Construction Impacts* (1%):                                                                                                                                                                                                                                                                                                      |                    |                                   | + 30,938                          |         |
|                                                                                                                                                                                                                                                                                                                                           |                    |                                   | \$ 3,124,730                      | \$ 3,4  |
| <u>Phase 5: Add:</u>                                                                                                                                                                                                                                                                                                                      |                    |                                   |                                   |         |
| 1 housing unit:                                                                                                                                                                                                                                                                                                                           | 100                | 140                               | \$ 3,093,792                      | \$ 3,4  |
| + Phased Construction Impacts* (1%):                                                                                                                                                                                                                                                                                                      |                    |                                   | + 30,398                          |         |
|                                                                                                                                                                                                                                                                                                                                           |                    |                                   | \$ 3,124,730                      | \$ 3,4  |
| Totals if Phased:                                                                                                                                                                                                                                                                                                                         | 500                | 700                               | \$32,367,428                      | \$35,6  |

\*Phased Construction Impacts: Allowance for costs of temporary fencing, roads, sidewalks, security construction aids, utility

Table 66  
Continued

Minimum Security Facility Options

|              | Design<br>Capacity | Critical<br>Operating<br>Capacity | Cost with<br>Development<br>Costs | 1985<br>CIP<br>Costs |
|--------------|--------------------|-----------------------------------|-----------------------------------|----------------------|
| 48-Bed Unit  | 48                 |                                   | \$506,265                         | \$557,00             |
| 64-Bed Unit  | 64                 |                                   | \$536,855                         | \$591,00             |
| 72-Bed Unit  | 72                 |                                   | \$556,405                         | \$612,00             |
| 96-Bed Unit  | 96                 |                                   | \$655,765                         | \$721,00             |
| 128-Bed Unit | 128                |                                   | \$716,945                         | \$789,00             |
| 144-Bed Unit | 144                |                                   | \$756,045                         | \$832,00             |

\*This assumes that eventually each honor camp will grow to a size of approximately 75 beds. Any lesser sized unit will have operating costs approximating the 75-bed camp.

bed, while a new 700 bed (critical operating capacity) medium security facility is estimated at \$49,355 per bed. A new 128 bed honor camp facility (critical operating capacity) is estimated at \$6,164 per bed, however, if one-time expenses for acquisition of equipment required by the Division of Forestry is included, the estimated cost increases to \$9,525. In addition, Table 66 indicates the cost to expand existing prison facilities which in some cases reflect substantially higher or lower costs than construction of a new prison facility. The public works board estimates a 6 percent inflation factor per year from fiscal year 1984 to fiscal year 1986. Therefore, an annual 6 percent inflation factor has been used to project the cost of constructing prison facilities in future bienniums.

These costs reflect the construction cost per bed by security level if the state financed prison construction from available surplus funds. However, if the state does not have a sufficient cash surplus to finance the construction of additional prison beds when needed, it would have to fund the project through the sale of bonds which would substantially increase the cost of the project. Assuming a \$50 million bond at 10 percent interest over 20 years, the cost of the project would increase by 105 percent. Therefore, if bonding is required, the cost of constructing prison beds can be expected to at least double dependent on the interest rate and the life of the bonds.

In estimating the fiscal impact on modifying Nevada's indeterminate sentencing system on the cost of operating prison facilities, legislatively approved per inmate operating costs by custody level for fiscal year 1984-85 were utilized. An annual inflation rate of 6 percent was applied to the fiscal 1985 legislatively approved operating costs to project future biennium costs. The figures for fiscal 1985 legislatively approved operating costs are outlined in Table 67.

#### Current Projection

The impact of the prison population if Nevada's sentencing system is not modified is outlined in Table 63. The committee was interested in reviewing the bedspace needs during the 1985-87 biennium as well as the long-range impact on the prison system. Table 68 outlines the current bedspace available by security level as reported by the department of prisons and the estimated bedspace needs for each biennium through June 1993. It is estimated an additional 551 beds will be needed by June 1987 if the current sentencing system is not modified. The cost of constructing and outfitting 552 honor camp beds is estimated at \$5.3 million. The number of additional honor camp beds is well within the estimate made by the department of prisons indicating

Table 67

PER INMATE OPERATING COST  
LEGISLATIVELY APPROVED  
FY 1984-85

|                               | <u>FY 85<br/>Total Cost</u> | <u>FY 85 Per<br/>Inmate</u> | <u>FY 85<br/>G.F. Cost</u> | <u>FY 85<br/>Inmate</u> |
|-------------------------------|-----------------------------|-----------------------------|----------------------------|-------------------------|
| Maximum Security:             |                             |                             |                            |                         |
| Nevada State Prison           | \$ 7,619,296                | \$13,753                    | \$ 7,374,536               | \$13,311                |
| Medium Security:              |                             |                             |                            |                         |
| Southern Nevada Corr. Center  | 5,121,317                   | 11,509                      | 5,068,773                  | 11,391                  |
| Northern Women's Corr. Center | 1,770,210                   | 11,881                      | 1,734,690                  | 11,642                  |
| Northern Nevada Corr. Center  | 7,536,126                   | 10,253                      | 7,351,378                  | 10,002                  |
| Southern Desert Corr. Center  | 6,805,205                   | 8,199                       | 6,653,580                  | 8,016                   |
| Total (Average)               | <u>\$21,232,858</u>         | <u>\$ 9,835</u>             | <u>\$20,808,421</u>        | <u>\$ 9,638</u>         |
| Minimum Security:             |                             |                             |                            |                         |
| Department of Prisons         |                             |                             |                            |                         |
| Northern Nevada Honor Camp    | 415,399                     | 3,846                       | 397,361                    | 3,679                   |
| Lincoln County Honor Camp     | 557,268                     | 4,644                       | 537,099                    | 4,476                   |
| Southern Desert Honor Camp    | 411,201                     | 3,807                       | 393,163                    | 3,640                   |
| Ruby Mountain Honor Camp      | 530,845                     | 4,461                       | 511,015                    | 4,294                   |
| Western Nevada Honor Camp     | 355,066                     | 5,548                       | 344,333                    | 5,380                   |
| Central Nevada Honor Camp     | 105,223                     | 8,769                       | 103,091                    | 8,591                   |
| Total (Average)               | <u>\$2,325,002</u>          | <u>\$ 4,473</u>             | <u>\$ 2,286,062</u>        | <u>\$ 4,305</u>         |
| Division of Forestry          |                             |                             |                            |                         |
| Northern Nevada Honor Camp    | 343,092                     | 3,177                       | 317,514                    | 2,940                   |
| Lincoln County Honor Camp     | 345,727                     | 2,881                       | 317,251                    | 2,644                   |
| Southern Desert Honor Camp    | 325,210                     | 3,011                       | 299,632                    | 2,774                   |
| Ruby Mountain Honor Camp      | 200,720                     | 2,443                       | 262,496                    | 2,206                   |
| Western Nevada Honor Camp     | 220,976                     | 3,453                       | 205,730                    | 3,215                   |
| Central Nevada Honor Camp     | 102,019                     | 8,502                       | 99,121                     | 8,260                   |
| Total (Average)               | <u>\$1,657,744</u>          | <u>\$ 3,065</u>             | <u>\$ 1,501,744</u>        | <u>\$ 2,828</u>         |

PER INMATE OPERATING COST  
LEGISLATIVELY APPROVED  
FY 1984-85

Table 67  
Continued

|                                    | <u>FY 85<br/>Total Cost</u> | <u>FY 85 Per<br/>Inmate</u> | <u>FY 85<br/>G.F. Cost</u> | <u>FY 85<br/>Inmate</u> |
|------------------------------------|-----------------------------|-----------------------------|----------------------------|-------------------------|
| Northern Nevada Restitution Center | 431,255                     | 7,188                       | 243,052                    | 4,051                   |
| Southern Nevada Restitution Center | 454,949                     | 7,726                       | 252,545                    | 4,592                   |
| Total (Average)                    | \$ 856,204                  | \$ 7,445                    | \$ 495,597                 | \$ 4,310                |

6SB375/Cost

that 724 additional honor camp beds could be added by June 1988. The annual operating cost, assuming the entire 552 beds were funded for the entire fiscal year, is estimated at approximately \$4.4 million.

NCCD has projected that Nevada's prison population will be 6,650 inmates by June 1993 if the current indeterminate sentencing system is not modified. This would require construction of 2,976 new beds by June 1993. However, since prison facilities are normally built as complete institutions or on a phased basis by building individual housing units, the projected number of prison beds will not reflect the actual number needed.

The fiscal impact on the department of prisons if Nevada's sentencing system is not modified assumes 2,992 new prison beds would need to be constructed by June 1993. A total of 1,702 new minimum security beds (1,632 honor camp beds and 70 new restitution center beds) would be constructed and outfitted at an estimated cost of \$17.9 million. An additional 1,224 medium security beds would be built at an estimated cost of \$79.5 million and 66 new maximum security beds are estimated to cost \$4.4 million. Total construction and one time expenses are estimated at \$101.8 million. Additional operating costs for the additional 2,992 beds built by June 1993 are estimated at \$38.7 million in fiscal year 1992-93 assuming all new beds were funded for the entire fiscal year.

TABLE 68  
NO CHANGE IN CURRENT SENTENCING OR PAROLE SYSTEM  
PRISON BEDS NEEDED BY 6/30/93

|                                        | <u>Minimum<br/>Security</u> | <u>Medium<br/>Security</u> | <u>Maximum<br/>Security</u> | <u>Total</u> |
|----------------------------------------|-----------------------------|----------------------------|-----------------------------|--------------|
| Current Bedspace*                      | 774                         | 2,206                      | 694                         | 3,674        |
| Bedspace Needed:                       |                             |                            |                             |              |
| 6/30/87                                | 852                         | (51)                       | (250)                       | 551          |
| 6/30/89                                | 317                         | 421                        | 87                          | 825          |
| 6/30/91                                | 337                         | 446                        | 92                          | 875          |
| 6/30/92                                | <u>280</u>                  | <u>370</u>                 | <u>75</u>                   | <u>725</u>   |
| Estimated Bedspace<br>Needed 6/30/93** | <u>2,560</u>                | <u>3,392</u>               | <u>698</u>                  | <u>6,650</u> |
| Additional Beds Needed:                | 1,786                       | 1,186                      | 4                           | 2,976        |

\* Per Department of Prisons - May 3 1984.

\*\* Assumes no change in Nevada's current sentencing or parole system.

Bedspace is based on critical operating capacity.

Classification levels based on Prison Master Plan--Maximum 10.5%, Medium 51.0%, Minimum 38.5%.

In addition, there will be an impact on the department of parole and probation. NCCD has estimated, based on no change in the current sentencing or parole system, that the in-state parole caseload will increase by 250 between fiscal year 1985 and fiscal year 1993 while the probation caseload is projected to increase by approximately 900 during this same period. Assuming a 6 percent annual inflation rate, the cost of supervision by the department of parole and probation would increase to \$1,127 per supervision case by fiscal year 1993. Therefore, it is estimated that the department of parole and probation will incur additional supervision costs of approximately \$1.3 million in fiscal year 1993 to accommodate this increased caseload.

The fiscal impact on the parole board if, the current sentencing and parole system is not modified, has a much less significant effect compared to the impact on the department of prisons or the department of parole and probation. Since the largest fiscal impact on the State of Nevada centered on the department of prisons and the department of parole and probation, efforts were concentrated on these departments through use of computer simulation models to determine the impact on the prison, probation and parole population. However, some general statements can be made concerning the impact on the parole board if the current sentencing system is retained. The workload of the parole board has been increasing during the last few years and can be expected to continue to increase based on NCCD's projection that the prison population will increase to 6,650 inmates in June 1993. This factor, coupled with the current parole approval rate, will likely result in the addition of parole board members and support staff during future bienniums.

#### Abolition of Parole

Criticism that in some cases the parole board released violent offenders who have later committed serious crimes has resulted in some to call for the elimination of parole. If an inmate is not paroled, he must serve approximately 61 percent of his original sentence before release due to the earning of good time credits. Inmates are eligible for parole at approximately 21 percent of their sentence. While the parole board is currently very restrictive concerning parole release, this proposal would result in no parole for inmates which would result in the inmates serving approximately 61 percent of their sentence before being released from prison. Major assumptions used in this projection include parole being abolished on July 1, 1985 and that the new law would not affect those sentenced prior to that date. Table 69 indicates that there would be no short-term impact on the prison population when compared to the current sentencing system mainly due to the restrictive parole policies currently in effect. However, starting in fiscal year 1987-88 the impact of such a change is very dramatic. NCCD has estimated that if

Table 69

PRISON POPULATION PROJECTION  
Abolition of Parole

| <u>Fiscal<br/>Year</u> | <u>Current</u> |                  | <u>New Beds</u> |                  | <u>Parole Abolished</u> |                  |
|------------------------|----------------|------------------|-----------------|------------------|-------------------------|------------------|
|                        | <u>Total</u>   | <u>In House*</u> | <u>Total</u>    | <u>In House*</u> | <u>Total</u>            | <u>In House*</u> |
| 1983-84                | 3,450          | 3,275            | -0-             | -0-              | 3,450                   | 3,275            |
| 1984-85                | 3,725          | 3,550            | -0-             | -0-              | 3,725                   | 3,550            |
| 1985-86                | 4,075          | 3,875            | -0-             | -0-              | 4,075                   | 3,875            |
| 1986-87                | 4,450          | 4,225            | -0-             | -0-              | 4,450                   | 4,225            |
| 1987-88                | 4,875          | 4,625            | 225             | 225              | 5,100                   | 4,850            |
| 1988-89                | 5,325          | 5,050            | 600             | 575              | 5,925                   | 5,625            |
| 1989-90                | 5,725          | 5,450            | 975             | 925              | 6,700                   | 6,375            |
| 1990-91                | 6,225          | 5,925            | 1,400           | 1,325            | 7,625                   | 7,250            |
| 1991-92                | 6,600          | 6,275            | 1,750           | 1,650            | 8,350                   | 7,925            |
| 1992-93                | 7,000          | 6,650            | 2,025           | 1,925            | 9,025                   | 8,575            |

- Assumptions:
1. Parole abolished for persons arrested after July 1, 1985.
  2. Parole still in effect for existing prison population/not retroactive.
  3. Lag time of six months between July 1, 1985 and first admission to prison affected by new law.
  4. 4% annual admission growth rate.
  5. Parole probability of .26, .41, .42, .50.

\* Projection represents in-house prison population at June 30 of each fiscal year excluding 5% out-counts. U.S. Marshal and Illinois contract inmates not included.

parole were abolished, Nevada could expect 8,575 inmates by June 1993. This would result in approximately an 150 percent increase in the prison population from current levels.

Table 70 reflects current bedspace available to the department of prisons and the additional bedspace needed by security level in each biennium through June 1993. NCCD's prison population estimate would require construction of 4,901 additional beds by June 1993. However, since prison facilities are normally built as complete institutions or on a phased basis by building individual housing units, the projected number of prison beds will not reflect the number actually needed.

TABLE 70  
ABOLITION OF PAROLE FOR CRIMES COMMITTED  
ON OR AFTER JULY 1, 1985  
PRISON BEDS NEEDED BY 6/30/93

|                                        | <u>Minimum<br/>Security</u> | <u>Medium<br/>Security</u> | <u>Maximum<br/>Security</u> | <u>Total</u> |
|----------------------------------------|-----------------------------|----------------------------|-----------------------------|--------------|
| Current Bedspace*                      | 774                         | 2,206                      | 694                         | 3,674        |
| Bedspace Needed:                       |                             |                            |                             |              |
| 6/30/87                                | 852                         | (51)                       | (250)                       | 551          |
| 6/30/89                                | 539                         | 714                        | 147                         | 1,400        |
| 6/30/91                                | 625                         | 829                        | 171                         | 1,625        |
| 6/30/93                                | <u>510</u>                  | <u>676</u>                 | <u>139</u>                  | <u>1,325</u> |
| Estimated Bedspace<br>Needed 6/30/93** | <u>3,300</u>                | <u>4,374</u>               | <u>901</u>                  | <u>8,575</u> |
| Additional Beds Needed:                | 2,526                       | 2,168                      | 207                         | 4,901        |

\* Per Department of Prisons - May 3, 1984.

\*\* Assumes abolition of parole for crimes committed on or after July 1, 1985.

Bedspace is based on critical operating capacity.

Classification levels based on Prison Master Plan--Maximum 10.5%, Medium 51.0%, Minimum 38.5%.

The financial impact of abolishing parole will not be felt immediately but will be felt a few years after implementation. Therefore, the additional cost of constructing new prison facilities as well as additional operating costs were calculated through fiscal year 1992-93. This cost estimate assumes 2,444 new minimum security beds (2,374 honor camp and 70 restitution center beds) would be constructed and outfitted by June 1993 at an estimated cost of \$26.8 million. An additional 2,163 medium security beds would be constructed at an estimated cost of \$144.5 million and 306 new maximum security beds are estimated to cost \$23.5 million. Total construction and one-time expenses are estimated at \$194.8 million. Additional operating costs for the

additional 4,913 beds built by June 1993 is estimated at \$66.3 million in fiscal year 1992-93 assuming all new beds are funded for the entire fiscal year.

The above estimates assume that all required minimum security bedspace could be built in an honor camp or restitution center setting. However, if this proved not to be possible, the fiscal impact of abolishing parole would increase dramatically. Assuming that only one-half of the required minimum security beds could be built in honor camps or restitution centers and the other half would be accommodated by construction of medium security prison facilities, construction costs would escalate to \$261 million. As the above example points out, construction of minimum security bedspace in an honor camp or other non-traditional setting is much less expensive. This, coupled with the need for additional minimum security bedspace, had a major impact on the committee's recommendation to accommodate new prison construction to the maximum extent possible by expansion of the honor camp program.

After the fiscal impact of abolishing parole on the department of prisons was reviewed by the committee, it was felt that abolition of parole was not financially practical unless combined with other modifications to the current sentencing and parole system. Therefore, the fiscal impact of this alternative on the parole board and the department of parole and probation was not assessed.

#### Alternative Sentencing Models

A number of states have restructured their sentencing system through the implementation of sentencing guidelines. The committee reviewed the sentencing guidelines developed by the states of Minnesota and Washington and was particularly interested in the Minnesota model which was designed to control prison population and reduce sentencing disparity. Sentencing guidelines determine punishment on a grid based on two factors: (1) the severity of the offense and (2) the offender's prior criminal history. The committee requested that an analysis be made of the impact on Nevada if the Minnesota system was adopted. The main goal was to estimate how the Minnesota model would alter Nevada's prison disposition rate of 42 percent. The results of this projection indicated that if Nevada fully adopted Minnesota's system, the prison disposition rate would drop to 27 percent. The committee also requested that the model be adjusted by slightly increasing the guidelines for property offenders with less severe criminal histories. This projection indicated that the prison disposition rate would be reduced to 35 percent. This reduction in the prison disposition rate would result in an increased use of probation or alternative sentence.

The major assumptions made in the sentencing guidelines projections include that the sentencing law would not take effect until July 1, 1987 and there would be a time lag of six months between the effective date and the first change in prison intake. In addition, the law would not be retroactive to the existing prison population and would not change the current parole release probabilities. Because it is not possible to estimate at this time how sentence length would be affected by the recommendations of the sentencing guidelines commission, these projections assume that the current length of stay in prison will remain as it is now.

TABLE 71  
PRISON POPULATION PROJECTION  
Sentencing Guideline Models

| Fiscal<br>Year | Current |                       | Minnesota Model* |                       | Modified<br>Minnesota Model** |                       |
|----------------|---------|-----------------------|------------------|-----------------------|-------------------------------|-----------------------|
|                | Total   | In House <sup>1</sup> | Total            | In House <sup>1</sup> | Total                         | In House <sup>1</sup> |
| 1983-84        | 3,450   | 3,275                 | 3,450            | 3,275                 | 3,450                         | 3,275                 |
| 1984-85        | 3,725   | 3,550                 | 3,725            | 3,550                 | 3,725                         | 3,550                 |
| 1985-86        | 4,075   | 3,875                 | 4,075            | 3,875                 | 4,075                         | 3,875                 |
| 1986-87        | 4,450   | 4,225                 | 4,450            | 4,225                 | 4,450                         | 4,225                 |
| 1987-88        | 4,875   | 4,625                 | 4,575            | 4,350                 | 4,825                         | 4,575                 |
| 1988-89        | 5,325   | 5,050                 | 4,600            | 4,375                 | 5,025                         | 4,775                 |
| 1989-90        | 5,725   | 5,450                 | 4,700            | 4,475                 | 5,275                         | 5,000                 |
| 1990-91        | 6,225   | 5,925                 | 4,775            | 4,525                 | 5,500                         | 5,225                 |
| 1991-92        | 6,600   | 6,275                 | 4,950            | 4,700                 | 5,800                         | 5,500                 |
| 1992-93        | 7,000   | 6,650                 | 5,050            | 4,800                 | 6,100                         | 5,800                 |

- Assumptions:
1. 4% Annual Admission Growth Rate.
  2. Guidelines start July 1, 1987.
  3. Six months lag between effective date and first change in prison intake.
  4. Not retroactive to existing prison population.
  5. Parole probabilities of .26, .41, .42, .42, .50 for both current and new intake population.

<sup>1</sup> Projection represents in-house prison population at June 30 of each fiscal year excluding 5% out-counts. U.S. Marshal and Illinois contract inmates not included.

\* Assumes a .27 Prison Disposition Rate.

\*\* Assumes a .35 Prison Disposition Rate.

Table 71 outlines the prison population projection for the Minnesota model and the modified Minnesota model. These figures indicate that there would be no immediate effect on the prison population when compared to the current sentencing system, mainly due to sentencing guidelines not being effective until July 1, 1987. However, over time the impact of such a change would result in a substantial decrease in the prison population when compared to the current sentencing system. NCCD has projected that the Minnesota model would result in 4,800 inmates by June 1993 and the modified Minnesota model would result in 5,800 inmates by June 1993 compared to 6,650 inmates if the current sentencing system were retained. An estimate was made of the financial impact if the modified Minnesota system is adopted by Nevada. Table 72 reflects the current bedspace available to the department of prisons and the additional bedspace needed by security level in fiscal year 1993. It should be noted that the estimated bedspace needs reflect NCCD's projected change in the classification of Nevada inmates at different security levels due to this scenario resulting in less minimum security inmates being sentenced to prison. NCCD estimates that this scenario would result in the prison population consisting of 27.9 percent minimum security, 59.7 percent medium security and 12.4 percent maximum security.

TABLE 72  
SENTENCING GUIDELINES  
PRISON BEDS NEEDED BY 6/30/93

|                                        | <u>Minimum<br/>Security</u> | <u>Medium<br/>Security</u> | <u>Maximum<br/>Security</u> | <u>Total</u> |
|----------------------------------------|-----------------------------|----------------------------|-----------------------------|--------------|
| Current Bedspace*                      | 774                         | 2,206                      | 694                         | 3,674        |
| Bedspace Needed:                       |                             |                            |                             |              |
| 6/30/87                                |                             |                            |                             | 551          |
| 6/30/89                                |                             |                            |                             | 550          |
| 6/30/91                                |                             |                            |                             | 450          |
| 6/30/93                                |                             |                            |                             | <u>575</u>   |
| Estimated Bedspace<br>Needed 6/30/93** | 1,618                       | 3,463                      | 719                         | 5,800        |
| Additional Beds Needed:                | 844                         | 1,257                      | 25                          | 2,126        |

\* Per Department of Prisons - May 3, 1984.

\*\* Assumes implementation of a modified Minnesota sentencing guidelines system effective July 1, 1987.  
Bedspace is based on critical operating capacity.  
Classification levels based on NCCD projection--Maximum 12.4%, Medium 59.7%, Minimum 27.9%.

There would be no immediate financial impact when compared to Nevada's existing sentencing system due to sentencing guidelines not becoming effective until July 1, 1987. Therefore, the fiscal impact through the 1985-87 biennium would be the same as that outlined earlier if Nevada's indeterminate sentencing system was not modified. However, over the long-term, this sentencing guidelines scenario would not require prison construction to the extent of retaining the current Nevada system or abolishing parole. NCCD's prison population estimate would require construction of 2,126 additional beds by June 1993. However, since prison facilities are normally built as complete institutions or on a phased basis by building individual housing units, the projected number of prison beds will not reflect the actual number needed.

The fiscal impact on the department of prisons if a modified Minnesota sentencing guidelines system is adopted assumes 2,132 beds would be constructed by June 1993. A total of 838 new minimum security beds (768 honor camp beds and 70 restitution center beds) would be constructed and outfitted at an estimated cost of \$8.3 million. An additional 1,228 medium security beds would be built at an estimated cost of \$77.9 million and 66 new maximum security beds are estimated at \$4.4 million. Total construction and one-time expenses are estimated at \$90.6 million. Additional operating costs for the additional 2,132 beds built by June 1993 are estimated at \$29.1 million in fiscal year 1992-93 assuming all new beds were funded for the entire fiscal year.

It will be very important for the sentencing guidelines commission after developing its recommended sentence ranges to estimate the impact of its recommendations on the prison population and the effect on the percentage of inmates classified at each security level. A change of a few percentage points in the mix of inmates assigned to each security level can make a large difference in the cost and the type of prison facility which will be needed in the future.

In addition, there will be an impact on the department of parole and probation caseload. NCCD has estimated that, based on the modified Minnesota sentencing guidelines scenario becoming effective July 1, 1987, that the in-state parole caseload will increase by 150 between fiscal year 1985 and fiscal year 1993 while the probation caseload is projected to increase by 1,575 cases during this same period. Assuming a 6 percent annual inflation rate, the cost of supervision by the department of parole and probation would increase to \$1,127 per supervision case by fiscal year 1993. Therefore, it is estimated that the department of parole and probation will incur additional supervision costs of approximately \$1.9 million by fiscal year 1993 to accommodate this increased caseload.

Under a modified Minnesota sentencing guidelines system, the parole board functions would not change until July 1, 1987 when the sentencing guidelines become effective. After that date, the parole board would make release decisions only for those inmates sentenced under Nevada's indeterminate sentencing system. Therefore, during the 1985-87 biennium, the parole board's workload would be expected to increase but after July 1, 1987, begin to level off and eventually over a period of years, the parole board could be eliminated.

TABLE 73  
PRISON POPULATION PROJECTION  
Parole Guideline Models

| Fiscal<br>Year | Current |                       | Parole Guidelines<br>Alternative* |                       | Pennsylvania** <sup>1</sup> |                       |
|----------------|---------|-----------------------|-----------------------------------|-----------------------|-----------------------------|-----------------------|
|                | Total   | In House <sup>1</sup> | Total                             | In House <sup>1</sup> | Total                       | In House <sup>1</sup> |
| 1983-84        | 3,450   | 3,275                 | 3,450                             | 3,275                 | 3,450                       | 3,275                 |
| 1984-85        | 3,725   | 3,550                 | 3,725                             | 3,550                 | 3,725                       | 3,550                 |
| 1985-86        | 4,075   | 3,875                 | 3,875                             | 3,675                 | 3,875                       | 3,675                 |
| 1986-87        | 4,450   | 4,225                 | 3,825                             | 3,625                 | 3,675                       | 3,500                 |
| 1987-88        | 4,875   | 4,625                 | 4,100                             | 3,900                 | 3,900                       | 3,700                 |
| 1988-89        | 5,325   | 5,050                 | 4,475                             | 4,250                 | 4,225                       | 4,025                 |
| 1989-90        | 5,725   | 5,450                 | 4,975                             | 4,725                 | 4,700                       | 4,475                 |
| 1990-91        | 6,225   | 5,925                 | 5,475                             | 5,200                 | 5,125                       | 4,875                 |
| 1991-92        | 6,600   | 6,275                 | 5,900                             | 5,600                 | 5,500                       | 5,225                 |
| 1992-93        | 7,000   | 6,650                 | 6,300                             | 5,975                 | 5,975                       | 5,675                 |

Major Assumptions:

1. Guidelines effective January 1, 1986.
2. Guidelines retroactive to current population.
3. 4 percent Annual Admission Increase.
4. No change in sentencing or good time policies.

\* Parole Guidelines Alternative  
Parole Probabilities changed to .50, .65, .75, .77, .79 for both new intake and current population.

\*\* Pennsylvania:  
Parole Probabilities changed to .72, .72, .72, .72 for both new intake and current population.

<sup>1</sup> Projection represents in-house prison population at June 30 of each fiscal year excluding 5% out-counts. U.S. Marshal and Illinois contract inmates not included.

## Alternative Parole Policy

Committee members were concerned with public testimony that indicated that parole decisions were arbitrary and were not based on objective criteria. In addition, there has been a dramatic decrease in the parole approval rate without a detailed explanation as to what factors have resulted in this change.

The committee reviewed two alternatives in Nevada's current parole system. The first simulated the effects on Nevada's parole approval rate if the parole guidelines utilized by the State of Pennsylvania were adopted. The Pennsylvania guidelines system utilizes a point scoring matrix to provide equity in the decision-making process and is a predictive model which uses factors found to be related to actual parole performance. The board may deviate from the guidelines only if a written explanation justifying the exception is made. By simulating Nevada's inmate population on the Pennsylvania parole guidelines, the result would be a substantial increase in Nevada's parole approval rate (72 percent).

A second alternative was developed for committee review which grouped offenders into four classes, each of which would have certain parole release probabilities: class I--property offender with no prior felony convictions (high probability); class II--property offender with a prior felony conviction (moderate probability); class III--violent offender with no prior felony conviction (minimal probability); class IV--violent offender with a prior felony conviction (low probability). If this approach were utilized by the parole board, a higher parole release rate would result (50 percent release rate at first hearing; 65 percent release rate at second hearing; 75 percent at third hearing; 77 percent at fourth hearing and 79 percent at fifth hearing). The parole approval rate resulting from this alternative is more closely aligned to the approval rate experienced in 1979-81 (30 percent release rate at first hearing; 60 percent at second hearing; 90 percent at third hearing; 95 percent at fourth hearing; 99 percent at fifth hearing). Table 73 indicates that there would be an immediate impact on the prison population when compared to the current sentencing system if either of the alternative parole systems were implemented.

If Nevada adopted the Pennsylvania parole guidelines model, NCCD has estimated that the prison population would reach 5,675 inmates by June 1993. The parole guidelines alternative model would result in 5,975 inmates by June 1993. Both projections indicate a substantial reduction from the estimated prison population of 6,650 inmates if Nevada's current sentencing system is not modified. More importantly, there would be an immediate impact under either alternative. The prison population projection for the parole guidelines alternative scenario in June of

1987 is 3,625 inmates compared to 4,225 inmates under the current sentencing system. Therefore, the short-term impact of implementing the parole guidelines alternative is estimated to result in 600 fewer inmates by June 1987 when compared to Nevada's current sentencing and parole system.

Table 74 reflects current bedspace available to the department of prisons and additional bedspace needed by security level in fiscal year 1993 if the parole guidelines alternative is adopted. It should be noted that the estimated bedspace needs reflect NCCD's projected change in the classification of Nevada inmates at different security levels resulting from more minimum security inmates being released on parole. NCCD estimates that this scenario would result in the prison population consisting of 37.9 percent minimum security, 51 percent medium security and 11.1 percent maximum security. Cost estimates assume prison bedspace would be built as needed each biennium, and therefore, institutions would be constructed on a phased basis.

TABLE 74  
PAROLE GUIDELINES  
PRISON BEDS NEEDED BY 6/30/93

|                                           | <u>Minimum<br/>Security</u> | <u>Medium<br/>Security</u> | <u>Maximum<br/>Security</u> | <u>Total</u> |
|-------------------------------------------|-----------------------------|----------------------------|-----------------------------|--------------|
| Current Bedspace*                         | 774                         | 2,206                      | 694                         | 3,674        |
| Bedspace Needed:                          |                             |                            |                             |              |
| 6/30/87                                   |                             |                            |                             | (49)         |
| 6/30/89                                   |                             |                            |                             | 625          |
| 6/30/91                                   |                             |                            |                             | 950          |
| 6/30/93                                   |                             |                            |                             | <u>775</u>   |
| Estimated Bedspace<br>Needed by 6/30/93** | 2,265                       | 3,047                      | 663                         | 5,975        |
| Additional Beds Needed:                   | 1,491                       | 841                        | (31)                        | 2,301        |

\* Per Department of Prisons - May 3, 1984.

\*\* Assumes parole guidelines would be implemented on January 1, 1986 with an average parole probability of .50, .65, .75, .77, .79.

Bedspace is based on critical operating capacity.

Classification levels based on NCCD projections--Maximum 11.1%, Medium 51%, Minimum 37.9%.

If the parole guidelines alternative scenario were implemented, no new prison bedspace would be required during the 1985-87 biennium. This compares to 551 new prison beds needed by June 1987 if Nevada's indeterminate sentencing system was not modified. However, over the long-term, Nevada's prison population would continue to grow, but at a slower pace.

NCCD's prison population estimate would require construction of 2,301 additional beds by June 1993. However, since prison facilities are normally built as complete institutions or on a phased basis by building individual housing units, the projected number of prison beds will not reflect the actual number needed. The fiscal impact on the department of prisons if the parole guidelines alternative scenario was adopted assumes 2,302 beds would be constructed by June 1993. A total of 1,486 new minimum security beds (1,416 honor camp beds and 70 restitution center beds) would be constructed and outfitted at an estimated cost of \$16.7 million. An additional 816 medium security beds would be built at an estimated cost of \$57.5 million. Total construction and one-time expenses are estimated at \$74.2 million. Additional operating costs for the additional 2,302 beds built by June 1993 are estimated at \$28.7 million in fiscal year 1992-93 assuming all new beds are funded for the entire fiscal year.

It will be important for the committee developing the parole guidelines to be implemented by the parole board to estimate the impact of its recommendations on the prison population and the effect on the percentage of inmates classified at each security level. A change of a few percentage points in the mix of inmates assigned to each security level can make a large difference in the cost and the type of prison facilities which will be needed in the future.

In addition, there will be an impact on the department of parole and probation. NCCD has estimated that, based on the parole guidelines alternative scenario becoming effective January 1, 1986, that the in-state parole caseload will increase by 650 between fiscal year 1985 and fiscal year 1993 while the probation caseload will increase by approximately 900 during this same period. Assuming a 6 percent annual inflation rate, the cost of supervision by the department of parole and probation would increase to \$1,127 per supervision case by fiscal year 1993. Therefore, it is estimated that the department of parole and probation will incur additional supervision costs of approximately \$1.7 million in fiscal year 1993 to accommodate this increased caseload.

The fiscal impact of implementing parole guidelines on the parole board has a much less significant effect compared to the impact on the department of prisons or the department of parole and probation. Therefore, the parole board's workload was not

modeled by NCCD and computer simulations on the impact on the parole board's workload are not available. However, some general statements can be made concerning the impact on the parole board if parole guidelines are implemented. The parole guidelines alternative reviewed by the committee would increase the parole approval rate, however, the prison population projection by NCCD indicates that Nevada would house 5,300 inmates by June 1993. This factor will likely result in an increase in the parole board workload which would result in the addition of parole board members and support staff in future bienniums.

#### Combining Sentencing, Parole and Good Time Policies

The S.B. 375 committee was interested in analyzing the combined effects of adopting sentencing, parole and good time reforms. A variety of alternatives in each of these areas was considered by the committee and this analysis will focus on the impact of implementation of the modified Minnesota sentencing guidelines model, the parole guidelines alternative model and the recommended 5/10/15 good time credit system. It should be noted, however, that the impact of combining these models will only illustrate how the criminal justice system in Nevada could be affected. The actual impact of such a change will be largely dependent on the recommendations made by the groups who will actually develop the parole and sentencing guidelines. Therefore, it will be very important for these groups to estimate the impact of their recommendations on the criminal justice system.

Table 75 outlines the prison population projection for combining the modified Minnesota sentencing model, the parole guidelines alternative model and the 5/10/15 good time credit system. These figures indicate that the inmate population would be reduced over the short and long-term when compared to the current sentencing system.

Specifically, NCCD has projected that Nevada would house 5,300 inmates by June 1993 compared to 6,650 inmates if Nevada's current indeterminate sentencing system were not modified. More importantly, there would be an immediate impact on the prison population. Compared to the current sentencing system which is estimated to house 4,225 inmates by June 1987, this scenario would result in a prison population of 3,625 inmates in June 1987. Therefore, the short-term impact of combining sentencing, parole and good time reforms is estimated to result in 600 fewer inmates by June 1987 when compared to Nevada's current sentencing and parole system.

Table 76 reflects the current bedspace available to the department of prisons and the additional bedspace needed by security level for fiscal year 1993. It should be noted that the estimated bedspace needs reflect NCCD's projected change in the classification of Nevada inmates at different security levels due to less minimum security inmates being sentenced or retained in prison. NCCD estimates that this scenario would result in the prison population consisting of 27.2 percent minimum security, 59.7 percent medium security and 13.1 percent maximum security.

TABLE 75  
COMBINED SENTENCING, PAROLE AND GOOD TIME REVISIONS

| <u>FY</u> | <u>Current*</u> | <u>Modified Minnesota Sentencing*<br/>Parole Guidelines Alternative<br/>Recommended Good Time Revision<sup>1</sup></u> |
|-----------|-----------------|------------------------------------------------------------------------------------------------------------------------|
| 1983-84   | 3,275           | 3,275                                                                                                                  |
| 1984-85   | 3,550           | 3,550                                                                                                                  |
| 1985-86   | 3,875           | 3,675                                                                                                                  |
| 1986-87   | 4,225           | 3,625                                                                                                                  |
| 1987-88   | 4,625           | 3,750                                                                                                                  |
| 1988-89   | 5,050           | 3,925                                                                                                                  |
| 1989-90   | 5,450           | 4,300                                                                                                                  |
| 1990-91   | 5,925           | 4,575                                                                                                                  |
| 1991-92   | 6,275           | 4,925                                                                                                                  |
| 1992-93   | 6,650           | 5,300                                                                                                                  |

\* Projection represents in-house population at June 30 of each fiscal year excluding 5 percent outcounts.

<sup>1</sup> Recommend 5/10/15 system plus 30 days meritorious good time.

The same individual assumptions are maintained for projections presented for modified Minnesota sentencing guidelines and parole guidelines alternative.

NCCD's prison population estimate would require construction of 1,626 additional beds by June 1993. However, since prison facilities are normally built as complete institutions or on a phased basis by building individual housing units, the projected number of beds will not reflect the actual number needed. The fiscal impact on the department of prisons assumes 1,638 beds would need to be constructed by June 1993. A total of 550 minimum security beds (480 honor camp beds and 70 restitution center beds) would be constructed and outfitted at an estimated cost of \$5.6 million. An additional 1,088 medium security beds would be built at an estimated cost of \$75.6 million. Total construction and one-time expenses are estimated at \$81.2 million. Additional operating costs for the additional 1,638 beds built by June 1993 are estimated at \$22.4 million in fiscal year 1992-93 assuming all new beds were funded for the entire fiscal year.

It will be important to continually update the impact of these changes on the prison population and the percentage of inmates classified at each security level as the parole and sentencing guidelines bodies develop their recommendations.

TABLE 76

COMBINED SENTENCING, PAROLE AND GOOD TIME REVISIONS  
PRISON BEDS NEEDED BY 6/30/93

|                                           | <u>Minimum<br/>Security</u> | <u>Medium<br/>Security</u> | <u>Maximum<br/>Security</u> | <u>Total</u> |
|-------------------------------------------|-----------------------------|----------------------------|-----------------------------|--------------|
| Current Bedspace*                         | 774                         | 2,206                      | 694                         | 3,674        |
| Bedspace Needed:                          |                             |                            |                             |              |
| 6/30/87                                   |                             |                            |                             | (49)         |
| 6/30/89                                   |                             |                            |                             | 300          |
| 6/30/91                                   |                             |                            |                             | 650          |
| 6/30/93                                   |                             |                            |                             | <u>725</u>   |
| Estimated Bedspace<br>Needed by 6/30/93** | 1,442                       | 3,164                      | 694                         | 5,300        |
| Additional Beds Needed:                   | 668                         | 958                        | -0-                         | 1,626        |

\* Per Department of Prisons - May 3, 1984.

\*\* Assumes implementation of a modified Minnesota sentencing guidelines system effective July 1, 1987, the parole guidelines alternative scenario effective January 1, 1986 and the recommended 5/10/15 good time credit system effective July 1, 1985.

Bedspace is based on critical operating capacity.

Classification levels based on NCCD projection--maximum 13.1%, medium 59.7%, minimum 27.2%.

In addition, there will be an impact on the department of parole and probation. NCCD has estimated that, based on this scenario, the in-state parole caseload will increase by 450 between fiscal year 1985 and fiscal year 1993 while the probation caseload will increase by 1,575 during this same period. Assuming a 6 percent annual inflation rate, the cost of supervision by the department of parole and probation would increase to \$1,127 per case by fiscal year 1992-93. Therefore, it is estimated that the department of parole and probation will incur additional supervision costs of approximately \$2.3 million in fiscal year 1993 to accommodate this increased caseload.

### Summary of Financial Impacts

A summary of the financial impacts of alternatives to Nevada's current sentencing and parole system which were reviewed by the S.B. 375 committee is listed below:

| <u>Alternative</u>                                                | <u>Beds<br/>Constructed<br/>By 1993</u> | <u>Estimated<br/>Construction<br/>Cost</u> | <u>Est. Add.<br/>Operating Cost<br/>FY 93 Prison</u> | <u>Est. Add.<br/>Cost - FY 93<br/>Parole &amp; Prob.</u> |
|-------------------------------------------------------------------|-----------------------------------------|--------------------------------------------|------------------------------------------------------|----------------------------------------------------------|
| Current Projection                                                | 2,992                                   | \$101,800,000                              | \$38,700,000                                         | \$1,300,000                                              |
| Abolition of Parole                                               | 4,913                                   | \$194,800,000                              | \$66,300,000                                         | Not Estimated                                            |
| Sentencing Guidelines <sup>1</sup>                                | 2,132                                   | \$ 90,600,000                              | \$29,100,000                                         | \$1,900,000                                              |
| Parole Guidelines <sup>2</sup>                                    | 2,302                                   | \$ 74,200,000                              | \$28,700,000                                         | \$1,700,000                                              |
| Combined Sentencing,<br>Parole <sup>3</sup> & Good Time<br>Reform | 1,638                                   | \$ 81,200,000                              | \$22,400,000                                         | \$2,300,000                                              |

<sup>1</sup> Assumes implementation of a modified Minnesota sentencing guidelines system effective July 1, 1987.

<sup>2</sup> Assumes implementation of the parole guidelines alternative model effective January 1, 1986.

<sup>3</sup> Assumes implementation of a modified Minnesota sentencing guidelines system, the parole guidelines alternative model and the committee's recommended 5/10/15 good time credit system.

## 5. Credits

Armstrong, Bryn  
Chairman  
Nevada Board of Parole Commissioners  
309 East John Street  
Carson City, NV 89710

Austin, Dr. Jim  
Research Director  
National Council on Crime and Delinquency  
Research Center West  
760 Market St., Suite 433  
San Francisco, CA 94102

Batjer, Cameron  
Vice Chairman  
United States Parole Commission  
5550 Friendship Boulevard  
Chevy Chase, MD 20815

Bible, William A.  
Director  
Department of Administration  
Blasdel Building, Rm. 205  
209 E. Musser Street  
Carson City, NV 89710

Demosthenes, Pete  
Chief of Classification and Planning  
Nevada Department of Prisons  
P.O. Box 7000  
Carson City, NV 89702

Funke, Dr. Gail  
Economist & Consultant  
National Institute of Corrections  
RFD 2  
P.O. Box 527  
Gordonsville, VA 22942

Isaeff, William E.  
Chief Deputy Attorney General  
Attorney General Central Office  
Heroes Memorial Building  
Carson City, NV 89710

Palmer, Joseph  
Consultant  
National Institute of Corrections  
486 Northview Drive  
Columbus, Ohio 43209

Park, Roxanne  
Executive Officer  
Sentencing Guidelines Commission  
3400 Capitol Boulevard  
Olympia, WA 98504

Rans, Laurel  
Private Consultant  
1400 N. Perkins Rd., D-33  
Stillwater, OK 74074

Rathke, Steven  
Chairman  
Sentencing Guidelines Commission  
State of Minnesota  
P.O. Box 411  
Brainerd, MN 56401

Rauch, Hardy  
Program Director  
American Correctional Association  
4321 Hartwick Rd., Suite L-208  
College Park, MD 20740

Solomon, Larry  
Deputy Director  
National Institute of Corrections  
321st Street, N.W.  
Washington, D.C. 20534

Taughner, Brian  
Special Assistant to the Attorney General  
State of California  
1515 K Street  
Sacramento, CA 95814

Travisono, Tony  
Executive Director  
American Correctional Association  
4321 Hartwick Rd., Suite L-208  
College Park, MD 20740



APPENDICES

Appendix A - Current and Alternative Sentencing  
and Parole Policies in Nevada, published by  
James Austin, Ph.D., Director of Research,  
National Council on Crime and Delinquency. . . . 145.

Appendix B - Suggested Legislation . . . . . 214.



## APPENDIX A

Current and Alternative Sentencing and Parole Policies in Nevada, published by James Austin, Ph.D., Director of Research, National Council on Crime and Delinquency.



**Current and Alternative  
Sentencing and Parole Policies in Nevada**

**A Study Provided for the  
Nevada Legislative Subcommittee 375**

**Submitted by**

**James Austin, Ph.D.  
Director of Research  
National Council on Crime and Delinquency**

**This research was sponsored by funding provided by the National Institute of Justice, U.S. Department of Justice and the National Institute of Corrections, U.S. Bureau of Prisons. Opinions stated herein are those of the authors and do not necessarily represent the official position of NCI or NIC.**



## CHAPTER I

### INTRODUCTION

#### Background of the Study

Considerable debate exists throughout the nation on the appropriate use of probation, incarceration, and parole by state and local governments. This debate has been heightened by the rapid increase in the prison population, despite dwindling public resources necessary for expansion of prison capacity. There is also a growing recognition among criminal justice professionals that expanding correctional capacity alone is not the answer to burgeoning prison populations. Many jurisdictions have built new prisons and jails only to see them quickly overcrowded, such that their design capacities and inmate population projections have been exceeded.

Among the states Nevada, in particular, is facing a difficult task. Although its 1983 prison population of 3,200 is not large in terms of total numbers, Nevada has the highest prison incarceration rate (354 per 100,000 in 1983) of any state (see Table I). While reasons for Nevada's high rate are many, recent changes in historic practices related to sentencing and parole decision-making are among the two most important factors. Nevada officials have indicated that there is insufficient public revenue to "build out" of their prison crowding problem. These are also concerns that parole and sentencing policies are not structured to maximize public protection from offenders.

In light of this situation, the Nevada 1983 legislature passed Senate Bill 375 authorizing a comprehensive study of the benefits, detriments and costs of abolishing parole in the state. The thrust of the study, however, goes beyond the parole process itself. Senator Helen Foley, Subcommittee Chairperson, has indicated that the subcommittee has responsibility for studying and developing workable policies for a wide range of areas:

1. The operation of both the State Board of Parole Commissioners and the State Department of Parole and Probation.

Table 1-1

Prisoners Under Jurisdiction of State and Federal Correctional Authorities,  
By Region and State, Yearend 1982 and 1983

|                           | Total   |         |                   | Sentenced to more than a year |         |                   | Number of sentenced<br>prisoners per 100,000<br>population 12/31/83 <sup>a</sup> |
|---------------------------|---------|---------|-------------------|-------------------------------|---------|-------------------|----------------------------------------------------------------------------------|
|                           | 1983    | 1982    | Percent<br>change | 1983                          | 1982    | Percent<br>change |                                                                                  |
| United States             | 438,630 | 414,362 | 5.9               | 419,820                       | 395,948 | 6.0               | 179                                                                              |
| Male                      | 419,811 | 396,439 | 5.8               | 402,391                       | 379,374 | 6.1               | 352                                                                              |
| Female                    | 19,019  | 17,923  | 6.1               | 17,429                        | 16,574  | 5.2               | 14                                                                               |
| Federal institutions      | 31,926  | 29,673  | 7.6               | 28,331                        | 23,652  | 11.3              | 11                                                                               |
| State institutions        | 406,904 | 384,689 | 5.8               | 393,489                       | 372,296 | 5.7               | 187                                                                              |
| Northeast                 | 65,680  | 60,203  | 9.1               | 63,076                        | 57,181  | 10.3              | 127                                                                              |
| Maine <sup>c</sup>        | 1,049   | 999     | 5.0               | 858                           | 781     | 9.9               | 75                                                                               |
| New Hampshire             | 479     | 445     | 7.6               | 479                           | 445     | 7.6               | 50                                                                               |
| Vermont <sup>c</sup>      | 497     | 599     | -17.0             | 378                           | 435     | -13.1             | 72                                                                               |
| Massachusetts             | 4,559   | 4,623   | -1.4              | 4,559                         | 4,527   | 0.7               | 79                                                                               |
| Rhode Island <sup>d</sup> | 1,157   | 1,037   | 11.6              | 878                           | 781     | 12.4              | 92                                                                               |
| Connecticut <sup>d</sup>  | 5,474   | 5,336   | -4.2              | 5,577                         | 5,809   | -4.1              | 114                                                                              |
| New York                  | 30,489  | 27,951  | 9.1               | 30,449                        | 27,951  | 9.1               | 172                                                                              |
| New Jersey                | 10,209  | 8,191   | 24.6              | 10,159                        | 7,990   | 27.1              | 136                                                                              |
| Pennsylvania              | 11,767  | 10,522  | 11.8              | 11,699                        | 10,462  | 11.8              | 98                                                                               |
| North Central             | 81,540  | 78,549  | 3.9               | 79,624                        | 77,353  | 2.9               | 135                                                                              |
| Ohio                      | 17,786  | 17,317  | 2.6               | 16,696                        | 17,317  | -3.6              | 155                                                                              |
| Indiana                   | 9,360   | 8,790   | 6.5               | 8,973                         | 8,295   | 8.2               | 164                                                                              |
| Illinois                  | 15,595  | 14,293  | 9.1               | 15,522                        | 13,949  | 11.3              | 135                                                                              |
| Michigan                  | 14,382  | 15,224  | -5.5              | 14,382                        | 15,224  | -5.5              | 159                                                                              |
| Wisconsin                 | 4,394   | 4,670   | 4.9               | 4,862                         | 4,670   | 4.1               | 102                                                                              |
| Minnesota                 | 2,156   | 2,081   | 3.6               | 2,156                         | 2,081   | 3.6               | 52                                                                               |
| Iowa <sup>e</sup>         | 2,814   | 2,829   | -0.5              | 2,676                         | 2,709   | -1.2              | 92                                                                               |
| Missouri                  | 8,053   | 7,445   | 8.2               | 8,053                         | 7,445   | 8.2               | 162                                                                              |
| North Dakota              | 410     | 322     | 27.3              | 350                           | 276     | 26.8              | 51                                                                               |
| South Dakota              | 824     | 791     | 4.2               | 807                           | 755     | 6.9               | 115                                                                              |
| Nebraska                  | 1,677   | 1,709   | -1.9              | 1,452                         | 1,554   | -6.6              | 91                                                                               |
| Kansas                    | 3,705   | 3,078   | 20.4              | 3,705                         | 3,078   | 20.4              | 152                                                                              |
| South                     | 186,373 | 180,946 | 3.0               | 180,348                       | 175,145 | 2.9               | 225                                                                              |
| Delaware                  | 2,190   | 2,062   | 6.2               | 1,659                         | 1,507   | 10.1              | 273                                                                              |
| Maryland                  | 12,506  | 11,012  | 14.5              | 11,268                        | 10,427  | 14.8              | 277                                                                              |
| District of Columbia      | 4,344   | 4,081   | 6.4               | 3,465                         | 3,351   | 3.4               | 558                                                                              |
| Virginia                  | 10,093  | 10,079  | 0.1               | 9,955                         | 9,715   | 2.4               | 177                                                                              |
| West Virginia             | 1,629   | 1,729   | -5.8              | 1,623                         | 1,729   | -5.8              | 93                                                                               |
| North Carolina            | 15,535  | 16,578  | -7.1              | 14,257                        | 15,558  | -7.2              | 233                                                                              |
| South Carolina            | 9,593   | 9,137   | 4.9               | 9,076                         | 8,529   | 6.2               | 276                                                                              |
| Georgia                   | 15,347  | 14,416  | 6.5               | 14,929                        | 14,049  | 6.2               | 259                                                                              |
| Florida                   | 26,334  | 27,330  | -3.4              | 25,295                        | 27,129  | -4.5              | 235                                                                              |
| Kentucky                  | 4,738   | 4,077   | 16.2              | 4,738                         | 4,077   | 16.2              | 127                                                                              |
| Tennessee                 | 8,769   | 7,859   | 11.4              | 8,769                         | 7,859   | 11.4              | 187                                                                              |
| Alabama                   | 9,856   | 9,233   | 6.7               | 9,541                         | 8,531   | 12.4              | 243                                                                              |
| Mississippi               | 5,596   | 5,484   | 1.9               | 5,491                         | 5,359   | 2.3               | 211                                                                              |
| Arkansas                  | 4,133   | 3,925   | 6.6               | 4,167                         | 3,921   | 6.3               | 173                                                                              |
| Louisiana                 | 12,079  | 10,935  | 18.7              | 12,979                        | 10,935  | 18.7              | 290                                                                              |
| Oklahoma                  | 7,467   | 6,350   | 17.9              | 7,096                         | 6,350   | 11.7              | 212                                                                              |
| Texas                     | 35,259  | 36,149  | -2.5              | 35,259                        | 36,149  | -2.5              | 221                                                                              |
| West                      | 73,211  | 64,991  | 12.6              | 70,441                        | 62,617  | 12.5              | 152                                                                              |
| Montana                   | 850     | 914     | -7.0              | 850                           | 914     | -7.0              | 104                                                                              |
| Idaho                     | 1,206   | 1,047   | 15.2              | 1,205                         | 1,047   | 15.1              | 121                                                                              |
| Wyoming                   | 721     | 702     | 2.7               | 721                           | 702     | 2.7               | 138                                                                              |
| Colorado                  | 3,450   | 3,042   | 13.4              | 3,450                         | 3,042   | 13.4              | 109                                                                              |
| New Mexico                | 2,013   | 1,718   | 17.2              | 2,013                         | 1,447   | 39.1              | 142                                                                              |
| Arizona                   | 6,899   | 6,069   | 13.5              | 6,893                         | 6,048   | 10.7              | 223                                                                              |
| Utah                      | 1,273   | 1,216   | 4.9               | 1,252                         | 1,199   | 5.3               | 77                                                                               |
| Nevada                    | 3,200   | 2,712   | 18.0              | 3,200                         | 2,712   | 18.0              | 354                                                                              |
| Washington                | 6,701   | 6,322   | 6.0               | 6,701                         | 6,322   | 6.0               | 155                                                                              |
| Oregon                    | 4,181   | 3,867   | 8.1               | 4,181                         | 3,867   | 8.1               | 157                                                                              |
| California                | 39,360  | 34,640  | 13.8              | 38,025                        | 33,583  | 13.2              | 150                                                                              |
| Alaska                    | 1,634   | 1,306   | 25.1              | 1,675                         | 856     | 25.6              | 219                                                                              |
| Hawaii                    | 1,731   | 1,436   | 20.5              | 1,065                         | 878     | 21.3              | 103                                                                              |

\* Source: Bureau of Justice Statistics, April 1984.

2. The criteria used to grant parole, including good time credits and the length of time offenders must serve before becoming eligible for parole.
3. The effects of any changes in the state parole system, including the use of guidelines, sentencing commissions, or determinate sentencing.
4. The fiscal effects of any of these changes.

Thus, the scope of work for the SB375 Subcommittee involves the State's criminal justice system from sentencing through parole and represents a rare opportunity for a state with centralized probation, prison, and parole systems to develop a systematic policy for handling convicted offenders.<sup>1/</sup>

This report summarizes the findings of major statistical analyses and is intended to provide some guidance to the Subcommittee in its consideration of various sentencing and parole model systems. As such, the entire research effort represents a unique opportunity to coordinate and maximize federal, state, and private resources to guide correctional policy and assist correctional practitioners. It also represents a model approach for other states considering major changes in sentencing and parole systems and how to estimate the effects of such policy changes on prison populations and fiscal costs.

#### Previous Work in Nevada

Prior to 1982, Nevada had no systematic information concerning the adult criminal justice system. Due to this lack of accurate planning data, the legislature authorized the establishment of a legislative committee to develop a prison master plan for the State by 1985. In fulfillment of its mandate, the committee contracted with the National Council on Crime and Delinquency Research Center (NCCD) to complete the following research tasks:

---

<sup>1/</sup> The 13-member subcommittee is composed of six legislators and seven members from other sectors: the Director of the Nevada Department of Prisons (NDP), the Chief Parole and Probation Officer, a state parole commissioner, a district judge, a district attorney, a member of the law enforcement community, and a private attorney who specializes in criminal defense.

1. Develop a statistical profile of prison admissions.
2. Develop a statistical profile of prison releases.
3. Develop a profile of the daily prison population.
4. Evaluate the security needs of the prison population using various classification models.
5. Develop a prison population model sensitive to changes in criminal justice policies.
6. Produce 10 year prison population forecasts.

At the completion of the committee's role in the fall of 1982, all of these research tasks had been completed. Furthermore, Nevada is now making an aggressive effort to institutionalize the data systems developed by NCCD. It should be noted that NCCD is continuing work to (1) implement the National Institute of Corrections classification model, (2) develop a comprehensive management information system, and (3) train data processing staff in the use of a prison population projection model that is sensitive to criminal justice policy.

At the heart of this work is the prison population projection model. This model has been used by the Board of Prison Terms of the California Department of Corrections and is being implemented for the Illinois Department of Corrections by NCCD. Without going into detail, the projection model allows legislative and correctional officials to estimate the effects of changes in sentencing, prison and parole policies on correctional growth.<sup>2/</sup> The model allows legislative deliberations to focus on fiscal and policy outcomes rather than to become excessively preoccupied with philosophical debates over the purpose of imprisonment. As such, it may prove to be an effective tool for

---

<sup>2/</sup> The model reports monthly projections of both prison and parole populations. It will also be possible to refine the model so that it can produce a probation population estimate if sentencing data are incorporated into the model's program. For more detailed information on the model's components and use, please see NCCD, 1982.

legislative committees such as the SB375 Subcommittee, which are responsible for developing recommendations with respect to the future of parole and sentencing law.

Recently, Nevada has relied upon this projection model to assess pending legislation. During the past legislative session, the Nevada legislature introduced numerous bills intended to further reform sentencing and parole decisionmaking. In addition, bills affecting the amount of good-time awarded inmates, which would affect lengths of time served by prisoners, were introduced. Model projections were conducted and showed that these bills would lead to dramatic increases in the size of the current prison population. Accordingly, it appears that most of these bills were not passed since state resources could not be provided to expand the system at the rate projected by the model.

#### Unmet Informational and Planning Needs

Although Nevada has made important strides toward improving its information and planning capacity, two major information gaps did remain: sentencing and parole decision-making data. Both of these decision points are of major importance to policy-makers and require close monitoring and analysis. Prior to this study, however, insufficient data existed to analyze current policies or assess the impact of future legislative reforms.

During the past two years, the proportion of offenders sentenced to prison by the Nevada courts was believed to have increased. Sentence length has also increased. Parole release rates have also been changing rapidly. Staff of the 1982 prison master plan study found that the granting of parole at first hearings decreased dramatically from a 60 percent release rate to a 30 percent release rate. Furthermore, the rate of parole revocations had increased from 15 percent to 27 percent. These two developments at the "back end" of the system created a need for additional funds to house an additional 400 inmates in fiscal year 1983 alone.

The recent flurry of uncoordinated legislative activities and criminal justice system changes represented a major (and not uncommon) obstacle to managing Nevada's correctional systems in a planned and coordinated fashion. Little systemic control of the major decision points of sentencing and parole existed, making it difficult to coordinate a correctional policy based on the values of equity, certainty, public safety and cost effectiveness. Nevada's officials recognize that to formulate a rational, systemwide policy, the legislature must gain control over key decision points that have an impact on probation, prison and parole systems.

#### Approach and Research Design

Nevada officials are specifically interested to determine if sentencing, prison and parole policies can be changed to meet the primary objective of ensuring selective incapacitation of dangerous offenders within the fiscal limits of the State's correctional resources. Selective incapacitation, put briefly, recognizes that a minority of prison inmates are high-risk offenders who require certain and long-term imprisonment (RAND, 1982). The majority of inmates, on the other hand, are believed to require short-term imprisonment or possible placement on probation. By selectively incapacitating those persons defined by statute as high-risk offenders for longer periods of time and reducing terms for low-risk offenders, prison population growth can be effectively controlled and public safety maintained at current crime rates. By restructuring sentencing, good-time credits and parole release criteria, the State can rationally allocate resources to its probation, prison and parole agencies. Further, unbridled discretion by the courts and parole board can be replaced by certainty and equity in these key decision points of sentencing and parole.

A primary objective of this research project, therefore, was to examine the feasibility of implementing principles of sentencing and parole release policies used by other states and to assess their impact on Nevada's prison population as well as other components of the correctional system.

### Description of the Data Used For Analysis

To conduct the necessary analysis three data files were created:

- A. Sentencing Data
- B. Prison Admissions Data
- C. Parole Board Data

#### Sentencing Data

A major concern has been the extent to which Nevada's criminal courts were sentencing offenders in a fair and consistent manner. Associated with this question of equity, was the need to use computer simulations of alternative sentencing schemes to assess the likely impact of such sentencing schemes on prison population growth.

To accomplish these analytic tasks a representative sample of criminal cases sentenced by the court to either probation or prison was required. More specifically, the sample had to consist of felony cases only where the decision to imprison or place on probation is generally at the discretion of the court.<sup>3/</sup>

Since July, 1983 all court convictions for felony and gross misdemeanor offenses were entered on a newly developed probation and parole automated system. Between July 1, 1983 and March 1, 1984 approximately 2300 case records had been computerized. Unfortunately, no resources had been made available by the State to transform this management base data file into a fixed length file amenable to statistical analysis.

Research staff met with the State's data processing staff to (1) identify the specific data elements required for analysis and (2) develop a procedure for creating a fixed length file to be written on tape and forwarded to NCCD for analysis. Once this was accomplished NCCD staff were able to create a Statistical Analysis System (SAS) file which was used to conduct statistical analysis of Nevada's courts' sentencing decisions.

---

<sup>3/</sup> There are a few crimes listed where the decision to imprison is not optional to the court.

Two important limitations of this data file should be noted. First, not all court decisions are fully recorded on the automated system. Only in cases where pre-sentenced reports are filed by probation staff are complete data on the offender and offense entered into the system. This means that for a substantial number of cases (estimated at 25 percent) incomplete data exist. This problem can be corrected only by mandating that the courts require a pre-sentence report prior to sentencing or seeking some alternative means for collecting the data after sentencing.

Second, the system is actually a case-based and not a person-based system. In other words, the unit of analysis is criminal charges and not offenders. To convert the data base into a person-based system required considerable programming and internal logic check. Additional programming work should be completed in the future to ensure that a capacity to routinely convert or merge criminal cases to offenders is maintained for the state.<sup>4/</sup>

#### Prison Admissions

In addition to the sentencing data file which includes offenders convicted and sentenced to prison, a prison admissions file was created. Resources needed to create this file were provided through a National Institute of Corrections(NIC) grant to assist NDP develop their own classification system using numerical factors. The purpose of this system was to provide a sufficiently detailed data file on all persons admitted to prison, in order that it would not have the problem of the sentencing file where approximately 25 percent of all prison admissions are not fully recorded, i.e., persons re-admitted to prison for parole violations and persons admitted to prison for 120 days of observation prior to sentencing.

---

<sup>4/</sup> The Nevada Department of Probation and Parole is in the process of contracting with NCCD to ensure this work is completed during the next six months.

The prison admissions file also contains more detailed information on the characteristics of offenders which is needed to conduct computer simulations of classification levels. In short, it is the most complete and detailed information set for prison admissions.

A systematic random sample of 399 inmates admitted to prison on alternating months in 1983 (January, March, May and July) was used. Assuming there is no major bias caused by seasonal variations in sentencing practices, the sample should be statistically representative of the 1983 admissions population.

This data file is principally used to feed or load the simulation prison populations model which requires detailed information on all persons admitted to prison. It is also used to make comparisons on how the characteristics of prison admissions have changed since the 1982 Prison Master Plan which also analyzed prison admission characteristics.

#### Parole Decision Making Data

The third data file collected detailed information on all inmates appearing before the Nevada Parole and Pardon Board. As noted earlier, the legislature was desirous of understanding what the rate of parole was in Nevada and what factors were associated with decisions to grant or deny release.

The Board has no automated system upon which statistical analysis can be easily conducted. However, it has a well maintained and detailed manual system for all parole hearings. Much of the data contained in this manual system are compatible with the sentencing and prison admissions files, in terms of inmate characteristics at the time of sentencing. In addition to parole decision outcomes, these files also contain valuable information on institutional conduct, program participation, staff/warden recommendations and parole plans.

To quickly collect and computerize a sample of 2,000 plus decisions made annually by the Board, a systematic random sample was employed. A roster of all decisions made from January 1, 1983 - March 1, 1984, in chronological order, was provided by the Board. From this list, a sample of approximately 470 cases was selected by including every fourth case.

This file is used for several purposes. First, it provides the State with the first systematic analysis of current Parole Board practices. Second, given the detail of data contained in the file, it is possible to simulate alternative parole release criteria suggested by the Subcommittee or being used by other states. Alternative parole release criteria affect the probabilities of being granted parole at each hearing for the inmate over the course of his/her incarceration. The "new" probabilities can be inserted into the projection model to estimate the impact of these criteria on the State's prison population.

#### Structure of the Report

The following chapters systematically detail sentencing and parole analyses, plus the major prison population projections completed for Subcommittee 375. Chapters 2 and 3 present analysis of the sentencing and parole decision-making practices, respectively. Chapter 4 presents prison population simulations based on alternative sentencing, parole and good-time policies. Chapter 5 summarizes the major findings of the study and offers suggestions for future research and information needs for Nevada.

## CHAPTER 2

### SENTENCING PRACTICES

#### Introduction

Perhaps the most critical decision-point affecting prison population size is the court's sentencing decision. Like most states, Nevada's criminal courts have considerable discretionary authority to determine if an offender should be committed to prison and for what period of incarceration.

There are nine district courts in Nevada which process criminal cases brought before them by the State's district attorneys. Once a defendant is found guilty, the court must dispose of the case by pronouncing the appropriate sentence. What follows is a statistical overview of what factors the Nevada courts use to make sentencing decisions. The specific mandate of the analysis was to learn to what extent the courts make prison and probation dispositions in a fair and equitable fashion.

#### Method of Analysis

Two distinct types of analysis were conducted. First, an examination of factors associated with the decision to commit to prison in lieu of probation was conducted. In Nevada, persons convicted of most felonies are, at the discretion of the court, eligible to be sentenced either to probation or State prison. There are a few offenses for violent crimes when the judge has no such discretion and where prison terms (usually minimum terms of five years, ten years, or life with or without the possibility of parole) are mandated. These offenses, however, represent only a small proportion (less than 12 percent of all prison admissions and less than six percent of all felony convictions each year) of the court's work.

To answer the issue of equity in case dispositions (i.e., the probation vs. prison decision) the sample of all felony convictions was separated into three analytic groups;

- felony convictions receiving a probation (including jail) disposition,

- felony convictions receiving a prison disposition,
- felony convictions receiving an "other" disposition (e.g. fine, restitution, jail only sentence).

As the "other" category only represented three percent of all dispositions the primary focus of analysis was the prison versus probation disposition. By analyzing differences between the two primary dispositional populations, variables which best discriminate an offender's differential membership in either the prison or probation disposition groups can be identified. One can then make de facto conclusions, using more sophisticated multi-variate analysis, about which offender characteristics are the best "predictors" of whether a convicted felon will receive a prison or probation disposition from the court.

The second level of sentencing analysis dealt with the issue of sentence length which is another part of the equity equation. It could be that the courts are quite equitable in their decisions to place a person in prison versus probation, but at the same time demonstrate substantial disparity in determining prison sentence lengths. In other words, do offenders convicted of similar offenses receive similar prison terms?

To answer this question, this research analyzed data concerning the sentence length of persons admitted to prison while controlling for offense and prior record characteristics. If disparity does not exist then persons convicted of a similar crime with a similar prior record should receive a similar disposition.

### Sentencing Disposition Rates

Forty two percent of all criminal cases resulting in a conviction are sentenced to prison (see Table 2-1). Although no national data exist to evaluate how high this rate is with other jurisdictions, available data from four other states where similar statistics are kept suggest that this rate is comparatively higher than for other states (see Table 2-2).

When examining prison disposition rates by each of the nine district courts (see Table 2-3) two findings stand out. First, two districts (Clark and Washoe representing the Reno and Las Vegas metropolitan areas) account for 82 percent of all prison

Table 2-1  
Dispositions Of Felony Convictions

|                                  | <u>N</u> | <u>%</u> |
|----------------------------------|----------|----------|
| State Prison                     | 633      | 41.5%    |
| Probation (with or without jail) | 856      | 56.1%    |
| Fine, jail only, other           | 38       | 2.5%     |
| Total                            | 1527     | 100.0%   |

Note: Percentages may not total to 100.0% due to rounding.

---

Table 2-2  
Proportion of Felony Cases Resulting In Prison  
For Selected States

|            |     |        |
|------------|-----|--------|
| Nevada     | 42% | (1983) |
| Illinois   | 38% | (1982) |
| California | 33% | (1982) |
| Minnesota  | 22% | (1983) |
| Washington | 20% | (1983) |

Table 2-3  
**Proportion of Felony Cases Resulting In Prison  
 By Nevada's District Courts**

| District Court | N   | %     |
|----------------|-----|-------|
| 1              | 26  | 42.6% |
| 2 (Washoe)     | 144 | 39.1% |
| 3              | 17  | 40.5% |
| 4              | 11  | 32.4% |
| 5              | 11  | 57.9% |
| 6              | 9   | 47.4% |
| 7              | 7   | 58.3% |
| 8 (Clark)      | 377 | 43.3% |
| 9              | 31  | 73.8% |

commitments occurring in felony cases. Second, considerable disparity exists among the districts in their prison disposition rates. In particular, some of the smaller district courts have very high disposition rates but these differences are somewhat tempered by the relatively high numbers of cases processed by Clark and Washoe. The issue of disparity among these district courts is explored in greater detail later on in this chapter.

#### Factors Associated with the Probation versus Prison Decision

The bivariate analysis (offender characteristics by court disposition) indicated that the following offender characteristics were associated (at  $p \leq .05$ ) with the two primary court dispositions;

##### Current Charge Variables

1. Type of offense committed
2. Criminal court status at arrest
3. Pretrial release status at arrest
4. Weapon used in crime

##### Prior Record Variables

5. Prior arrests
6. Prior convictions
7. Prior probations
8. Prior jail sentences
9. Prior prison sentences
10. Prior paroles

##### Personal Characteristic Variables

11. Sex
12. Race
13. Nevada versus other state residency

The direction (or relationship) of these variables with the court's disposition indicate that persons sentenced to prison tend to be charged with more serious and violent crimes, were under some form of criminal court status, had not been released pretrial, used a weapon in the crime, had a more extensive criminal record, resided outside of the State, were male, and were Black.

From a judicial perspective most of these offender characteristics related to prison commitment would be considered appropriate. In other words, compared with other offenders one would expect that a higher proportion of persons be sentenced to prison

when they are convicted of violent crimes, have more serious prior records, and have used a weapon(s) in the commission of their crimes. However, the social characteristics of race and sex generally are not viewed as appropriate factors upon which to base sentencing decisions. It could be, however, that these two social factors actually reflect the legal factors, i.e., Blacks and males tend to be associated with more serious crime and extensive prior criminal records.

To further clarify the bivariate analysis, a multiple stepwise regression analysis was conducted. The purpose of this statistical technique is to simultaneously sort out the relative effects of all the variables found to be associated with the court disposition variable. For example, it is possible to examine whether the trend of Blacks having a higher probability of receiving a prison term remains after taking into account the effects of the other variables. If Blacks have more extensive prior records and are charged with more serious crimes, then the regression analysis should show that race is not a significant variable in the regression model predicting court dispositions predicting court dispositions.

Three findings of the regression analysis are noteworthy (see Table 2-4). First, the best predictors of court dispositions were the legal variables. Specifically these were:

- Type of Offense Committed
- Criminal Court Status of Offender at Time of Arrest
- Number of Prior Arrests
- Number of Prior Felony Convictions
- Weapon Used in Current Offense

Second, sex and race persist as predictors of court disposition although they are much less powerful than the legal variables. For Blacks, this is related to the fact that they tend to be convicted of more serious charges, use a weapon in the crime and have more prior arrests. However, the fact that being Black still maintains some influence in the model suggests that race, independent of the other factors, was an influence on court dispositions.

Table 2-4  
Results of Stepwise Multiple Regression\*

| <u>Variable Entered</u>            | <u>F</u> | <u>Prob F</u> |
|------------------------------------|----------|---------------|
| Type of Offense Committed          | 158.4    | .0001         |
| Number of Prior Felony Convictions | 77.42    | .0001         |
| Criminal Court Status at Arrest    | 80.8     | .0001         |
| Number of Prior Arrests            | 55.9     | .0001         |
| Male                               | 26.1     | .0001         |
| Weapon Used in Current Offense     | 17.7     | .0001         |
| Black                              | 5.9      | .0153         |

Culminative R Square = .37      F = 106.1

\* Maximum R-Square Improvement for Dependent Variable Court Disposition (1 = prison, 2 = probation, X 1.574 S.D. = .494)

Third, the total amount of variation explained by this linear model of court disposition is relatively high. An  $R^2$  of .337 indicates that 33.7 percent of the variation in court dispositions is explained by these seven variables. Conversely, 66 percent of the variation is explained by other factors or measurement error. Although this may seem like a high level of predictive error, compared to other studies of court dispositions it is a fairly strong figure. Nevertheless, a significant portion of the court's behavior is not being explained by the seven variable model.

#### Disparity in Sentence Length

The second factor to consider in evaluating the court's decision to imprison is sentence length. Unlike the issue of court disposition, variance in sentence length is expected according to specific offense groups. However, one would not expect variation with these groups or among judges at district courts.

A first step in analyzing sentence length is to determine to what extent variation exists in the sentence lengths given out by Nevada's judges. When considering each of the State's nine court districts a considerable range in sentence lengths was found (see Table 2-5). However, as with analysis of court dispositions, these differences may be legitimate if differences among the courts in offender characteristics or differences in the types of criminal cases coming before the district courts exist.

To explore these issues more carefully the district courts were grouped into two categories:

1. Low sentence district courts (i.e., districts where the median sentence length was below the State's median sentence length).
2. High sentence district courts (i.e., districts where the median sentence length was above the State's median sentence length).

As a further control measure, median sentence lengths by the major criminal offenses for both the high and low districts were produced (see Table 2-6). This analysis revealed that with three exceptions, the low districts continued to show significantly lower sentence

Table 2-5

**Nevada Prison Sentence Lengths  
By District Court**

| <u>District</u> | <u>N</u> | <u>Median</u><br>(Mos.) | <u>Mean</u><br>(Mos.) | <u>Mode</u><br>(Mos.) | <u>Death/Life</u> |     |
|-----------------|----------|-------------------------|-----------------------|-----------------------|-------------------|-----|
|                 |          |                         |                       |                       | N                 | %   |
| 1               | 26       | 54                      | 78                    | 36                    | (2)               | 8%  |
| 2               | 144      | 36                      | 57                    | 36                    | (3)               | 1%  |
| 3               | 17       | 36                      | 48                    | 36                    | (0)               | -   |
| 4               | 11       | 24                      | 51                    | 24                    | (1)               | 9%  |
| 5               | 11       | 36                      | 53                    | 36                    | (2)               | 18% |
| 6               | 9        | 60                      | 83                    | 60                    | (0)               | -   |
| 7               | 7        | 37                      | 44                    | 12                    | (1)               | 14% |
| 8               | 377      | 60                      | 81                    | 36                    | (31)              | 8%  |
| 9               | 31       | 24                      | 51                    | 12                    | (2)               | 6%  |
| TOTAL           | 633      | 48                      | 72                    | 36                    | (42)              | 7%  |

**Median** - The midpoint of all sentence lengths

**Mean** - The arithmetic average of all sentence lengths

**Mode** - The most frequent sentence length.

Table 2-6  
Sentence Length By Court District  
By Offense

|                 | Low Districts <sup>1</sup> |        |            | High Districts <sup>2</sup> |        |             |
|-----------------|----------------------------|--------|------------|-----------------------------|--------|-------------|
|                 | N*                         | Median | Life/Death | N*                          | Median | Life/Death* |
| Murder          | 5                          | 60     | 2          | 17                          | 120    | 10          |
| Manslaughter    | 9                          | 120    | 0          | 9                           | 72     | 0           |
| Rape            | 13                         | 84     | 4          | 31                          | 120    | 16          |
| Robbery         | 27                         | 72     | 0          | 73                          | 120    | 0           |
| Assault         | 4                          | 54     | 0          | 4                           | 60     | 1           |
| Kidnapping      | 6                          | 60     | 0          | 13                          | 72     | 0           |
| Other Sex       | 7                          | 36     | 1          | 4                           | 54     | 0           |
| Arson           | 0                          | 0      | 0          | 2                           | 66     | 0           |
| Burglary        | 19                         | 42     | 0          | 46                          | 60     | 1           |
| Larceny/Theft   | 20                         | 24     | 0          | 54                          | 39     | 0           |
| Forgery         | 7                          | 36     | 0          | 14                          | 48     | 0           |
| Fraud           | 2                          | 42     | 0          | 1                           | 60     | 0           |
| Stolen Property | 20                         | 36     | 0          | 9                           | 36     | 0           |
| Weapons         | 1                          | 30     | 0          | 5                           | 36     | 0           |
| Drugs           | 32                         | 36     | 1          | 38                          | 48     | 0           |
| Gambling        | 4                          | 36     | 0          | 5                           | 60     | 0           |
| DUI             | 19                         | 24     | 0          | 9                           | 36     | 0           |
| Other Traffic   | 1                          | 24     | 0          | 1                           | 36     | 0           |
| Escape          | 4                          | 12     | 0          | 4                           | 30     | 0           |
| Other           | 4                          | 30     | 0          | 12                          | 42     | 0           |
| Missing         | 14                         | 54     | 1          | 59                          | 48     | 5           |

<sup>1</sup> Districts 2, 3, 4, 5, 7, 9

<sup>2</sup> Districts 1, 6, 8

\* Includes Life/Death Sentences

length even when controlling for offense type. For example, a person convicted of rape in District 2, 3, 4, 5, 7, or 9 is likely to receive a sentence of 84 months compared to a sentence of 120 months in District 1, 6, or 8. In total, such differences persisted for 17 of the 20 major offenses shown.

However, given the already documented influence of prior record variables on the court's decision to sentence to prison, it may be that the high district courts process offenders with more extensive prior criminal histories which would justify their longer sentence lengths. To test this hypothesis a prior record index score was computed for prison commitments of those convicted of rape, robbery, burglary, larceny/theft and drugs. These offenses were chosen because they constitute the major offense groups and provide a diverse mix of property and personal crimes. The prior record index simply represented the average (mean) number of prior arrests, misdemeanor convictions, felony convictions jail sentences, and prison sentences. It is important to note that this index is not a measure of prior offenses alone. For example, a person arrested, convicted of a misdemeanor crime and receiving a short jail sentence will have a score of three for a single crime. Nevertheless, the index does provide a means for controlling for the effects of offenders' prior records on sentence length.

It appears that, overall, the high district courts do process offenders with more extensive prior records (see Table 2-7). However, this difference is neither large (a 2.5 difference in prior record scores for all offenses) nor consistent. For example, both robbery and larceny/theft cases processed by the low district courts have prior index scores greater than or about equal to the high district courts. Yet the low district courts hand out prison terms 15-48 months less than those given by the high district courts for these two crimes. The major conclusion to be drawn from these data is that substantial disparity in setting prison sentence lengths exists even after controlling for type of offense and the prior records of offenders. Depending upon how this disparity is reduced,

Table 2-7

Prior Record Index Score of Prison Commitments  
By Selected Offense Groups<sup>1</sup>

| <u>Offense</u> | <u>Low Districts</u> <sup>2</sup> | <u>High Districts</u> <sup>3</sup> |
|----------------|-----------------------------------|------------------------------------|
| Rape           | 8.0                               | 10.0                               |
| Robbery        | 13.0                              | 10.0                               |
| Burglary       | 8.0                               | 14.0                               |
| Larceny/Theft  | 16.5                              | 17.5                               |
| Drugs          | 9.0                               | 20.5                               |
| All Offenses   | 11.5                              | 14.0                               |

1 Prior record index score consists of total number of prior arrests, prior misdemeanor convictions, prior felony convictions, prior jail sentences, and prior prison. Life and death sentences excluded.

2 Districts 2, 3, 4, 5, 7, 9

3 Districts 1, 6, 8

and in which direction, will have major consequences for prison population growth. For example, if Nevada's courts all adopted the practices of the high district courts in setting sentence lengths the State's prison population would likely increase quite substantially.

#### Summary

- 42 percent of all persons convicted to felony crimes are sentenced to prison. This rate is higher than for other states capable of reporting disposition rates.
- In making their decisions to sentence an offender to prison versus probation the judges tend to sentence disproportionate numbers of offenders charged with person crimes, under criminal court status at arrest, have histories of arrests and convictions, and who used a weapon in the crime. Males and Blacks are also more likely to receive prison terms.
- Considerable disparity exists among the district courts in their sentence lengths. These differences in sentence length among the district courts persist after controlling for offense type and prior record characteristics.

### Chapter 3

## CURRENT PAROLE DECISION-MAKING PRACTICES

### Introduction

The second most important factor affecting prison population size is the Parole Board's decision to grant release or retain the inmate within the prison system. In Nevada, there has been a profound shift in the Board's parole practices which has had an accompanying impact on the prison population. Specifically, the Board has significantly reduced the likelihood of an inmate being granted parole. In 1979, for example, the Nevada Parole Board reported that 60 percent of all their hearings resulted in a favorable parole decision. By 1982 that decision rate had been reduced to less than 30 percent. The net result has been longer lengths of stay in prison which in turn has increased the prison population.

Concerned about these trends, the Legislative Sub-committee directed its inquiry to the Board's decision-making process. Similar to sentencing practices, analysis was requested to better understand on what basis (i.e., what factors) the Board is presently making decisions and what effect alternative parole release policies would have on the size of Nevada's prison population.

### Probability of Parole

The likelihood of an inmate receiving parole has decreased substantially. About 15 percent of all parole hearings result in the Board granting an inmate unconditional parole within Nevada (see Table 3-1). The total parole grant rate is actually 34 percent but this statistic includes several options which do not translate into actual release from prison. Seven percent of the hearings result in parole to consecutive sentences. In these instances, the Board is allowing those inmates serving consecutive sentences for multiple offenses to begin serving their next sentence and does not reflect the release of the inmate to the community.

Table 3-1  
Parole Board Decisions For All Hearings

(1983)\*

|                         | <u>N</u><br><u>(463)</u> | <u>Percent</u><br><u>(100.0%)</u> |
|-------------------------|--------------------------|-----------------------------------|
| <u>DENIED</u>           |                          |                                   |
| To Next Hearing         | 235                      | 50.6                              |
| Expiration of Sentence  | 62                       | 13.4                              |
| Inmate's Request        | 8                        | 1.7                               |
| <br><u>GRANTED</u>      |                          |                                   |
| To Consecutive Sentence | 30                       | 6.5                               |
| To Other State          | 46                       | 9.9                               |
| To Hold/Detainer        | 13                       | 2.8                               |
| Unconditional Parole    | 69                       | 14.9                              |
| TOTAL Parole Rate       | 158                      | 34.2                              |

\* Also includes January and February, 1984

Similarly, parole to holds or detainers (3 percent), and other states (10 percent) do not necessarily translate into release from prison. Inmates whose parole is conditioned upon residency in another state must receive the approval of that state's parole authority before release from Nevada can take effect. Similarly, paroles to detainers and holds may mean that an inmate is being transferred to the custody of another state or local jurisdiction. Here again, approval of such a transfer must take place prior to release from Nevada's state prison system.

The most predictable decision of the Board is denial. Fifty-one percent of all decisions result in a flat denial and an additional 13 percent result in a denial of parole through expirations of the inmate's sentence. The latter statistic reflects a situation where the inmate's sentence will expire before another hearing can be scheduled. If the Board continues its current trend of granting few paroles, one can expect the frequency of denials to expirations of sentence to increase over the next few years.

Analysis was also conducted on the reasons cited by the Board for denial of parole. For each case, when parole is denied the Board can cite as many as 13 official factors justifying their decision (see Table 3-2). Because the Board can give more than one reason for its decision to deny parole, there were 1,218 reasons given for the 305 denial cases (an average of four per case). For purposes of this analysis, the reasons were grouped into five major categorical factors: previous criminal history, current offense, institutional behavior, public safety, and other miscellaneous factors.

The most common factors cited by the Board relate to public safety concerns (26 percent), current offense factors (29 percent) and the extent of the inmate's prior criminal history (15 percent). The Board seems to pay less attention to the inmate's progress within the institution (only 9 percent of all reasons for denial) or inadequate plans for parole (3 percent). These trends suggest that the Board bases many of its decisions on factors already taken into account by the court at sentencing (prior record

Table 3-2  
Official Reasons for Denying Parole

| <u>Reasons</u>                          | <u>N</u><br><u>(1218)</u> | <u>Percent</u><br><u>(100.0)</u> |
|-----------------------------------------|---------------------------|----------------------------------|
| I. Previous Criminal History            | 189                       | 15.5%                            |
| II. Current Offense Factors             |                           |                                  |
| Injured Victim With Weapon              | 145                       | 11.9%                            |
| Nature and Severity of Crime            | 164                       | 13.5%                            |
| Lessen Seriousness of Crime             | 74                        | 6.1%                             |
| Multiple Offense with Violence          | 9                         | 0.7%                             |
| TOTAL Current Offense Factors           | 392                       | 29.2%                            |
| III. Institutional Behavior Factors     |                           |                                  |
| Unsatisfactory Institutional Adjustment | 62                        | 5.1%                             |
| Inadequate Program Participation        | 12                        | 1.0%                             |
| Poor Adjustment                         | 37                        | 3.0%                             |
| TOTAL Institutional Factor              | 111                       | 9.1%                             |
| IV. Inadequate Parole Plans             | 94                        | 7.7%                             |
| V. Public Safety Concerns               |                           |                                  |
| Threat to Society                       | 22                        | 1.8%                             |
| Public Safety-General                   | 298                       | 24.5%                            |
| TOTAL Public Safety                     |                           | 26.3%                            |
| VI. Other Factors                       |                           |                                  |
| Further Evaluation Necessary            | 84                        | 6.9%                             |
| Other                                   | 28                        | 2.3%                             |
| TOTAL Other                             | 112                       | 9.2%                             |

and current offense characteristics) and what the Board believes the inmate is likely to do in the future (public safety). The latter point is especially noteworthy given that the Board has no empirically derived screening instrument in place, based upon the actual experiences of Nevada parolees, to guide their predictive-based decisions. States which use the likelihood of failure or success on parole as a criterion for release have developed empirically-based release criteria which identify high and low risk candidates for release. In a subsequent chapter, such a predictive parole release model is applied to the Nevada parole decision-making sample to estimate how such a model could affect parole board practices.

#### Factors Associated with the Parole Decision

On what basis is the board making their decisions to grant or deny parole? The first level analysis was a bivariate analysis where a number of background variables were crosstabulated with parole decisions to determine which variables were associated with the outcome decision. Unlike the sentencing decision analysis, only eight variables were found to be related (at  $p \leq .05$ ) to parole decisions. These different variables, four of which reflected institutional behavior, were:

##### Current Charge Variables

1. Type of Offense
2. Number of Counts

##### Institutional Adjustment

3. Warden's Recommendation
4. Disciplinary Tickets
5. Administrative Segregation
6. Disciplinary Problem

##### Personnel Characteristics

7. Race
8. Drug Use

These bivariate relationships indicated that inmates denied parole tend to be charged with crimes against persons, had multiple counts, demonstrated a poor institutional record, were Black and had a history of drug use.

As with the sentencing analysis, most of these factors, with the exception of race, would be viewed as appropriate and in the expected direction. However, it is important to remember that most inmates are not paroled, meaning that substantial numbers of inmates with contrary characteristics are also being denied parole. For example, although 73 percent of inmates convicted of violent crimes are denied parole, 65 percent of the property offenders are also denied parole. While this eight percent difference is statistically significant, it is of less substantive importance given the low parole grant rate in Nevada for all offenders.

To clarify the strength of these variables in predicting Parole Board decisions, multiple regression analysis was conducted using these eight variables. As with the sentencing analysis, the purpose of this statistical procedure is to control for the interactive effects of the various variables identified thus far, as well as to evaluate the overall strength of the model in explaining variance in parole decisions.

The regression analysis revealed that the Warden's recommendation for parole and whether the inmate is labeled as a disciplinary problem by institutional staff are the two best predictors of whether the Board grants or denies parole (see Table 3-3). Clearly, these two variables plus two other variables noted above (i.e., the total number of disciplinary tickets and administrative segregation) are statistically and substantively inter-related (see Table 3-4), suggesting that the Board relies most heavily upon the conduct of an inmate in determining his/her appropriateness for release on parole.

However, one should also note the overall inability of this regression model to have as much predictive power ( $R^2 = .166$ ) as the sentencing regression model. This was likely due to the lack of variation in the dichotomous dependent parole decision variable (i.e., only 33 percent receive parole orders). In situations where the dependent variable is heavily skewed (and without a normal distribution), prediction of rare events (in this case paroles being granted) is extremely difficult. Prediction of parole denied is relatively

Table 3-3

Results of Stepwise Multiple Regression

| <u>Variable Entered</u>   | <u>F</u> | <u>Prob F</u> |
|---------------------------|----------|---------------|
| Warden's Recommendation   | 14.90    | .0001         |
| Hearing Number            | 4.58     | .0330         |
| Total Disciplinary Ticket | 1.00     | .3172         |
| Disciplinary Problem      | 28.32    | .0001         |

Culminative R Square = .166

F = 48.80

- \* Maximum R Square Improvement for Dependent Variable Parole Decision (1=Denied, 2=Granted,  $\bar{x}$ =1.271, S.D=.445).

Table 3-4

Correlation Matrix of Institutional Behavior Variables

|                  | <u>Total Ticket</u> | <u>Adm. Seg.</u> | <u>Disp. Prob.</u> | <u>Warden Rec.</u> |
|------------------|---------------------|------------------|--------------------|--------------------|
| Total Ticket     | 1.00                |                  |                    |                    |
| Adm. Segregation | -.54                | 1.00             |                    |                    |
| Disp. Prob.      | -.55                | .48              | 1.00               |                    |
| Warden Rec.      | .30                 | -.26             | -.35               | 1.00               |

easy since they occur so frequently, but it is much more difficult to predict the more rare occurrence of parole granted.

The problem in parole prediction can be illustrated using simple crosstabulation tables of the two more important variables, Warden's recommendation and disciplinary problem (see Table 3-5). Inmates who are defined as a disciplinary problem or not recommended for parole by the Warden are almost certain to not be granted parole. However, a majority of inmates who (1) are not a disciplinary problem (67 percent), and (2) are recommended for parole by the Wardens also do not receive parole (56 percent). It is also interesting to note that the Wardens recommend parole in 64 percent of all cases - a rate similar to the Board's parole rate of 60 percent in 1979.

Clearly, what is now happening in Nevada is a uniform trend toward less use of parole. Inmates, largely independent of their behavior during institutional confinement, their criminal history, type of current offense and other factors, are not likely to be paroled. Institutional behavior has some limited effect on an inmate's likelihood of being granted release by the Board.

#### Summary

- 34 percent of all inmates appearing before the Board are granted parole. This rate is substantially below the rate of 60 percent reported in 1979.
- Only 15 percent of all inmates appearing before the Board are paroled directly to Nevada. Over half of the parole grant orders are conditional paroles or paroles to consecutive sentences or detainers and holds from other jurisdictions. The best predictors of an inmate being granted parole are the Warden's recommendation and disciplinary record. However, the overall predictability of the Board is quite low.
- Overall, the Board has adopted a conservative parole release policy with an increasing trend toward a general denial policy.

Table 3-5  
Parole Decision By  
Warden's Recommendation and Disciplinary Problem

|                         | Parole Decision |                  | Total<br>(434) |
|-------------------------|-----------------|------------------|----------------|
|                         | Denied<br>(234) | Granted<br>(123) |                |
| Disciplinary Problem    |                 |                  |                |
| Yes                     | 96.4%           | 3.6%             | 12.7%          |
| No                      | 66.7%           | 33.3%            | 87.3%          |
| Warden's Recommendation |                 |                  |                |
| Deny                    | 94.6%           | 5.4%             | 36.1%          |
| Parole                  | 55.8%           | 44.2%            | 63.9%          |

## Chapter 4

### PRISON POPULATION SIMULATION PROJECTIONS

#### Introduction

The previous two chapters analyzed current sentencing and parole practices in Nevada. Both analyses identified several trends in current practice. For two reasons, however, these trends may not be desirable from a public policy perspective. First, there is evidence that sentencing and parole decisions are not grounded in explicit criteria which, in turn, create undesirable levels of disparity in sentencing and parole decision points. In sentencing decisions, disparity is most evident in the setting of sentence lengths. The Parole Board, on the other hand, appears to be increasingly dependent upon a general policy of denying parole in the majority of cases, independent of other factors. A possible alternative to these trends is the adoption of sentencing and parole guidelines which, at a minimum, would make the criteria at these critical decision points more explicit and equitable.

A second major trend concerns the State's increasing reliance upon imprisonment which, in turn, is aggravating the State's prison crowding problem. Compared to other states, Nevada's courts have a relatively high prison disposition rate for convicted felons. This form of disposition translates into a relatively high prison admission rate and a relatively low rate of commitment to probation. Furthermore, the trend toward fewer paroles being granted means longer lengths of stay in prison which, in turn, increases the prison population. Collectively, trends of (1) high prison commitment rates, (2) low parole rates, plus (3) high crime rates, and (4) a projected increasing state population (4 percent annual increase), provide some explanation about why Nevada now has the highest incarceration rate in the nation and the highest in the State's history.

The Nevada legislature is concerned that these trends will unnecessarily produce a chronic overcrowded prison system at tremendous fiscal cost to the State throughout the next decade. The Subcommittee members requested that analysis be conducted to learn

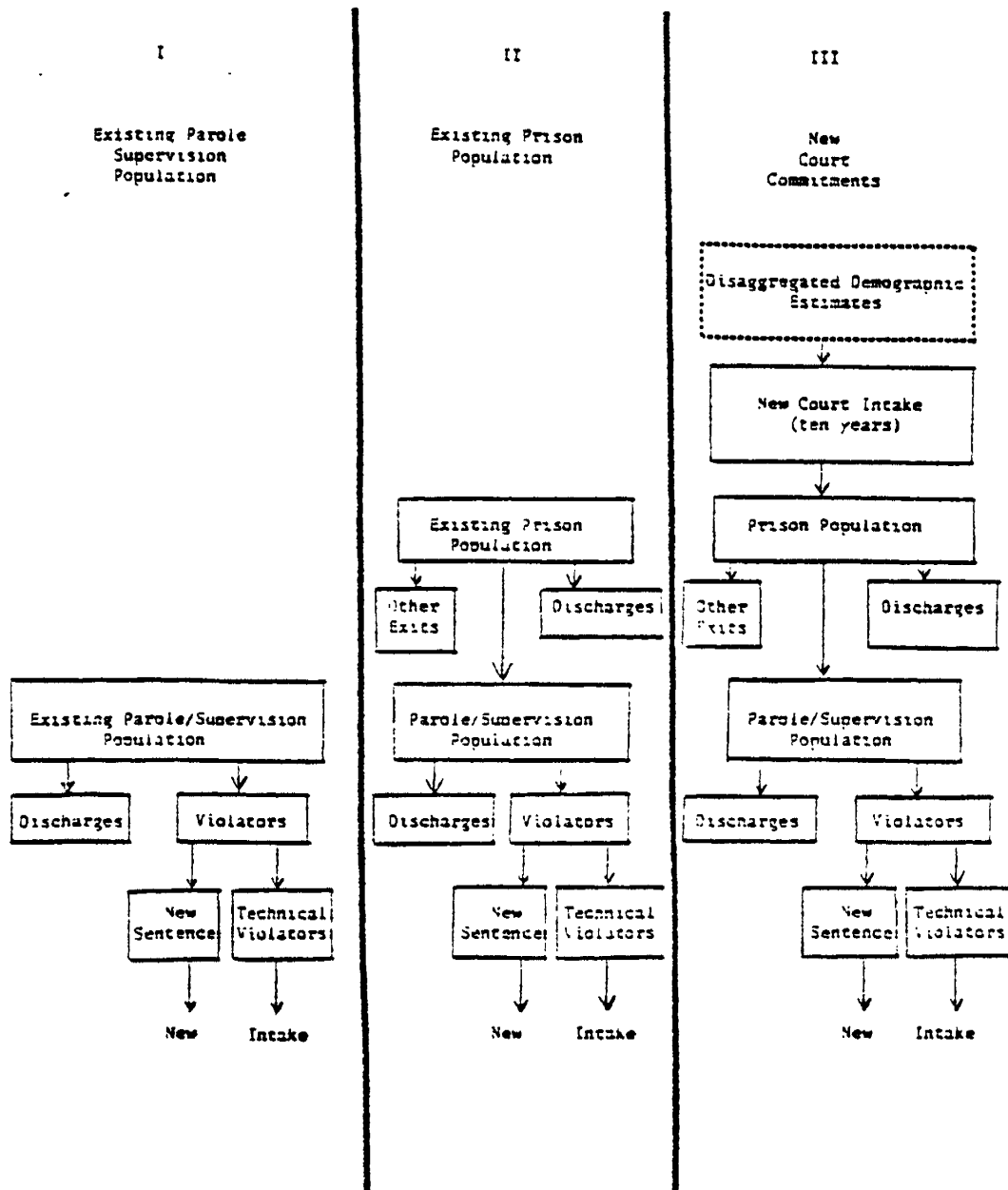
if adoption of a certain sentencing, parole and good-time policies (as practiced by other states) would help help control prison population growth and reduce sentencing disparities. Consequently, Subcommittee staff requested that a series of prison population scenarios be simulated using the NCCD projection model to estimate their likely effects on prison population size. What follows in this chapter is a description of the methods used to simulate alternative policies and the results of these simulation analyses.

### Projection Methods

A major product of the 1982 Prison Masterplan study completed by the National Council on Crime and Delinquency (NCCD) was the development of a prison population model capable of projecting the size of future prison populations and simulating the impact of alternative correctional policies. The model allows one to artificially initiate change in one aspect of the criminal justice process and maintain current practices in other components not affected by the new policy. In correctional reform, this capability is essential since many reforms only affect new prison admissions and not the existing probation, prison and parole populations. For example, legislation proposing to alter sentence length would not be retroactive to those offenders already serving time in prison or sentenced to probation.

A conceptual overview of the model is shown on the following page. Briefly, the model disaggregates the correctional population into three major subcomponents existing parole population, existing prison population, and new prison intake population. In terms of statistical properties, this model is commonly called a stochastic entity simulation model. It is stochastic (or probabilistic) in the sense that random numbers are used in the process, and an entity simulation in the sense that the model is conceptually designed around the movement of individuals through the prison system. More generally, it utilizes Monte Carlo simulation techniques because random numbers are used to simulate the flow of persons through prison and parole systems. In addition to Nevada, similar models are being used in California and Illinois to project their correctional populations.

# NCCD Prison and Parole Population Disaggregated Simulation Model Conceptual Design



### Current Projection

The last official projection submitted by NCCD was in 1982 as part of the Prison Masterplan. Although that projection has proven to be quite accurate thus far, a revised projection was needed given recent policy developments in Nevada. First and foremost, the 1982 projection did not take into account an increasing parole denial rate. The 1982 projections assumed that 30 percent of all inmates appearing before the Board would be paroled. It is now known that this rate is too high and needs to be adjusted downward to reflect current Board policy.

Also affecting prison population estimates are changes in sentencing laws and court practices which affect the number and type of inmates admitted to prison each year. These changes have not been as significant as the parole release factor but still require adjustments in the model. Such factors have been accounted for by updating the admission parameters; specifically, annual admission rates and sentence length distributions.

Annual admission numbers are estimated for ten years using a disaggregated demographic technique developed by Blumstein (1980) and used for the 1982 projection. Because certain sex, age, and ethnic groups are known to have high incarceration rates, it is essential to know to what extent these "at risk" demographic groups will grow. Nevada is a growth state and expected to increase its state population substantially over the next decade. As more persons reside in Nevada, one can expect that the number of males aged 18-39 will also increase. This demographic group is the one most likely to be arrested and incarcerated. Consequently, prison admissions can be expected increase unless changes are made in sentencing policies.

With all of these adjustments made in the model, a new updated projection was completed (see Table 4-1). This projection has the following key assumptions:

1. Annual Admission Growth Rate of 4 Percent for new prison commitments from court.

Table 4-1

Nevada Prison Population Projection

NCCD 1982 and 1984

| Fiscal Year | 1982 Projection | 1984 Projection |
|-------------|-----------------|-----------------|
| 83-84       | 3400            | 3450            |
| 84-85       | 3625            | 3725            |
| 85-86       | 4025            | 4075            |
| 86-87       | 4450            | 4450            |
| 87-88       | 4750            | 4875            |
| 88-89       | 4975            | 5325            |
| 89-90       | 5350            | 5725            |
| 90-91       | 5575            | 6225            |
| 91-92       | N/A             | 6600            |
| 92-93       | N/A             | 7000            |

2. Parole Probability of 26 percent paroled at Hearing 1; 41 percent paroled at Hearing 2; 42 percent paroled at Hearings 3 and 4; and 50 percent paroled at Hearing 5.

This projection estimates that the state's prison population will grow to 7,000 by Fiscal Year 1992-1993 if there are no changes in these major assumptions. Compared to the 1982 projection (also provided in Table 4-1), this growth represents a substantial increase which is largely driven by the greater restriction of parole which begins to have major effects in Fiscal Year 88-89. In the 1982 projection, the parole probabilities were substantially higher (i.e., 30 percent paroled at Hearing 1; 60 percent paroled at Hearing 2; 90 percent paroled at Hearing 3; 95 percent paroled at Hearing 4; and 99 percent paroled at Hearing 5). If the current parole policy remains in effect throughout the decade, inmates with long sentences will begin to increasingly stack-up over the decade and have substantial consequences for prison population growth.

Conversely, there are two factors which may reduce the projected growth in Nevada. First, the Board may return to its earlier practices. It would be hard to imagine a scenario where the Board could become more conservative in its present practices, but it is possible that the Board might return to its policies of 1979, 1980 and 1981 when 45-60 percent of all hearings resulted in parole being granted. Such a shift would substantially reduce the ten year projection.

Second, the number of new court admissions may also decrease to a rate below the projected demographic growth rate of the state. This could be attributable to the fact that crime is down nationally and fewer persons are being arrested and convicted for felony level offenses. In the last four months of Fiscal Year 1983-84, admissions did level off to a one percent growth rate. If this continues, the ten year projection would also be reduced.

Both of these potential trends point out the need to constantly monitor and update the projection model with the most current and accurate data. Ideally, new projections should be issued every six months by NDP to provide the State with accurate population

growth analysis. Such timely analysis will provide information to base operational budget needs and long-term capital expansion needs. This is not being done at this time as NDP staff require training in order to take over the NCCD model. Immediate steps are needed to improve both information systems and staffing needed to properly maintain the projection model.

#### Alternative Sentencing Guideline Models

Sentencing reforms primarily impact the number of offenders committed to prison and the sentence lengths handed out by the court. In the course of the Subcommittee's public hearings, testimony was heard from a number of experts from other states and Federal agencies on how several states reformed their sentencing systems. The Subcommittee was especially interested in the Minnesota Sentencing Guidelines model which had successfully controlled population growth and reduced disparity. This model relies principally on two factors to sentence convicted felons; current offense category and prior convictions. An example of the scoring grid is shown on the following page.

In terms of computer simulation, it was possible to estimate what impact this model would have on Nevada's sentencing practices by applying the model's criteria to Nevada's convicted felon population. The principle purpose of this simulation was to estimate how the Minnesota model would alter the current prison disposition rate of 42 percent noted in Chapter 2. Minnesota's prison disposition rate is substantially lower at 22 percent.

Initial results reveal that if Nevada fully adopted the Minnesota model it would reduce the prison disposition rate to 27 percent (see Table 4-3). Some Subcommittee staff felt this was too low and requested a more moderate rate of 35 percent be used as a Nevada version of the guidelines model. This was done by slightly increasing the guideline for a few of the property offenders with less severe criminal histories (see Table 4-2).

## Minnesota Guidelines Model

### Presumptive Sentence Lengths in Months

alicized numbers within the grid denote the range within which a judge may sentence without the sentence being deemed a departure.

Offenders with nonimprisonment felony sentences are subject to jail time according to law.

| SEVERITY LEVELS OF CONVICTION OFFENSE                                    |      | CRIMINAL HISTORY SCORE |                |                |                |                |                |                |
|--------------------------------------------------------------------------|------|------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
|                                                                          |      | 0                      | 1              | 2              | 3              | 4              | 5              | 6 or more      |
| Unauthorized Use of Motor Vehicle<br>Possession of Marijuana             | I    | 12*                    | 12*            | 12*            | 13             | 15             | 17             | 19<br>17-20    |
| Theft Related Crimes (\$250-\$2500)<br>Aggravated Forgery (\$250-\$2500) | II   | 12*                    | 12*            | 13             | 15             | 17             | 19             | 21<br>20-22    |
| Theft Crimes (\$250-\$2500)                                              | III  | 12*                    | 13             | 15             | 17             | 19<br>18-20    | 22<br>21-23    | 25<br>24-26    |
| Nonresidential Burglary<br>Theft Crimes (over \$2500)                    | IV   | 12*                    | 15             | 18             | 21             | 25<br>24-26    | 32<br>30-34    | 41<br>37-45    |
| Residential Burglary<br>Simple Robbery                                   | V    | 18                     | 23             | 27             | 30<br>29-31    | 38<br>36-40    | 46<br>43-49    | 54<br>50-57    |
| Assault, 2nd Degree                                                      | VI   | 21                     | 25             | 30             | 34<br>32-35    | 44<br>42-46    | 54<br>50-58    | 63<br>60-70    |
| Aggravated Robbery                                                       | VII  | 24<br>23-25            | 32<br>30-34    | 41<br>38-44    | 49<br>45-53    | 65<br>60-70    | 91<br>75-97    | 97<br>90-114   |
| Criminal Sexual Conduct, 1st Degree<br>Assault, 1st Degree               | VIII | 43<br>41-45            | 54<br>50-58    | 65<br>60-70    | 75<br>71-81    | 95<br>89-101   | 113<br>106-120 | 132<br>124-140 |
| Murder, 3rd Degree<br>Murder, 2nd Degree (felony murder)                 | IX   | 105<br>102-108         | 119<br>116-122 | 127<br>124-130 | 149<br>143-155 | 175<br>168-194 | 205<br>195-215 | 230<br>218-242 |
| Murder, 2nd Degree (with intent)                                         | X    | 120<br>116-124         | 140<br>133-147 | 162<br>153-171 | 203<br>192-214 | 243<br>231-255 | 284<br>270-298 | 324<br>309-339 |

1st degree Murder is excluded from the guidelines by law and continues to have a mandatory life sentence.

\*one year and one day

(Rev. Eff. 3/1/81; 11/1/83)

Table 4-2

Sentencing Disposition Scores of Nevada Offenders Using  
Minnesota and Modified Minnesota Guideline

| FREQUENCY | . | 0   | 1   | 2   | 3   | 4  | 5  | 6+ | TOTAL |
|-----------|---|-----|-----|-----|-----|----|----|----|-------|
| .         | 0 | 39  | 23  | 16  | 10  | 5  | 4  | 15 | .     |
| 1         | 0 | 25  | 18  | 10  | 4   | 5  | 1  | 6  | 69    |
| 2         | 0 | 238 | 133 | 59  | 37  | 14 | 7  | 17 | 505   |
| 3         | 0 | 81  | 61  | 32  | 9   | 13 | 4  | 17 | 217   |
| 4         | 0 | 91  | 42  | 23  | 13  | 3  | 8  | 9  | 189   |
| 5         | 0 | 30  | 33  | 15  | 13  | 2  | 3  | 3  | 99    |
| 6         | 0 | 19  | 23  | 10  | 12  | 4  | 0  | 4  | 72    |
| 7         | 1 | 42  | 28  | 19  | 21  | 3  | 8  | 4  | 125   |
| 8         | 0 | 39  | 24  | 10  | 10  | 1  | 1  | 3  | 88    |
| 9         | 0 | 15  | 5   | 5   | 2   | 0  | 0  | 1  | 28    |
| 10        | 0 | 13  | 4   | 1   | 2   | 2  | 0  | 2  | 24    |
| TOTAL     | . | 593 | 371 | 184 | 123 | 47 | 32 | 66 | 1416  |

\* Upper line reflects modified Minnesota criteria.  
Lower line reflects original Minnesota criteria.  
Numbers within cells reflect offenders assigned to that specific cell.

Table 4-3

PRISON POPULATION PROJECTIONS  
Sentencing Guideline Models

| FY    | Current | Minnesota Model* | Nevada Model** |
|-------|---------|------------------|----------------|
| 83-84 | 3450    | 3450             | 3450           |
| 84-85 | 3725    | 3725             | 3725           |
| 85-86 | 4075    | 4075             | 4075           |
| 86-87 | 4450    | 4450             | 4450           |
| 87-88 | 4875    | 4575             | 4825           |
| 88-89 | 5325    | 4600             | 5025           |
| 89-90 | 5725    | 4700             | 5275           |
| 90-91 | 6225    | 4775             | 5500           |
| 91-92 | 6600    | 4950             | 5800           |
| 92-93 | 7000    | 5050             | 6100           |

- Assumptions:
1. 4% Annual Admission Growth Rate
  2. Guidelines start July 1, 1987
  3. Six month lag between effective date and first change in prison intake
  4. Not retroactive to existing population
  5. Parole Probabilities of .26, .41, .42, .42, .50 for both current and new intake populations

\* Assumes a .27 Prison Disposition Rate

\*\* Assumes a .35 Prison Disposition Rate

Three technical points should be noted here. First, it was assumed that the sentencing law would not take effect until July 1, 1987 and that there would be a time lag of six months before the first noticeable change in actual prison admissions would be apparent. Second, the law would not be retroactive to the existing felon population. And third, the current parole board system and sentencing system would remain in effect including current parole release probabilities. In actuality, both the sentence length and parole function would likely be changed substantially if the State were to adopt a determinate sentencing structure like Minnesota. However, at this time it was not possible to estimate the extent of these changes. By maintaining current sentence length and parole probabilities, these projections assume that the current length of stay in prison will remain as it is now.

The results of the two projections (Minnesota and Nevada version of Minnesota) indicate that both sentencing reforms would have major effects on prison population growth (see Table 4-3). The Minnesota model would essentially "cap" the population by 1987 and keep it at a flat rate through 1993. The Nevada version, although not as dramatic, would also have a major impact on reducing projected prison growth.

#### Alternative Sentence Length

A second set of reforms affecting sentencing focused on adjusting current sentence lengths. Testimony had also been given to the Subcommittee on the highly promoted selective incapacitation concept. This approach simply means that high risk offenders would spend longer terms in prisons and less risky offenders would have their terms reduced. Because violent or high risk offenders represent a minority of all prison admissions, these adjustments could be made without increasing the prison population. Furthermore, public safety would be enhanced since the more dangerous offenders would be incapacitated for longer periods of time (assuming, of course, that such offenders can be identified).

The Subcommittee specifically recommended that a simulation be done where an offender committed to prison for crimes of violence (murder, manslaughter, rape, kidnapping, arson, robbery, battery, and assault) would have their sentences increased by 25 percent. This group of offenders would represent the high risk group. All other offenders would have their sentences reduced by 25 percent. A second scenario was also tested where violent offenders had their sentence lengths increased by 50 percent while reducing all other offenders' sentence length by 25 percent.

In both simulations, it is assumed that the sentence length changes would not take effect until July 1, 1985 with a six month lag factor. Current parole probabilities remain constant and the legislation would not be retroactive to the current prison population.

The results of these simulations demonstrate that adopting such sentencing policy would have minimal impact on population growth (see Table 4-4). This finding reflects the distribution of Nevada's violent and non-violent offenders actually admitted to prison. Less than 25 percent of all NDP prison admissions are for violent crimes. Even though sentence lengths for these offenders are already quite long, increasing their prison terms an additional 25 to 50 percent is compensated for by reducing the sentence length of the majority of prison admissions (75 percent non-violent) by 25 percent. Consequently, there would be virtually no impact on the projected population growth over a ten year period.

#### Alternative Parole Policies

The next set of policy simulations centered on adjustments in current parole release rates. Subcommittee members were greatly concerned with the increasing trend toward parole denials and its subsequent impact on prison crowding. Furthermore, the analysis of parole decision-making discussed in Chapter 3 showed that the Board is not using explicit criteria for its decisions. Similar to sentencing, the Subcommittee was interested in the effects of using a more structured guideline approach to parole release decisions.

Table 4-4

PRISON POPULATION PROJECTION  
Sentence Length Revisions

| FY    | Current | 25/25 <sup>1</sup> | 50/25 <sup>2</sup> |
|-------|---------|--------------------|--------------------|
| 83-84 | 3450    | 3450               | 3450               |
| 84-85 | 3725    | 3725               | 3725               |
| 85-86 | 4075    | 4125               | 4150               |
| 86-87 | 4450    | 4425               | 4450               |
| 87-88 | 4875    | 4750               | 4750               |
| 88-89 | 5325    | 5150               | 5150               |
| 89-90 | 5725    | 5600               | 5600               |
| 90-91 | 6225    | 6025               | 6100               |
| 91-92 | 6600    | 6450               | 6550               |
| 92-93 | 7000    | 6775               | 6950               |

<sup>1</sup> Assumes 25% increase in sentence lengths for persons convicted of following crimes: Murder, Manslaughter, Rape, Kidnapping, Arson, Robbery, Battery, Assault, and all other Sex Crimes.

All other crimes have sentence lengths reduced by 25%

<sup>2</sup> Assumes 50% increase in sentence lengths for persons convicted of following crimes: Murder, Manslaughter, Rape, Kidnapping, Arson, Robbery, Battery, Assault, and all other Sex Crimes.

All other crimes have sentence lengths reduced by 25%

- Assumptions:
1. 4% Annual Admission Growth Rate
  2. Parole Probabilities of .26, .41, .42, .42, .50
  3. Legislation takes effect July 1, 1985
  4. 6 month lag time before first admission to prison affected by new law.
  5. Not retroactive to existing prison population

Two specific policy options were proposed. The first was a parole guideline model now being used by the Pennsylvania Board of Probation and Parole. Pennsylvania's model is, in part, a predictive model which uses factors found to be related to actual parole performance. Furthermore, the model is also objective since it uses a point scoring matrix to provide for equity in the parole decision-making process. The Board may deviate from an inmate's designated score only if a written explanation is provided justifying the exception to policy. It should also be added that almost 80 percent of the cases appearing before the Pennsylvania Board are paroled. Furthermore, over 81 percent of offenders released on parole are not recommitted to prison or abscond supervision after a one year follow-up suggesting the model is fairly successful in identifying the low risk parole candidates.

Not unexpectedly, analysis indicates that if Nevada adopted the Pennsylvania approach the probabilities of being granted parole would increase substantially to a level of 72 percent. This figure is calculated by applying the Pennsylvania factors to the sample of Nevada inmates appearing before the Nevada Parole Board. Applying this change to the current projection model, a drop of over 1,000 beds would occur by 1993. This projection assumes the parole policy would not take effect until January 1, 1986 (see Table 4-5).

A second option for modifying current parole practices was developed by the Subcommittee staff. Their criteria suggested the creation of the following four classes of offenders who would have certain parole release probabilities:

- Class I Property Offender - No Prior Felony Convictions (High Probability)
- Class II Property Offender - Prior Felony Conviction(s) (Moderate Probability)
- Class III Violent Offender - No Prior Felony Conviction (Low Probability)
- Class IV Violent Offender - Prior Felony Conviction (Minimal Probability)

If this approach were used by the Board, a higher composite parole release rate would take effect (50 percent release rate Hearing 1; 65 percent release rate Hearing 2; 75 percent release rate Hearing 3; 77 percent release rate Hearing 4; and 79 percent

Table 4-5

PRISON POPULATION PROJECTION  
Parole Guideline Models

| FY    | Current | Proposed Nevada* | Pennsylvania** |
|-------|---------|------------------|----------------|
| 83-84 | 3450    | 3450             | 3450           |
| 84-85 | 3725    | 3725             | 3725           |
| 85-86 | 4075    | 3875             | 3875           |
| 86-87 | 4450    | 3825             | 3675           |
| 87-88 | 4875    | 4100             | 3900           |
| 88-89 | 5325    | 4475             | 4225           |
| 89-90 | 5725    | 4975             | 4700           |
| 90-91 | 6225    | 5475             | 5125           |
| 91-92 | 6600    | 5900             | 5500           |
| 92-93 | 7000    | 6300             | 5975           |

Major Assumptions:

1. Guidelines effective January 1, 1986
2. Guidelines retroactive to current population
3. 4 percent Annual Admission Increase
4. No change in sentencing or goodtime policies

\* Proposed Nevada: Parole Probabilities changed to .50, .65, .75, .77, .79 for both new intake and current population.

\*\* Pennsylvania: Parole Probabilities changed to .72, .72, .72, .72, .72 for both new intake and current population.

release rate Hearing 5). This, in turn, would produce a ten year projection of 6300 or 700 less than the current estimate (see Table 4-5). In summary, both attempts to implement parole guidelines would result in substantial reductions in the projected population.

#### Abolition of Parole

Subcommittee 375 was initially created to study the potential effects of abolishing the current parole release system altogether. Criticisms had been raised by legislative and criminal justice officials that the Parole Board selectively released offenders who subsequently committed serious crimes quickly after release. As an alternative, would it not be possible to simply eliminate parole and require inmates to serve their entire term in prison?

In Nevada, inmates are generally discharged from prison without parole supervision after serving approximately 61 percent of their sentence. It is also estimated that inmates are generally eligible for parole at 21 percent of their sentence, thus creating a spread of some 40 percentage points in sentence length during which the Board has the authority to grant release.

Although the Board is presently using highly restrictive release criteria, more than half of inmates released from prison are released to parole prior to sentence expiration. Compared to previous years, the vast majority of Nevada inmates must wait until their third, fourth, or beyond hearings before the Board grants release. The policy to be tested here would be no parole for inmates, meaning that they would serve the estimated 61 percent of their original sentence. The major assumptions of the projection simulation were that the new law would take effect July 1, 1985, that six month lag factor would be in effect, and that it would not be retroactive to the current population.

The results of this simulation indicate that a substantial increase would occur in the prison population (see Table 4-6). A net increase of over 2,000 beds beyond the current projection would be needed to accommodate the effects of longer prison terms

Table 4-6

PRISON POPULATION PROJECTION  
Abolition of Parole

| <u>FY</u> | <u>Current</u> | <u>Parole Abolished</u> |
|-----------|----------------|-------------------------|
| 83-84     | 3450           | 3450                    |
| 84-85     | 3725           | 3725                    |
| 85-86     | 4075           | 4075                    |
| 86-87     | 4450           | 4450                    |
| 87-88     | 4875           | 5100                    |
| 88-89     | 5325           | 5925                    |
| 89-90     | 5725           | 6700                    |
| 90-91     | 6225           | 7625                    |
| 91-92     | 6600           | 8350                    |
| 92-93     | 7000           | 9025                    |

- Assumptions:
1. Parole Abolished for persons arrested after July 1, 1985
  2. Parole still in effect for existing prison population/not retroactive
  3. Lag time of six months between July 1, 1985 and first admission to prison affected by new law.
  4. 4% Annual Admission Growth Rate
  5. Parole Probability of .26, .41, .42, .42, .50

for new prison admissions. Furthermore, the increased rate of growth likely would continue for several years beyond.

### Alternative Good-Time Policies

The final set of projections centered on modifications in the schedule of statutory good-time allowable to inmates. Inmates are allowed to have time taken off their sentences through positive institutional behavior. These meritorious good-time (MGT) deductions, as they are called, affect both the inmate's initial parole eligibility release date and the inmate's maximum sentence expiration date. The present legislation and policies which determine how much time and how often time can be granted are extremely complex and confusing. For example, in addition to statutory good-time credits, inmates can receive additional credits for giving blood or participating in specific work programs or activities.

Widespread agreement exists that the current system needs to be overhauled and reformed. Some members of the Subcommittee also suggested that the awarding of good-time be tied more closely to the behavior of the inmate. Presently, inmates receive substantial amounts of credits, not for participating in programs but more for simply staying out of trouble in the institution. Consequently, inmates can receive substantial reductions in their prison terms by doing nothing.

A number of proposals were considered by the Subcommittee which would impact both minimum parole eligibility date and maximum expiration date. As noted previously, the current projection assumed that most inmates will be eligible for parole at 21 percent of their sentence and will be discharged by the time they have served at least 61 percent of their sentence if parole is not granted.<sup>2/</sup> The difficult task for the simulations of alternative good-time policies was to estimate how these policies would impact the 21 percent and 61 percent estimates. It is difficult to estimate the proportion of

<sup>2/</sup> The model separately analyzes inmates with statutory minimum parole eligibility dates and those with life sentences without possibility of parole.

inmates eligible for different types of good-time credits without knowing if the Department of Prisons will have sufficient programs and work assignments. Consequently, all of the following projections are extremely tenuous.

Five initial proposals were presented by the Subcommittee staff to adjust current good-time calculations. Each policy contained three types of days for disciplinary behavior inside the prison walls, work performed inside the prison walls, and work performed outside the prison walls. These days could be deducted from either the minimum or maximum sentence lengths. For example, scenario A represents a maximum of 30 days for each month served to be deducted off both the minimum and maximum parole eligibility dates (see Table 4-7). Scenario B uses the same formula but applies it only to the maximum sentence only. These rates are then calculated as to how they impact assumptions in the projection model.

All but two of the suggested formulas would increase prison populations (see Table 4-7). The greatest reduction was the NDP proposal which included 30 days of MGT per year for 25 percent of the population. The most conservative formula (Scenario D) provided for no more than 15 days per month with no MGT time.

After much debate, a final proposal was suggested by the Subcommittee which included a 5/10/15 plus 30 MGT days per inmate per year at the discretion of the Director of prisons (see Table 4-8). This simulation suggests a slight increase of 375 beds will occur on the ten year period. However, the tenuous nature of this projection needs to be recalled.

Table 4-7

PRISON POPULATION PROJECTION

Good Time Provision

| FY    | Current | A    | B    | C    | D    | NDP  |
|-------|---------|------|------|------|------|------|
| 83-84 | 3450    | 3450 | 3450 | 3450 | 3450 | 3450 |
| 84-85 | 3725    | 3725 | 3725 | 3725 | 3725 | 3725 |
| 85-86 | 4075    | 4075 | 4125 | 4175 | 4325 | 3950 |
| 86-87 | 4450    | 4450 | 4550 | 4550 | 4750 | 4250 |
| 87-88 | 4875    | 4875 | 5000 | 5075 | 5325 | 4625 |
| 88-89 | 5325    | 5325 | 5550 | 5575 | 5875 | 5025 |
| 89-90 | 5725    | 5725 | 6050 | 6075 | 6425 | 5500 |
| 90-91 | 6225    | 6225 | 6500 | 6625 | 7050 | 5950 |
| 91-92 | 6600    | 6600 | 7075 | 7075 | 7650 | 6450 |
| 92-93 | 7000    | 7000 | 7500 | 7775 | 8225 | 6850 |

- Assumptions:
1. 4% Annual Admission Growth Rate
  2. Effective July 1, 1985
  3. Not Retroactive
  4. Parole Probability of .26, .41, .42, .42, .50

- A. 10/10/10 Goodtime off minimum (.21) and maximum (.61)  
 B. 10/10/10 Goodtime off maximum only (.33) (.61)  
 C. 5/10/10 Goodtime off minimum (.23) and maximum (.68)  
 D. 5/5/5 Goodtime off minimum (.26) and maximum (.79)  
 NDP: 10/10/10 Goodtime of minimum (.21) and maximum (.61)  
 plus 30 days MGT per year for 25% of existing  
 and incoming population

- 55 -

Table 4-8

PRISON POPULATION PROJECTION

Good - Time Reform

| FY    | Current | 5/10/15 + 30 MGT Days |
|-------|---------|-----------------------|
| 83-84 | 3450    | 3450                  |
| 84-85 | 3725    | 3725                  |
| 85-86 | 4075    | 4125                  |
| 86-87 | 4450    | 4500                  |
| 87-88 | 4875    | 5975                  |
| 88-89 | 5325    | 5450                  |
| 89-90 | 5725    | 5900                  |
| 90-91 | 6225    | 6425                  |
| 91-92 | 6600    | 6825                  |
| 92-93 | 7000    | 7375                  |

- Assumptions:
1. 4% Annual Admission Growth Rate
  2. Effective July 1, 1985
  3. Not Retroactive to Existing Population
  4. Parole Probability of .26, .41, .42, .42, .50
  5. Restricted Use of 30 MGT Authority

### Combining Sentencing, Parole and Good-Time Policies

The final projection produced for the SB375 Subcommittee took into account the simultaneous effects of adopting sentencing, parole and good-time policy reforms. Such a simulation would allow the Subcommittee to estimate the interactive effects of policies introduced over a staggered time period and affecting both the rate of admissions to prison and prison terms.

A variety of sentencing, parole and good-time policy combinations were analyzed before the Subcommittee selected what members considered to be the two most likely options for Nevada. These combinations consisted of using the Nevada version of sentencing guidelines (or modified Minnesota model) and the Minnesota sentencing guideline model with the proposed Nevada parole guideline model and the 5, 10, 15 plus 30 MGT good-time system. The result of this simultaneous simulation indicated a 1,425 (or 23 percent) reduction in the current prison population projection (Table 4-9). A more dramatic reduction of 2,450 (or 35 percent) would be achieved if the State were to adopt the pure Minnesota model since that model would enhance the diversion of property offenders to probation.

Table 4-9

**Simultaneous Simulations  
Sentencing and Nevada Parole Guideline Models**

| <u>FY</u> | <u>Current</u> | <u>Nevada Sentencing<br/>Nevada Parole Models</u> | <u>Minnesota Sentencing and<br/>Nevada Parole Models</u> |
|-----------|----------------|---------------------------------------------------|----------------------------------------------------------|
| 83-84     | 3450           | 3450                                              | 3450                                                     |
| 84-85     | 3725           | 3725                                              | 3725                                                     |
| 85-86     | 4075           | 3875                                              | 3875                                                     |
| 86-87     | 4450           | 3825                                              | 3825                                                     |
| 87-88     | 4875           | 3950                                              | 3825                                                     |
| 88-89     | 5325           | 4125                                              | 3800                                                     |
| 89-90     | 5725           | 4525                                              | 3925                                                     |
| 90-91     | 6225           | 4825                                              | 4100                                                     |
| 91-92     | 6600           | 5175                                              | 4325                                                     |
| 92-93     | 7000           | 5575                                              | 4550                                                     |

Same individual assumptions are maintained for projections presented previously for Nevada Sentencing Guideline, Minnesota Sentencing Guidelines, and Nevada Parole Guideline Models.

## CHAPTER 5

### IMPACT OF SENTENCING AND PAROLE REFORMS ON PAROLE, PROBATION, AND PRISON CLASSIFICATION

A common weakness in correctional policy analysis is the absence of a system-wide perspective which would account for change in other aspects of the correctional system. Many reforms which focus on modification of the number of offenders sentenced to prison and inmate release practice also will have secondary effects on probation and parole populations. In the case of Nevada, the major reforms being considered would accelerate the numbers of offenders being placed both on probation and on parole. These secondary effects must be accounted for to accurately estimate the additional costs of managing a larger community correctional population.

One can also anticipate that as more selective sentencing and parole release guideline models are implemented changes in the characteristics of the prison population will also evolve. These changes will inevitably alter the security needs of the prison population toward the higher classification levels.<sup>6/</sup>

The purpose of this chapter is to present broad estimates of how the major sentencing and parole proposals presented in the previous chapter will impact the future size of probation and parole populations as well as the security needs of the prison system. For purpose of simplicity, the analysis will be limited to the two major proposals recommended by the legislative subcommittee: Nevada Sentencing Guidelines and Nevada Parole Guidelines models.

---

<sup>6/</sup>One could also argue that similar classification changes will develop for probation and parole populations as different types of offenders are channelled by the court and the Parole Board. However, since no correct classification data exists for probation and parole, this kind of analysis will not be presented.

### Parole Population Estimates

The Nevada prison population projection model produces estimates of parole population movements which are essential to accurate prison population estimates. A parole board release sub-module internal to the overall model provides probabilities on the likelihood of an inmate being granted parole at his first, second, third, fourth and fifth hearings as well as expected length of parole supervision. As the release probabilities are increased, as they are for the proposed Nevada Parole Guidelines model, inmates are then released at a faster rate to parole supervision status, which in turn increases future parole population projections.

Table 5-1 summarizes both the current parole population estimates as well as those projected assuming the state adopts either parole guidelines or parole guidelines and sentencing guidelines. The latter projection simultaneously takes into account the effects of more parolees and fewer prison admissions. Please note that this table includes only in-state parole population estimates. Nevada by virtue of its gaming industry and its geographic proximity to California has a significant out-of-state parole population (estimated at 34 percent). The current projection model does not internally adjust for this out-of-state parolee population. The adjustment is made for this table by simply reducing the raw calculated parole population by 34 percent.

If only the Nevada sentencing guidelines model is adopted, a slight reduction in the state's parole population will begin in fiscal year 1988-89. The reduction is small for two reasons. First, the Board is already quite restrictive in its use of parole. Sentencing guidelines will serve principally to direct the number of offenders committed to prison and not necessarily increase the parole rate. Second, sentencing guidelines would not be adopted until July 1, 1987, with the first observable change in prison admissions unlikely to occur until January, 1988. And, it will be 1-2 years before a large number of these new prison admissions begin appearing before the Board further diluting the immediate impact on parole population size.

Table 5-1

In-State Parole Population Projections\*

| <u>Fy</u> | <u>Current</u> | <u>Nevada<br/>Sentencing</u> | <u>Nevada<br/>Parole</u> | <u>Nevada<br/>Sentencing/Parole</u> |
|-----------|----------------|------------------------------|--------------------------|-------------------------------------|
| 83-84     | 675            | 675                          | 675                      | 675                                 |
| 84-85     | 725            | 725                          | 725                      | 725                                 |
| 85-86     | 750            | 750                          | 825                      | 750                                 |
| 86-87     | 800            | 775                          | 1075                     | 1075                                |
| 87-88     | 825            | 800                          | 1150                     | 1100                                |
| 88-89     | 850            | 825                          | 1225                     | 1125                                |
| 89-90     | 900            | 825                          | 1275                     | 1125                                |
| 90-91     | 925            | 850                          | 1325                     | 1150                                |
| 91-92     | 950            | 850                          | 1350                     | 1150                                |
| 92-93     | 975            | 875                          | 1375                     | 1175                                |

\*Assumes a .36 reduction of total parole population for offenders released to other jurisdictions.

Conversely, adoption only of the Nevada Parole Guidelines model would dramatically increase the parole rate for all inmates beginning in fiscal year 1985-1986. The parole population is thus expected to increase by 400 to 1,375 by July, 1993. However, if one adopts both reforms and the projected parole population is reduced to 1,175 by June 30, 1993, reflecting the countervailing effects of a reduced prison admission rate and an increased parole rate.

#### Probation Population Estimates

Unlike the parole population estimates, the current projection model does not produce probation population estimates.<sup>7/</sup> Consequently, determining how the probation population would be affected by proposed reforms is quite tenuous. However, it is possible to provide gross estimates on the expected direction and magnitude of the changes using rather straightforward statistical procedures.

At the outset, reforms affecting parole release rates can effectively be discounted from this discussion as they will have minimal impact on probation population. The only possible impact would be a slight increase in probation if one assumes that by increasing the number of offenders released on parole, a high number of parolees discharged from parole supervision would be eligible to commit additional crimes and thus be placed on probation (or recommitted to prison). However, such estimates are quite speculative.

The primary reform likely to impact probation populations is the Nevada Sentencing Guideline model which would divert 17 percent of the current prison admission population to probation. Although precise estimates can be made of how this reform will increase probation commitments, there is little data for estimating the projected length of probation supervision for these offenders. Probation officials did report that felony probationers spend approximately 24 months on supervision. Using this

---

<sup>7/</sup>A probation population projection model could be developed but would require detailed information on probation admissions, current probation population, and a probation exit cohort.

estimated length of stay with the projected increase in probation commitments beginning January 1, 1988, one can calculate the expected growth in the probation population as shown in Table 5-2. By June 1993, the probation population is expected to grow to 3,325 if no sentencing reforms are adopted assuming a 4 percent admission growth rate at the 24 month length of supervision. If the proposed sentencing legislation is adopted, this number would increase by 675 or a total of 4,000 offenders on probation.

#### Impact on Prison Classification

The final estimates to be made concerns the impact of these reforms on the characteristics of the prison population which in turn impact the security needs of the prison system. Reforms like sentencing guidelines which serve to divert the less serious offender will also transform the residual prison population into a smaller but more "secure" population requiring higher security and more expensive cells. Although it is difficult to arrive at precise estimates of how those reforms will affect classification some attempt must be made to at least suggest on a broad level the direction and dimension of the expected changes.

As with the discussion on probation populations, the primary reform to be concerned with is the Nevada Sentencing Guideline model. This reform will have the most direct effect on what type of offenders are committed to prison. Increasing parole probabilities could have some further effect, but only if one assumes that those released sooner on parole represent only lower security risks. This may be true for Nevada although the proposed Nevada Parole Guideline model will probably also increase parole of all offenders. At this point, it is sufficient to say that combining both sentencing and parole guideline models could further reduce the estimates provided here at some unknown level.

For purpose of this analysis we are assuming that the 17 percent reduction in prison admissions would represent only minimum security inmates. Applying this assumption to

Table 5-2

Projected Felon Probation Population

| <u>FY</u> | <u>Current</u> | <u>Nevada Sentencing Guidelines</u> |
|-----------|----------------|-------------------------------------|
| 83-84     | 2325           | 2325                                |
| 84-85     | 2425           | 2425                                |
| 85-86     | 2525           | 2525                                |
| 86-87     | 2625           | 2625                                |
| 87-88     | 2725           | 3025                                |
| 88-89     | 2825           | 3425                                |
| 89-90     | 2950           | 3550                                |
| 90-91     | 3075           | 3700                                |
| 91-92     | 3175           | 3852                                |
| 92-93     | 3325           | 4000                                |

- Assumptions:
1. Current Average Length of Stay on Felony Probation estimated at 24 months and remains constant.
  2. 4 percent annual increase in admissions to probation.
  3. Sentencing Guideline Model takes effect July 1, 1987, with six month lag on actual impact.

the classification estimates produced in the 1982 Prison Masterplan, reduces the number of minimum security inmates admitted to prison by 38 percent. Furthermore, by applying the estimated length of stay for minimum security inmate to the reduced number of minimum security admissions while holding constant the estimated number of admissions and length of stay for medium and maximum security inmates, one can estimate new classification levels for the prison system (Table 5-3). The major shifts are reductions in minimum security inmate and increases by the medium security populations. A slight increase in maximum security inmates is also expected. These changes would not begin until fiscal year 1988 and be fully felt by fiscal year 1989 reflecting the gradual trickling of offenders into the prison system.

#### Summary

- Adoption of the Nevada Sentencing Guidelines model would reduce the projected FY 1993 daily parole population by 10 percent (100 parolees) but increase the projected FY 1993 daily probation population by 20 percent (675 probationers). In terms of classification, this reform would reduce the need for minimum security cells and increase the need for medium and maximum security cells.
- Adoption of the Nevada Parole Guidelines model would increase the projected FY 1993 parole population by 41 percent (400 parolees) but have minimal impact on probation population size or prison security levels.
- Adoption of both the Sentencing and Parole Guideline models would increase the parole population by 21 percent (200 parolees), increase the probation population by 20 percent (675 probationers), and increase the need for medium and maximum security cells.

Table 5-3

**Prison Classification Security Levels  
Daily Prison Population**

|         | <u>Current</u> | <u>Sentencing Guideline Model</u> |
|---------|----------------|-----------------------------------|
| Maximum | 10.5%          | 12.4%                             |
| Maximum | 50.9%          | 59.7%                             |
| Maximum | 38.5%          | 27.9%                             |

## Chapter 6

### SUMMARY AND CONCLUSIONS

The central focus of this research report concerned the key decision points which impact the size of Nevada's correctional populations. At issue are two issues . First, is the evidence that sentencing practices and parole policies need to be reshaped to realize the goals of equity and fairness in the administration of criminal justice sanctions. Second, if change is indicated, what form should new policies assume to create a more equitable system within the fiscal limitations of the State.

The major findings of this study were as follows:

- Nevada's prison population is expected to continue to increase substantially over the next decade.
- This increase is being driven by the expected demographic growth of the State's at-risk population, a relatively high prison commitment rate and a relatively low parole release rate.
- Considerable disparity exists among the district courts in terms of prison disposition rates and sentence lengths.
- Parole is granted to less than 30 percent of all inmates appearing before the board. This marks the lowest parole rate since 1979.
- The infrequent decision to grant parole is largely dependent upon the inmate's institutional disciplinary record.
- Adoption of both sentencing and parole guideline models now being used by other states would produce substantial reductions in Nevada's projected prison population.
- The State must continue to improve its informational data base to permit accurate estimates of prison population growth.
- Adoption of both sentencing and parole guideline models would increase both the probation and parole populations and reduce the need for minimum security cells.

## Bibliography

Bureau of Justice Statistics Bulletin,

Prisoners in 1983, April 1984. U.S. Department of Justice, Washington, D.C.

NCCD

Nevada Prison Masterplan: Final Report. August, 1982. NCCD, San Francisco, CA

RAND 1982

Selective Incarceration, Report R-2815-N15. RAND, Santa Monica, CA

Blumstein, Alfred, et al.,

"Demographically Disaggregated Projections of Prison Populations."

Journal of Criminal Justice, Vol 8:1 (1980):1-25



## APPENDIX B

### Suggested Legislation



SUMMARY--Revises system for granting imprisoned offenders' credit for good behavior. (BDR 16-241)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to imprisoned offenders; limiting the amount of credit which may be earned for good behavior; modifying the criteria for awarding such credit; authorizing the director of the department of prisons to revoke credits; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, who has no serious infraction of the regulations of the department or laws of the state recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed for the period he is actually incarcerated under sentence a deduction of 5 days from his sentence for each month he serves.

2. In addition to the credit provided for in subsection 1, the director may allow not more than 10 days of credit each month for

an offender whose diligence in labor and study merits such credits.

3. The director may allow not more than 15 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, an honor camp, a program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 15 days of credit each month which is authorized in subsections 1 and 2.

4. The director may allow not more than 30 days of credit each year for an offender who engages in exceptional meritorious service.

5. The board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. Credits earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence which must be served before a person becomes eligible for parole.

Sec. 2. NRS 209.443 is hereby amended to read as follows:

209.443 1. Every offender who is sentenced to prison after June 30, 1969, for a crime committed before July 1, 1985, who has

no serious infraction of the regulations of the department or laws of the state recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed for the period he is actually incarcerated under sentence a deduction of 2 months for each of the first 2 years, 4 months for each of the next 2 years, and 5 months for each of the remaining years of the term, and pro rata for any part of a year where the actual term served is for more or less than a year. Credit must be recorded on a monthly basis as earned for actual time served.

2. Credits accumulate as shown in the following table:

#### SCHEDULE OF CREDITS

| Number of<br>years served. | Good time<br>granted. | Total good<br>time made. |
|----------------------------|-----------------------|--------------------------|
| 1 year .....               | 2 months              | 2 months                 |
| 2 years.....               | 2 months              | 4 months                 |
| 3 years.....               | 4 months              | 8 months                 |
| 4 years.....               | 4 months              | 1 year                   |
| 5 years.....               | 5 months              | 1 year, 5 months         |
| 6 years.....               | 5 months              | 1 year, 10 months        |
| 7 years.....               | 5 months              | 2 years, 3 months        |
| 8 years.....               | 5 months              | 2 years, 8 months        |
| 9 years.....               | 5 months              | 3 years, 1 month         |
| 10 years.....              | 5 months              | 3 years, 6 months        |

and so on through as many years as may be the term of the sentence. The "total good time made" must be deducted from the maximum term imposed by the sentence and, except as provided in subsection 5, applies to eligibility for parole.

3. In addition to the credits for good behavior provided for in subsection 1, the board may adopt regulations allowing credits for offenders whose diligence in labor or study merits such credits and for offenders who donate their blood for charitable purposes.

4. Each offender is entitled to the deductions allowed by this section if he has satisfied the conditions of subsection 1 as determined by the director.

5. [Good time does] Credits earned pursuant to this section do not apply to eligibility for parole if a statute specifies a minimum sentence which must be served before a person becomes eligible for parole.

Sec. 3. NRS 209.451 is hereby amended to read as follows:

209.451 1. If any offender:

(a) Commits any assault upon his keeper or any foreman, officer, offender or other person, or otherwise endangers life;

(b) Is guilty of any flagrant disregard of the regulations of the department; or

(c) Commits any misdemeanor, gross misdemeanor or felony, he forfeits all deductions of time earned by him before the commission of [such] that offense, or forfeits such part of [such] those deductions as to the [state board of parole commissioners] director may seem just.

2. If any offender commits a serious violation of any of the regulations of the department, he may forfeit all or part of such deductions, in the discretion of the [state board of parole commissioners.] director.

3. A forfeiture [shall] may be made only by the [state board of parole commissioners] director after proof of the offense and notice to the offender. The decision of the [state board of parole commissioners] director regarding a forfeiture is final.

4. The [state board of parole commissioners] director may restore credits forfeited for such reasons as to [it] him may seem proper.

Sec. 4. An offender who is earning credits pursuant to NRS 209.433 or 209.443 may elect to earn credits instead under the system established in section 1 of this act by filing a written request with the director of the department of prisons before July 1, 1986. The director shall notify all affected offenders of this option before January 1, 1986.



SUMMARY--Provides for adoption of objective standards for granting parole. (BDR 16-242)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to parole; creating a committee to adopt objective standards for granting parole; instructing the committee regarding adoption of the standards; requiring the state board of parole commissioners to consider the standards; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 213 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. 1. The committee to adopt objective standards for granting parole, consisting of five voting members, is hereby created.

2. The governor shall appoint:

(a) One member who is a district attorney; and

(b) One member who is a district judge.

The chief parole and probation officer, the director of the department of prisons and the chairman of the state board of parole commissioners are ex officio members of the committee.

3. Members of the committee serve without compensation but are entitled to receive for each day's attendance at a meeting of the committee the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 3. 1. The committee shall adopt standards which indicate whether to release on parole a prisoner who is otherwise eligible for parole. The standards must be based upon objective criteria for determining a prisoner's probability of success on parole.

2. In establishing the standards, the committee shall first consider all factors which are relevant in determining the probability that the prisoner will live and remain at liberty without violating the laws if parole is granted. The committee shall establish a set of standards which would prescribe the release on parole of a prisoner if there is a reasonable probability that the prisoner would live and remain at liberty without violating the laws.

3. The committee shall adjust the standards established pursuant to subsection 2 to provide greater punishment for prisoners who have a history of repetitive criminal conduct or who commit serious crimes, with violent crimes considered the most serious, than for prisoners who do not have a history of repetitive criminal conduct or have not committed serious crimes. The standards,

as adjusted pursuant to this subsection, must be approved by a majority of the committee.

Sec. 4. The committee shall consider adopting standards which specify the anticipated date of release of a prisoner on parole. If the committee adopts standards which establish such a date, the board may release a prisoner on parole before or after the anticipated date and may deny parole before and after that date. A prisoner has no right to be released on the anticipated date.

Sec. 5. The legislature finds and declares that the release of a prisoner on parole is an act of grace of the state. No prisoner has a right to parole, and it is not intended that the establishment of standards create any such right.

Sec. 6. At any time after the committee has adopted the standards, the governor may direct the committee to revise the standards. The committee shall consider any suggestions made by the governor concerning the standards, but must adopt its revised standards in accordance with sections 2 to 5, inclusive, of this act. Standards adopted pursuant to this section become effective 30 days after approval by the committee.

Sec. 7. The board shall report to each regular session of the legislature:

1. The number and percentage of decisions regarding parole which conflicted with the standards;

2. The reasons specified in the written statements prepared by the board or the referee for making the decisions; and

3. Any recommendations regarding the standards.

Sec. 8. NRS 213.107 is hereby amended to read as follows:

213.107 As used in NRS 213.107 to 213.160, inclusive [:], and sections 2 to 7, inclusive, of this act:

1. "Board" means the state board of parole commissioners.

2. "Committee" means the committee to adopt objective standards for granting parole.

3. "Department" means the department of parole and probation.

[3.] 4. "Executive officer" means the chief parole and probation officer.

5. "Standards" means the objective standards for granting parole which are adopted by the committee.

Sec. 9. NRS 213.1099 is hereby amended to read as follows:

213.1099 1. Except as provided in subsections 2 and 3, the board may release on parole a prisoner otherwise eligible for parole under NRS 213.107 to 213.160, inclusive, only if, from all the information known to the board [, it appears to the board:

(a) That there is a reasonable probability that such prisoner will live and remain at liberty without violating the laws; and

(b) That such release is not incompatible with the welfare of society.] and giving special consideration to the seriousness of

the offense and the prisoner's history of criminal conduct, the board determines that there is a reasonable probability that the prisoner will live and remain at liberty without violating the laws. The board shall consider the standards in making its determination.

2. When a person is convicted of any felony and is punished by a sentence of imprisonment, he remains subject to the jurisdiction of the board from the time he is released on parole under the provisions of this chapter until the expiration of the term of imprisonment imposed by the court less any good time or other credits earned against [such] the term.

3. The board may not release on parole a prisoner whose sentence to death or to life without possibility of parole has been commuted to a lesser penalty unless it finds that the prisoner has served at least 20 consecutive years in the state prison, is not under an order that he be detained to answer for a crime or violation of parole or probation in another jurisdiction, and that he has no history of:

(a) Recent misconduct in the institution, and that he has been recommended for parole by the director of the department of prisons;

(b) Repetitive criminal conduct;

(c) Criminal conduct related to the use of alcohol or drugs;

(d) Repetitive sexual deviance, violence or aggression; or

(e) Failure in parole, probation, work release or similar programs.

4. If the board makes a decision which is contrary to the decision prescribed by the standards, the board shall specify in a written statement the reason for the deviation. The statement must include one or more of the following reasons for the deviation:

- (a) The prisoner's history of criminal conduct.
- (b) The seriousness of the offense.
- (c) Conduct of the prisoner while in the institution.
- (d) Recommendations by the prosecuting attorney, judge, victim, department of parole and probation or other interested persons.
- (e) Exceptional circumstances, which must be specified.

The board shall retain the statement for its report to the legislature and, if the decision is to deny parole, transmit it to the prisoner.

Sec. 10. NRS 213.133 is hereby amended to read as follows:

213.133 1. In considering applications for parole, the board may delegate its authority to hear, consider and act upon the applications to:

- (a) One member of the board or a case hearing representative designated pursuant to the provisions of NRS 213.135, sitting as a referee; or

(b) A panel consisting of:

(1) Two or more members of the board, two of whom constitute a quorum;

(2) A member of the board and a case hearing representative;  
or

(3) Two case hearing representatives.

2. No action taken by any panel created pursuant to paragraph (b) of subsection 1 is valid unless concurred in by a majority vote of those sitting on the panel.

3. As a condition of delegating its authority to a referee or panel, the board shall require that the decision of the referee or panel be subject to final approval by the affirmative action of a majority of the members appointed to the board. Such action may be taken at a meeting of the board, or without a meeting by the delivery of written approval to the secretary of the board.

4. The degree of complexity of issues presented must be taken into account before the board makes any delegation of its authority and before it determines the extent of a delegation.

5. If a referee or panel makes a decision which is contrary to the decision prescribed by the standards, the referee or panel shall specify in a written statement the reason for the deviation. The statement must include one or more of the reasons for deviation specified in subsection 4 of NRS 213.1099. The referee

or panel shall transmit the statement to the board and, if the decision is to deny parole, to the prisoner. The board shall retain the statement for its report to the legislature.

6. The board shall adopt regulations which establish the basic types of delegable cases.

Sec. 11. The initial standards adopted pursuant to section 3 of this act become effective on January 1, 1986, or 10 days after approval of the standards by the committee, whichever is later. The committee shall establish the standards before January 1, 1986, or as soon thereafter as practicable.

Sec. 12. 1. This section and sections 1 to 8, inclusive, and 11 of this act become effective upon passage and approval.

2. Sections 9 and 10 of this act become effective on January 1, 1986.

SUMMARY--Provides for establishment of required ranges of sentences for felonies. (BDR 14-244)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to sentencing of offenders; requiring judges to sentence within a specified range for each felony; creating a commission to establish the ranges for each offense and each offender; abolishing parole for offenses committed after the ranges of sentences become effective; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 169 of NRS is hereby amended by adding thereto a new section to read as follows:

"Prescribed range for sentencing" means the range of sentences for conviction of a felony which is adopted by the commission for establishing prescribed sentences for felonies and approved by the legislature.

Sec. 2. NRS 169.045 is hereby amended to read as follows:

169.045 As used in [Title 14,] this Title, unless the context otherwise requires, the words and terms defined in NRS 169.055 to 169.205, inclusive, and section 1 of this act have the [meaning] meanings ascribed to them in those sections.

Sec. 3. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. 1. The commission for establishing prescribed sentences for felonies, consisting of 13 voting members, is hereby created.

2. The governor shall appoint:

(a) One member who is a justice of the supreme court;

(b) One member who is a district judge in Clark, Lincoln, Nye or Esmeralda county;

(c) One member who is a district judge in a county which is not listed in paragraph (b);

(d) One member who is a justice of the peace;

(e) One member who is a senator;

(f) One member who is an assemblyman;

(g) One member who is an attorney in private practice who specializes in defending criminal actions;

(h) One member who is a prosecuting attorney;

(i) One member who is a representative of a law enforcement agency; and

(j) Two members who are representative of the general public.

The director of the department of prisons and the chief parole and probation officer are ex officio members of the commission.

3. The attorney in private practice and the representatives of

the general public who are members of the commission are entitled to receive \$60 for each day's attendance at a meeting of the commission. The legislators who are members of the commission are entitled to receive the salary provided for a majority of the members of the legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the commission.

4. Each member of the commission is entitled to the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 5. 1. Except as provided in subsection 2, a person who is convicted of a felony must be sentenced in accordance with the prescribed range for sentencing.

2. The court may impose a sentence which conflicts with the prescribed range for sentencing if it finds that there are substantial and compelling aggravating or mitigating circumstances which justify an exceptional sentence. The court shall set forth the reasons for a sentence which conflicts with the prescribed range for sentencing in written findings of fact and conclusions of law.

3. If there is no prescribed range for sentencing for the felony of which the offender has been convicted, the court shall impose its sentence in accordance with the range for sentencing

for the most comparable felony. The court may deviate from that range pursuant to subsection 2.

Sec. 6. NRS 176.033 is hereby amended to read as follows:

176.033 1. Where a sentence of imprisonment is required or permitted by statute, the court shall sentence the defendant to imprisonment for a definite period of time within the maximum limit or the minimum and maximum limits prescribed by the applicable statute, taking due account of the gravity of the particular offense [and of] , the character of the individual defendant [.] and any applicable prescribed range for sentencing.

2. At any time after a prisoner has been released on parole and has served one-half of the period of his parole, the state board of parole commissioners, upon the recommendation of the department of parole and probation, may petition the court of original jurisdiction requesting a modification of sentence. The board shall give notice of the petition and hearing thereon to the attorney general or district attorney who had jurisdiction in the original proceedings. Upon hearing the recommendation of the state board of parole commissioners and good cause appearing, the court may modify the original sentence by reducing the term of imprisonment but shall not make the term less than the minimum limit prescribed by the applicable penal statute.

Sec. 7. NRS 176.185 is hereby amended to read as follows:

176.185 1. Whenever any person has been found guilty in a

district court of a crime upon verdict or plea, the court, except in cases of murder of the first or second degree, kidnaping in the first degree, sexual assault, or an offense for which the suspension of sentence or the granting of probation is expressly forbidden, may by its order suspend the execution of the sentence imposed and grant probation to the convicted person as the judge thereof deems advisable. The court may grant probation to a person convicted of indecent or obscene exposure or of lewdness only if a certificate of a psychiatrist, as required by NRS 201.210 to 201.230, inclusive, is received by the court.

2. The district judge shall not, except as provided [herein,] in this subsection, grant probation to a person convicted of a felony until the judge receives a written report from the chief parole and probation officer. The chief parole and probation officer shall submit a written report not later than 30 days following a request for a probation investigation from the county clerk, but if no report is submitted by the chief parole and probation officer within 30 days the district judge may grant probation without the written report. If granting probation is not authorized by the prescribed range for sentencing for the felony, an order granting probation must be accompanied by the written finding and conclusions set forth pursuant to subsection 2 of section 5 of this act.

3. In issuing the order granting probation, the court may fix

the terms and conditions thereof, including a requirement for restitution or an order that the probationer dispose of all the weapons he possesses.

4. The court shall not suspend the execution of a sentence of imprisonment after the defendant has begun to serve it.

5. In placing any defendant on probation or in granting any defendant a suspended sentence, the court shall direct that he be placed under the supervision of the chief parole and probation officer.

6. The court shall also, upon the entering of the order of probation or suspension of sentence, as provided for in NRS 176.175 to 176.245, inclusive, direct the clerk of the court to certify a copy of the records in the case and deliver the copy to the chief parole and probation officer.

Sec. 8. NRS 177.015 is hereby amended to read as follows:

177.015 The party aggrieved in a criminal action may appeal only as follows:

1. Whether that party is the state or the defendant:

(a) To the district court of the county from a final judgment of the justice's court.

(b) To the supreme court from an order of the district court granting a motion to dismiss, a motion for acquittal or a motion in arrest of judgment, or granting or refusing a new trial.

2. The state may, upon good cause shown, appeal to the supreme

court from a pretrial order of the district court granting or denying a motion to suppress evidence made pursuant to NRS 174.125. Notice of the appeal must be filed with the clerk of the district court within 2 judicial days and with the clerk of the supreme court within 5 judicial days after the ruling by the district court. The clerk of the district court shall notify counsel for the defendant, or in the case of a defendant without counsel, the defendant, within 2 judicial days after the filing of the notice of appeal. The supreme court may establish such procedures as it determines proper in requiring the appellant to make a preliminary showing of the propriety of the appeal and whether there may be a miscarriage of justice if the appeal is not entertained. If the supreme court entertains the appeal, or if it otherwise appears necessary, it may enter an order staying the trial for such period of time as may be required.

3. The defendant only may appeal from a final judgment or verdict in a criminal case.

4. Either party may appeal a sentence which is not within the prescribed range for sentencing. If the prescribed range authorizes probation, an order granting probation is within the range regardless of any conditions imposed in accordance with law.

Sec. 9. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of NRS 213.107 to 213.160, inclusive, do not

apply to a person who is convicted of a crime committed on or after July 1, 1987.

Sec. 10. 1. As used in this section, "commission" means the commission for establishing prescribed sentences for felonies.

2. The commission shall establish a range of prescribed sentences for felonies and a system for determining which range of punishment applies to each offender based on the extent and nature of the offender's history of criminal conduct and the severity of the crime. The prescribed sentences must indicate whether imprisonment of an offender is appropriate. If the prescribed range of sentences authorizes the release of an offender on probation, the range must not limit the conditions which the court may impose in granting probation.

3. All sentences prescribed by the commission must be within the minimum and maximum limits prescribed by the applicable statute.

4. The commission may indicate what alternative forms of punishment are appropriate for offenders who are not imprisoned.

5. The minimum prescribed sentence for an offender must not be more than 85 percent nor less than 75 percent of the maximum prescribed sentence.

6. The commission shall submit its recommendations to the 64th session of the legislature. The commission shall project the number of persons who will be in prison on June 30, 1993, if their

recommended ranges are adopted. If that number exceeds 6,650, the commission shall adopt and submit an additional set of recommendations which it projects would result in 6,650 or less persons being in prison on June 30, 1993.

Sec. 11. 1. This section and sections 3, 4 and 10 of this act become effective on July 1, 1985.

2. If the recommendations or one of the sets of recommendations submitted pursuant to subsection 6 of section 10 of this act are approved by the legislature, the prescribed ranges of sentences and sections 1, 2 and 5 to 9, inclusive, of this act, become effective on July 1, 1987, and apply to crimes committed on or after that date.