

**MINUTES OF THE  
ADVISORY COMMISSION ON THE  
ADMINISTRATION OF JUSTICE**

**July 7, 2008**

The meeting of the Advisory Commission on the Administration of Justice was called to order by Justice James W. Hardesty, Chair, at 9:05 a.m. on July 7, 2008, at the Legislative Building, Room 4100, 401 South Carson Street, Carson City, Nevada, and via simultaneous videoconference at the Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada. The Agenda is included as [Exhibit A](#) and the Attendance Roster is included as [Exhibit B](#). All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMISSION MEMBERS PRESENT (CARSON CITY):**

Justice James W. Hardesty, Nevada Supreme Court, Chair  
Assemblyman John C. Carpenter, Assembly District No. 33  
Bernard W. Curtis, Chief, Division of Parole and Probation  
Larry Digesti, Representative, State Bar of Nevada  
Gayle W. Farley, Victims' Rights Advocate  
Phil Kohn, Clark County Public Defender  
Arthur Mallory, Churchill County District Attorney  
Catherine Cortez Masto, Attorney General  
Dorla M. Salling, Chair, State Board of Parole Commissioners  
Richard Siegel, President, ACLU of Nevada, Inmate Advocate  
Howard Skolnik, Director, Department of Corrections

**COMMISSION MEMBERS PRESENT (LAS VEGAS):**

Raymond Flynn, Assistant Sheriff, Las Vegas METRO  
Senator Steven A. Horsford, Clark District 4  
Assemblyman David Parks, Clark District 41

**COMMISSION MEMBERS ABSENT (EXCUSED):**

Senator Mark Amodei, Capital Senatorial District  
Douglas Herndon, Judge, Eighth Judicial District Court  
James Miller, Sheriff, Storey County

**STAFF MEMBERS PRESENT:**

Janet Traut, Senior Deputy Attorney General  
Angela Clark, Deputy Administrator, Legal Division, Legislative Counsel Bureau  
Olivia Lodato, Interim Secretary

**OTHERS PRESENT:**

James F. Austin, Council of State Governments, President, JFA Institute  
James T. Richardson, J.D., Ph.D., Grant Sawyer Center for Justice Studies, UNR  
Matthew C. Leone, Ph.D., Grant Sawyer Center for Justice Studies, UNR  
Brett Kandt, Executive Director, Nevada Advisory Council for Prosecuting Attorneys  
Kristin Erickson, Washoe County District Attorney's Office  
Robert McDonald, Reno Police Department  
Cheryl Hooten, Las Vegas Metropolitan Police Department (METRO)  
Christopher Lalli, Clark County District Attorney's Office  
John Helzer, Washoe County District Attorney  
Renee Romero, Washoe County Forensic Division  
David Stanton, Clark County District Attorney's Office  
Sandra DiGiacomo, Clark County District Attorney's Office  
Lea Lipscomb, Retail Association of Nevada  
William Kephart, Clark County District Attorney's Office  
Carlos Cordeiro, Las Vegas METRO Traffic Division  
Larry Frankel, State Legislative Council, American Civil Liberties Union  
Richard Dieter, Executive Director, Death Penalty Information Center  
Susan Meuschke, Executive Director, Nevada Network Against Domestic Violence  
Andrea Sundberg, Director, Nevada Coalition Against Sexual Violence  
Bryan A. Nix, Program Coordinator, Nevada Department of Administration, Victims of Crime Program  
Tonja Brown  
Pat Hines

Chair Hardesty opened the Advisory Commission on the Administration of Justice with a request for the roll call of Commissioners.

Ms. Angela Clark called the roll. Thirteen members of the Commission were present. Chair Hardesty said Attorney General Cortez Masto would arrive later in the day. Senator Amodei, Judge Herndon and Sheriff Miller were absent.

Chair Hardesty reminded the Commissioners that he asked them to make suggestions of areas for recommendations to the Legislature. He said those items would be referred to the

Steering Committee and organized around the outline from last October. Recommendations were still arriving from the Subcommittees. He reminded the Commission and the public that the subcommittees continued their work and reported to the Commission. Chair Hardesty asked if the minutes from June 9, 2008 had been reviewed. Commissioner Carpenter moved to approve the minutes and Commissioner Mallory seconded the motion. The minutes were approved by the Commission.

James F. Austin, Council of State Governments, President, JFA Institute, presented his monthly update with a PowerPoint presentation. ([Exhibit C](#)) He said Professor Richardson and Matt Leone did surveys with the judges and would present their findings to the Commission. Dr. Austin received useful information from Commissioner Flynn about what was occurring in Clark County.

Dr. Austin said everything remained stable in the Nevada prison system. Reported crimes, arrests and bookings were declining. He said prison releases were increasing. The prison population was relatively stable and was hitting the budgeted projection line. He said Class B was the largest category in the Nevada prison system. The parole population remained stable. Probation population had dropped and was now stabilized at the 13,000 level.

Commissioner Carpenter asked Dr. Austin about the women's prison population. He asked why a women's prison was being closed. Dr. Austin did not have a chart on the women's population. He asked Commissioner Skolnik if he knew about the female population.

Commissioner Skolnik said the female population had dropped by almost 100 over the past two months. He said 240 more beds were opened at the women's prison in North Las Vegas. He said that meant the population from Jean was able to be consolidated with the other camp. Each camp was operating at slightly over 50 percent capacity. The Jean camp was retained and the camp at Silver Springs was closed. Dr. Austin said he did not have an answer for Commissioner Carpenter as to why the female population was dropping.

Commissioner Carpenter requested Dr. Austin look further into the question.

Dr. Austin wanted to discuss Las Vegas, Clark County for several reasons. The crime rate in Nevada appeared higher than other states. Nevada was different than other states in the proportion of people who lived in urban settings. He said 70 to 90 percent of the residents in Nevada lived in urban areas, Clark County, Washoe County and Carson City. He said there was a strong correlation between urbanization and crime rates. Clark County constituted approximately 65 to 80 percent of the reported crime in the correctional populations. A big surge in prison admissions from Clark County caused many of the current problems. Dr. Austin discussed the daily jail population for Las Vegas as well as the crime categories for the jail.

Chair Hardesty asked Dr. Austin about the 64 percent of the prison population from Clark County. He asked if they were residents of Clark County. Dr. Austin said it was people sentenced from the Clark County area. Chair Hardesty said they may not be residents of Clark County.

Commissioner Mallory said Nevada had 40 million tourists a year. He asked Dr. Austin if that was more or less, proportionately, compared to other states and whether it had an effect on the high crime rate. Dr. Austin said it was a very high number of people coming into the State. He said a huge number of non-residents came into Nevada. He could not think of any other state that compared. He said social stresses produce higher rates of crime.

Commissioner Flynn said he could provide statistical information concerning tourists. He said they had found that out of the 40 million tourists who come to the area, they had a miniscule chance of becoming a crime victim.

Chair Hardesty asked if his statistics covered the perpetrators (tourists) who committed crimes. Commissioner Flynn said he would check the study. He also said METRO used the Orlando, Florida area for comparisons to Clark County.

Commissioner Skolnik said the data from 20 to 25 years ago showed 70 percent of the prison population had been in Nevada for 6 weeks or less. He said today 80 to 85 percent had been in Nevada for over a year. Dr. Austin said tourism was producing jobs for people of a short-term nature. Chair Hardesty said part of his question involved the issue of justice reinvests. He asked about the correlation between those committing crimes who were residents versus those committing crimes who were transient. He said it was important to have a better understanding of the source of criminal activity and break down the prison population numbers between those who were residents and someone who committed crimes within the first 6 weeks.

Commissioner Siegel said the numbers were interesting. He said 30 percent of the population not in Clark County contributed 36 percent of the prison population. He said it was a substantial divide in the State and was reinforced by the fact that 79 percent of violent crime was committed in Clark County.

Dr. Austin continued his discussion of Clark County. He listed the nature of the charges in Las Vegas. The majority of the jail population were sentenced or convicted on felony cases. There were very few gross misdemeanors in the jail. He said he attended a weekly meeting with Commissioner Flynn at METRO which looked at what and where crime occurred in the Las Vegas area. He said charts showed a drop in murder and manslaughter from the previous year. He said maps assembled by METRO showed where crimes occurred. When a concentration of crime appeared in a certain area, METRO used a "surge approach." They

increased patrols and officers in the area and dropped off information to businesses and residents to increase awareness of a problem. Dr. Austin showed a map from [Exhibit C](#) to the Commission. Dr. Austin showed a slide from the Council of State of Governments showing a high concentration of people being sentenced to prison. He said he discussed coordinating the correctional maps with the crime maps with Sheriff Flynn. Dr. Austin stated the Commission needed to study installing prevention-type programs to stop high crime rate communities.

Commissioner Horsford asked Dr. Austin for an electronic transmission of the Las Vegas portion of his presentation. Chair Hardesty requested everyone receive color copies of the maps. Commissioner Horsford asked about the Substance Abuse Prevention and Treatment Agency (SAPTA) map. He asked if they specified what was included in prevention programs. Dr. Austin said they took the names of agencies and plotted the addresses of the service providers on the map. He said it was a tool for the Commission to use. He added he would like to receive the addresses of the people arrested and booked into the jail.

Commissioner Flynn said he would try to get the addresses of the arrestees in the Clark County Detention Center. He said police departments were working “smarter” rather than “harder” in attacking crime problems. He said timely intelligence was the most important thing. The maps presented were crime patterns that were within a week old. He said the “More Cops” initiative was a success. He said METRO had added over 400 officers since 2005. METRO increased detective units to attack crime directly. Sheriff Flynn said the biggest success was auto theft. He said they had a regional task force called “Viper”. Coordination was required of the top ten suspects, the “Bait Car” program, several crime prevention programs and the chop shops. He said adding additional officers allowed the decentralization of the detective functions from a centralized investigative services headquarters into actual area commands. He said the “More Cops” initiative allowed saturation teams. It allowed METRO to send the team of 30 officers into the area where a spike in crime occurred. The murder rate compared to 5 years ago was 50 percent less. Commissioner Flynn mentioned the Fusion Centers. He said Clark County turned the Fusion Centers into “All Hazards-All Crimes.” He said the prevention of terrorism was one of the main priorities. They also gathered a significant amount of data every day and the data was analyzed in terms of spotting crime problems, trends and directing officers.

Chair Hardesty said Clark County was having a significant impact on the crime scene in that area.

Dr. Austin said at some point the Commission needed to consider what else was needed in Clark County. He said some communities needed to be picked to try new policies and procedures for preventing crime. He said the statistics were interesting. He recommended bringing other people to speak about reinvestment activities.

Chair Hardesty said he had four conversations with the Council of State Government representatives and with people in Arizona actively working on reinvestment programs. He intended to open that subject with the Commission in the fall. He said a partnership between what law enforcement had so successfully accomplished and the reinvestment techniques where resources were entered into areas as a cooperative effort made a large difference. He said that seemed to be what was taking place in Arizona. Chair Hardesty asked about the status of the Truth in Sentencing study. He said the subcommittee held a meeting and received interesting statistical data. He asked Dr. Austin to give the Commission an overview of that information.

Dr. Austin said he would end his presentation with that information. He said Dr. Richardson would report on a survey of judicial judges.

James T. Richardson, J.D., Ph.D., Grant Sawyer Center for Justice Studies, UNR, introduced Dr. Matt Leone from the Criminal Justice Department. He said they were working with Dr. Austin analyzing court data and focusing on decision-making in the judicial system, particularly in Clark County, Washoe County, Carson City and Elko. He said they also worked with Parole and Probation. They were asked by the Administrative Office of the Court to design an instrument for a survey of the judges. He said it was an experiment and he hoped to do a more thorough study of judges in the State at a future date. He said the biggest disappointment was the size of the “n.” ([Exhibit D](#)) They preferred large numbers in surveys and the numbers were limited in this survey. They received replies from 19 General Jurisdiction Judges and 24 Limited Jurisdiction Judges. He said they analyzed the data as rural judges versus urban judges. There were distinctions between rural versus urban judge decisions. He asked the Commission to remember it was opinion data.

Chair Hardesty said on the subject of the “n” there were 63 District Court Judges, 17 of those were Family Court Judges, which left 46 District Court Judges handling criminal and civil matters. He added of that group, in Clark County, 4 District Court Judges were designated to strictly civil matters. He said that reduced the overall scope to 42 judges. He said 19 judges responded. Dr. Richardson said they had the data, but the “n” was small enough the results were limited. Chair Hardesty said there might be appropriate methods to expand the “n.” Dr. Richardson wanted at least two thirds of the judges filling out the instrument in order to feel confident in the conclusions.

Matthew C. Leone, Ph.D., Grant Sawyer Center for Justice Studies, UNR, said General Jurisdictional Courts were responsible for most of the felony cases and Limited Jurisdictional Courts for most of the misdemeanor cases. He said gross misdemeanors were divided between the two courts. He said they divided the responses into two groups: Limited and General Jurisdiction and Rural versus Urban.

Dr. Leone referred to utilization of the Parole and Probation recommendations by jurisdiction. He said General Jurisdiction Courts used recommended sentencing, but were more willing to adjust sentences. He said Limited Jurisdictional Courts did not have the same type of latitude, thus they were not able to adjust sentences. He said the Rural versus Urban category had a similar pattern indicating little difference between urban and rural courts. He next referenced upward and downward adjustments. He said General Jurisdictional Courts were more likely to mitigate downward, Limited Jurisdictional Courts more likely to aggregate upward in their sentences. He said the urban courts were more likely to mitigate downward.

Dr. Leone said one of the major questions was the sentencing practices within Categories B and C. He said General Jurisdictional courts were equal in their perspectives.

Chair Hardesty clarified the question. He said the question was intended to look at the proportionality issue of sentencing in Category B and Category C.

Dr. Leone continued the PowerPoint presentation with the slide concerning mandatory drug sentencing statutes. He said both groups thought the mandatory sentencing produced inequitable results. He said there was a belief that an option of changing the sentence was present and the courts took advantage of that option.

The last section of the presentation dealt with revocation. It appeared the courts did not revoke for minor infractions. He said urban courts were less likely to revoke for minor infractions. The survey asked the judges what could be done to improve the system. He said the Presentence Report Investigation and suggestions were important parts of their job. However, they wanted to have confidence the report was accurate and deliverable in a timely manner. Parole and Probation needed more resources. He said judges agreed they needed more discretion for sentencing. He said several judges said there should be fewer mandatory sentences. He said many agreed the maximum sentences were okay, but the bottom end of the sentencing should drop off so judges could sentence downward if they believed it was appropriate. They added plea bargaining should be somewhat restricted. The judges agreed mandatory minimums for certain crimes needed more judicial discretion and for only a narrow range of crimes. Some judges said DUIs and domestic violence should have mandatory minimums and the rest should have the minimums relaxed or eliminated. The judges agreed intermediate sanction programs needed to be expanded. Judges needed to be aware of the impact of sentencing decisions. They wanted more information from Parole and Probation in terms of case loads and also from the prison system. Judges wanted more discretion in probation lengths. Dr. Leone said funding for specialty courts was also mentioned in the survey.

Dr. Leone said there were differences between urban and rural judges. There were some differences between General and Limited Jurisdictional judges, and judges were in favor of giving the system the resources needed to do the job. He said judges specifically mentioned the area of information gathering and supervision with Parole and Probation.

Chair Hardesty requested hard copies of Dr. Leone's PowerPoint be circulated to all the Commissioners. He said they should work together expanding the "n." He said the survey needed expanding to other judges.

Commissioner Mallory noted the smaller the number of respondents, the less reliable were the results. Dr. Leone agreed and said it was also more difficult to find statistical significance when comparing groups. Commissioner Mallory said the disparity between urban and rural was not as stark as expected. Dr. Leone said the rural judges had more to do in that there were fewer specialty courts, and there could have been greater differences.

Commissioner Siegel asked if any of the questions tried to address the difference between the decision of probation and prison. He mentioned issues such as the availability of substance abuse and other programs given to probationers.

Dr. Richardson said some of the open-ended questions addressed that but the response rates were so low they deleted the information. He said one of the things they could do was circulate the instrument and seek input from members of the Commission.

Chair Hardesty said he preferred following up with another instrument at a future time. He asked Dr. Leone to provide copies of the instrument used for the Commission members.

Dr. Austin said Probation and Parole provided approximately 11,000 electronic cases they processed through the intake process. He said they were trying to understand what predicts prison versus probation. The chart showed the court not agreeing with the instrument the probation department was using in making their recommendation. He said the big movement was from prison to probation by the court.

Chair Hardesty said the survey showed a substantial number of judges concerned about mandatory sentencing in cases other than domestic violence and DUIs. He said considering there was no discretion in mandatory sentence cases, the numbers were stark. A large number of people went to prison on mandatory sentences where there was no discretion extended to the judiciary. He said the analysis needed to consider the types of sentences, the length and the bottom-end of the sentences.

Dr. Austin said the researchers needed precise information on the mandatory statutes being discussed. He asked Chair Hardesty to pinpoint some of the types of crimes the Commission



wanted him to investigate. Dr. Austin discussed prison disposition rates by the district court and by the county. He said Districts No. 5 and 6 had the lowest disposition rates. The highest rates were in Districts No. 3 and 9. He said by county, Humboldt had the lowest rate and the highest rates were in Lyon and Clark.

Chair Hardesty gave the locations of the district numbers referred to by Dr. Austin. He said District No. 1 was Carson City; No. 3 was Churchill and Lyon; No. 8 was Clark; No. 9 was Douglas; No. 5 was Mineral and Pahrump; No. 6 was Pershing and Humboldt; Elko was No. 4; and No. 2 was Washoe. He said Clark and Washoe had the same prison rate and they were the urban courts.

Dr. Austin said there was quite a bit of variation among individual judges. He said it was a hint there might be “unbridled discretion” going on. He said they had to look at the types of cases the judges were hearing. The question to be answered was if the judge had an independent effect on sentencing decisions. Lastly, Dr. Austin said they had a lot of background information on every case that received prison or probation dispositions. He said there was a question concerning whether there was an independent effect of race occurring in the system. He referred to a table breaking out the percentage by race. He said Asian was the smallest percentage. Whites were the largest population that went to prison in Nevada. He said there was some movement on gender; males had a lower proportion of receiving probation. He said it was interesting that a large number of people were going to the prison system without prior records of incarceration.

Chair Hardesty said all of the judges shown were General Jurisdiction Judges. He asked Dr. Austin to verify that was the case. All of the judges sentenced for crimes in which there were mandatory sentence requirements. Chair Hardesty said therefore, the prison rate among some judges included crimes where the sentence mandated prison.

Commissioner Digesti asked Dr. Austin if the Hispanic population were included in the White category. Dr. Austin said there were no Hispanic flags on the data file. He said Hispanic was mixed into all the races.

Commissioner Digesti requested Dr. Austin look into the ethnic contribution from Hispanics.

Chair Hardesty asked Dr. Austin if he was still in Phase II of his work program. Dr. Austin replied that was correct. Chair Hardesty opened the discussion by the Nevada District Attorneys Association, Agenda Item VI.

Brett Kandt, Executive Director, Nevada Advisory Council for Prosecuting Attorneys and Nevada District Attorneys Association, provided a memorandum listing ten

recommendations made in the past. He said they intended providing testimony in the order listed in the memo. ([Exhibit E](#))

Chair Hardesty said the first item was a requirement regarding video and audio taping of statements made in every case.

Kristin Erickson, Washoe County District Attorney's Office, discussed the audio and video recordings of all statements of witnesses. She said it would be ideal if all statements were recorded, however difficulties prevented doing that in all cases. Ms. Erickson said Lieutenant Robert McDonald, Reno Police Department, would speak from the law enforcement perspective.

Ms. Erickson said when there was a method available to audio or video tape a statement, it was done in most cases. She said there were difficulties in the State, such as large metro areas and small rural areas. She said some difficulties were with equipment. Smaller rural counties did not have the equipment necessary to tape every encounter with a suspect or witness. She asked what the consequences would be if the batteries died on the equipment; would the State be punished because a statement was excluded? She mentioned the excited utterance as an added complication.

Robert McDonald, Lieutenant, Reno Police Department (RPD), said the police department considered routine taping of interviews to be unjustified and unrealistic considering the equipment and transcription costs for the large volume of interviews associated with day-to-day operations of the department. He cited an example of a current homicide case with over 50 people who heard or witnessed the murder. He said in that case they obtained written statements from everyone involved that did not actually witness the event. He said witnesses who saw what actually occurred were transported to the local police department where they were audio and video recorded during their interviews. He said RPD had seven digitally recorded audio and video interview rooms used for suspects or witnesses in a felony crime. It was not mandated, but it was a policy procedure. Lt. McDonald said it was unrealistic to tape all car crash scenes. He added training of all the officers and equipment required would be an unfunded mandate. RPD policy included both interviewer and interviewee be present or visible on tape at the time of the recording. He said that was almost impossible to accomplish in the field. He said RPD recorded in cases of high importance. The current system occasionally had problems where the equipment failed. He said two interviewers were always in the room so one took hand notes during the course of the interview. He reiterated RPD opposed the suggested mandate.

Cheryl Hooten, Sergeant, Las Vegas Metropolitan Police Department, (METRO), said METRO agreed with Lt. McDonald. They tried to record all interviews when possible. She said they received written statements from the field. If equipment malfunctioned or a suspect

requested no taping they tried to comply. She said METRO opposed having all statements mandated being video or audio taped.

Christopher Lalli, Clark County District Attorney's Office, said on behalf of the Nevada District Attorney's Association they were opposed to this requirement.

Commissioner Kohn said he put mandated video and audio recording on the agenda and then never spoke about it. He recognized the differences between urban and rural areas. He said he wanted it for lawyers, not the police. He asked Ms. Erickson how she felt about all lawyers taping conversations they had with witnesses.

Ms. Erickson asked if all lawyers also included defense attorneys. Mr. Kohn said yes, except for their defendants, because of the Fifth Amendment issue. Ms. Erickson said the District Attorney's Office had the same issues as the police departments: equipment issues, remedy of equipment failure or a witness speaking on the telephone. She said it was a fine idea however, it was not practical.

Mr. Kohn agreed there were equipment failures. He said there could be an exception for technical difficulties.

John Helzer, Washoe County District Attorney, said if the discussion was just "how do you feel about it," it was difficult to respond. He said if the purpose was generating discussion, there were a variety of responses. He wanted something more concrete in the suggestions. He asked how discussions with witnesses who were homicide detectives would be handled. He said the practicality of taping every discussion was not possible. He said the eventual question was what the sanctions were for non-compliance.

Commissioner Kohn said he never discussed the question after placing it on the agenda. He did discuss eyewitness identification. He said Lt. McDonald brought up an interesting point when he said interviews were audio and video taped with someone in the room taking notes. He asked what happened to the notes and whether they were provided to council.

Lt. McDonald said the notes went with the case as part of the case file.

Commissioner Kohn said he had never seen any detective's notes in any homicide case in Clark County. He asked if the entire statement made by a defendant was taped. Lt. McDonald replied from the moment they entered a room, including breaks, the tape was never turned off. Lt. McDonald said once someone entered RPD's interview room, the audio tape and digital recording commenced. Mr. Kohn said he never intended recording all misdemeanors. He said in serious cases, life sentences, it would be more practical. Lt. McDonald said yes, except in some cases where interviews occurred out in the field or some such place.

Commissioner Digesti said Lt. McDonald used the word “suspects” in connection with audio and video taping interviews. He asked if RPD taped victims of crimes when they made their statements or witnesses to a particular homicide. He said in the past he had been provided with transcribed statements of victims or witnesses. Lt. McDonald said when referring to policy, RPD had no written policy concerning taping an interview. He added as a practice, when a witness came to the station in a serious case, it was audio and video taped. He said they taped statements from suspects, witnesses, victims and observers of events.

Commissioner Digesti asked about notes written and entered into the case file. He said those notes went into the investigative case file of the Reno Police Department. He asked if those notes were provided to the District Attorney’s office and were they available to defense council under a discovery request. Lt. McDonald said he did not know that answer. Commissioner Digesti asked if it was a matter of policy in all homicide cases to keep hand-written notes of an interview. Lt. McDonald said it was not a written policy. Commissioner Digesti asked if note taking was limited to homicide cases. Lt. McDonald said it occurred in all cases, misdemeanors as well felony crimes.

Commissioner Mallory said the type of equipment required to accomplish what was being discussed had to be heavy duty equipment, which was more costly. He said the equipment needed to be tamper proof or as non-alterable as possible which greatly increased the cost of the equipment. The term “unfunded mandate” was correct. It imposed tremendous cost on rural counties. Pandora’s Box was opened when attorney work product was mandated taped.

Commissioner Kohn said if a more perfect system was desired, and all the tapes of interviews of witnesses were retained, they could be turned over after trial. He said he appreciated the cost of the equipment. The Commission needed to seek Legislative approval and a funded mandate, not an unfunded one. He said the ideas were not near finalization. He said the Commission was in the early stages. He said keeping the notes from interviews was a good beginning.

Chair Hardesty wanted to clarify the Commission had never undertaken any consideration of requiring video or audio taping of all statements by law enforcement. He said the people presenting presentations had canvassed a variety of recommendations, comments or suggestions from the minutes. He said they may have thought it was the nature of some suggestion; it was not. He said the Commission had no intention of pursuing that point.

Mr. Lalli suggested looking at other states in regard to Mr. Kohn’s suggestions. He guessed no state had a requirement for all prosecutors, defense attorneys or lawyers to record statements. He agreed with Commissioner Mallory’s statements.

Chair Hardesty asked if a defendant in a serious felony case was interviewed, did detectives take notes in Clark County as Lt. McDonald from RPD described.

Sgt. Hooten said they took notes during interviews and entered them in the case files.

Mr. Kandt added he would follow-up on Mr. Lalli's suggestion about other states and bring the information back to the Commission. Chair Hardesty said it was a non-issue at this time. He said interviewing all witnesses through audio or video tape was a non-topic. He said if it was narrowly focused on video or audio taping lawyer interviews with witnesses, it might be of some interest to some members of the Commission.

Ms. Erickson opened the discussion of the U.S. Department of Justice eyewitness identification procedures. ([Exhibit E](#)) She said regarding the guidelines, it was important to remember that it was just a guideline. She said it was not procedure or policy for the U.S. Department of Justice. Ms. Erickson read the preamble to the identification procedures. She said many of the suggestions and procedures were in effect and utilized by law enforcement agencies. There were equipment issues and fiscal issues. Some smaller police departments only had one or two detectives. She said it might be impossible to present a photo lineup by an uninvolved party. Many of the suggestions were fine in theory but were not realistic or practical.

Lt. McDonald said he read the "Eyewitness Evidence: A Guide for Law Enforcement" by the Department of Justice. He said RPD followed the guidelines with the exception of presenting the photo lineups in the blind by an uninvolved detective. He had only seen one stand-up lineup done with live people once in his 29 years with RPD. He said the standard lineup was the photo lineup.

Chair Hardesty asked the Commission and the District Attorneys Association to read an e-mail provided by Sheriff Miller of Storey County. ([Exhibit F](#)) Sheriff Miller reported many of the agencies throughout the State were moving to the array method instead of the numbered photo lineups. The subject was being presented at the next Sheriff's and Chief's meeting for their discussion. Chair Hardesty said Sheriff Miller had instructed his staff to implement the procedure for the "Model Eyewitness Identification Policy" for Storey County. The e-mail also mentioned Washoe County had written procedures similar to the Model Policy. Chair Hardesty said it appeared most of law enforcement was following the policy.

Mr. Kandt opened the discussion of Item D in [Exhibit E](#). Ms. Erickson introduced Renee Romero, head of the Crime Lab in Washoe County. Ms. Erickson said the State preserved evidence indefinitely or until the natural end of the case.

Renee Romero, Washoe County Forensic Division, said there were some “best practices” in place with the absence of specific law. In regard to biological evidence, the standard practice was when a larger item came to the Crime Lab, the biological evidence was removed from the item. She said the item was subset into a smaller format and that piece received its own chain of custody and control number. It was preserved under frozen conditions forever. Her concern about a law regarding evidence preservation was the definition of biological evidence. She asked if it was defined as the subset item or as the entire piece of evidence. Her other concern was the blood and urine samples received for toxicology testing. Those samples were discarded 13 months after the last test was performed on the item. She said at some point in time there was no value in retaining the items. There was concern about discussing biological evidence or all evidence. She stated the current philosophy at the Crime Lab was to over-collect evidence. She said last year her department created a survey for Northern Nevada concerning evidence retention, storage capabilities, and policies. The results of the survey were tallied and she offered the results to the Commission. ([Exhibit G](#)) Chair Hardesty asked for an overview of the results of the survey.

Ms. Romero sent the survey to 116 different agencies. She said 58 agencies responded: 33 were law enforcement agencies; 13 city agencies; 11 county agencies; 9 State agencies; 3 from the court system; and 1 from a coroner’s office. She said only one-third of respondents did not have a freezer or refrigerator for biological storage; two-thirds did not have a specific drying area. She said the survey also inquired about audits. She said 8 of the respondents had never had an audit and 11 did not have regularly scheduled audits. Ms. Romero stated three-fourths of the respondents retained evidence for a specific time limit based on the type of crime. She said 9 of the respondents did not have a specific policy on the release of evidence, while the remainder had a policy.

Chair Hardesty asked Ms. Romero if the State should legislate best practices in this area or was it fluctuating to a great extent from a scientific standpoint to do that. Ms. Romero said based on the survey, there was a lot of fluctuation across the State. She said a very well-written and clearly defined law would be a good idea.

Chair Hardesty said the Supreme Court had appointed a commission to study the preservation of records. It was an extension of the commission looking at sealing civil cases. The initial meeting raised serious concerns about the lack of uniform practices in the preservation of evidence.

Commissioner Mallory stated once a trial occurred, evidence was taken into custody by the court if it was admitted. At that time, the law enforcement agency or the prosecutors lost control of the evidence. He said different courts had different practices as to how they preserved evidence. The rule needed to include the court as well as law enforcement

concerning the preservation of evidence. He said it could present serious problems in the case of a retrial.

Chair Hardesty said that was part of the reason the Supreme Court commission was formed. They were very concerned about the variant approaches by courts to the preservation of evidence admitted. He said going into evidence lockers in Washoe County and Clark County caused concern about the integrity of the preservation of the evidence.

Commissioner Siegel asked about a law passed by the Federal Government concerning preservation of biological evidence relevant to death penalty cases. He asked if any of the attorneys from the District Attorneys Association had any awareness as to whether that had any implications for State and local operations.

Mr. Kandt said the federal law only applied to federal cases.

Commissioner Siegel asked if the standards in the federal law required more than the testimony heard referring to "best practices." Mr. Kandt said the Federal Government, in addition to approximately 36 states, has passed laws addressing the issue of preservation retention of biological evidence. He had researched and summarized all the existing laws and could provide it to the Commission. He did not know if the federal standard was the strictest standard. Commissioner Siegel asked if there were laws in the Nevada statutes regarding preservation of evidence.

Mr. Kandt said some states had a law that addressed the preservation of evidence in some regard. He said Nevada only had NRS 239.110. He said he would provide the research memo to the Commission.

Commissioner Carpenter asked how the DNA evidence was preserved. He asked if each county did it or was it in a central location.

Ms. Romero said all the DNA evidence for Northern Nevada was preserved at the Washoe County Crime Lab in a subset form. She said if it came to the Crime Lab, they retained a portion of the evidence in a freezer wherever possible.

Commissioner Carpenter said the Legislature heard testimony that DNA was a simple swab test. He asked what happened to those results. Ms. Romero asked if he was referring to a reference sample from a suspect or victim. She said in criminal case work, they were preserved in the same manner in a freezer. She said convicted offender samples were swabs collected upon conviction of any felony. The samples were stored at the Crime Lab at room temperature. She said the most harmful things to DNA were humidity, mold, heat and

sunlight. Samples maintained in a regular office environment with air-conditioning lasted indefinitely.

Commissioner Farley said she had victims' survivors ask if they could get things out of the evidence locker. She mentioned a necklace or ring or something that appeared to have nothing to do with the crime. Ms. Romero said all evidence was released or destroyed based upon the detective in charge of the case. Each case had a case agent assigned to it. She said contacting the case agent was required to have the evidence released. Commissioner Farley requested the question be explored more deeply.

Chair Hardesty said there was potential for a contest between a victim or the family and a concern on the part of law enforcement, the DA's office, or the Public Defender's office as to whether it should be released. He said the Supreme Court identified the lack of any formal procedure for addressing the subject. A defendant had a procedure through statutes to recover their property. Witnesses and family members did not have a clear procedure.

Chair Hardesty asked Ms. Romero if she had an opportunity to draft a statute, would she accept that opportunity. She replied yes. He asked her to undertake that challenge.

Commissioner Mallory asked if Ms. Romero would survey and include the concerns of rural counties on preserving evidence.

Chair Hardesty said Ms. Romero was very familiar with the best practices and from his experience, she was one of the finest criminalists in the State. He asked if there was someone in Clark County who could discuss this subject.

Sgt. Hooten said she discussed the question with the Director of the Evidence Vault and she had the same concerns as Ms. Romero. She said all homicide evidence was held until the sentence was complete. She said for other crimes the evidence was usually retained for approximately five years. She did not know how long evidence was retained after conviction in property crimes. She said METRO had three buildings with over 750,000 pieces of evidence. She said they refrigerated the DUI blood and urine and all of the biological evidence.

Chair Hardesty asked Sgt. Hooten if she shared Ms. Romero's view that legislation might be necessary to develop some uniform practices. She said she would ask the Director if she wanted to do that. Chair Hardesty asked if the Director would contact Ms. Romero to discuss biological evidence. He added when he was Chief Judge of the Second Judicial District, he discovered many things in evidence lockers from civil cases settled thirty years earlier. He said the cost to retain the evidence was absurd. He said many criminal cases were resolved or disposed of and there was no reason to retain a lot of the evidence. He said all three subjects,



the biological issue, records and evidence retention and release, were worthy of study. He asked Sgt. Hooten if she knew the procedure in Clark County in property crimes for the release of items back to a victim or family of victims. She replied they had to contact the detective handling the case. The detective had to sign a release for them to go to the Evidence Vault to recover the property. Chair Hardesty asked what happened if there was a dispute or the detective refused to release the material. She said they would ask the D.A.'s office to find out if the evidence could be released. Chair Hardesty asked Mr. Lalli, Mr. Helzer and Mr. Mallory if their offices had procedures in place to deal with disputes over the release of property crime evidence back to victims or to victims' family members.

Mr. Lalli said they had a procedure in place. A victim contacted the Victim Witness Assistant Center and prepared a request for the return of property. He said the case went to the assigned deputy who authorized the release or stated his reasons for refusal. Once a release was approved, a request went to the police department to photograph the evidence and then release it to the victim. He said he received many petitions from various law enforcement agencies requesting the destruction of evidence or return of evidence. He said he took the position that evidence, biological or other, should not be destroyed or returned until a person had been completely discharged on a case. In death penalty cases, the evidence should never be destroyed. He said evidence resulting in a life imprisonment sentence due to a sexual case should always be retained.

Mr. Helzer added he did not know of a process to settle disputes. He said sometimes there were disputes over who was most entitled to a piece of property. Some judicial intervention might be of assistance. He said he meant personal items, such as rings or jewelry.

Commissioner Mallory said they had a procedure and it went through the District Attorney's office. He said they tried not to ever re-victimize the victim concerning the return of the property. He said they maintained a strict scrutiny on weapons, especially firearms.

Mr. Kandt returned to Item C of [Exhibit E](#), placing restrictions on the use of informants. He said Mr. Lalli would open the testimony.

Mr. Lalli said David Stanton, Chief Deputy District Attorney in the Major Violators Unit, was going to address Item C, subsections 2 and 3. Mr. Lalli commented on subsection 1, statutorily requiring prosecution offices maintain internal systems to disseminate to fellow prosecutors defendant information for impeaching informants, [Exhibit E](#). He said there was no need for legislation regarding that section. District attorneys throughout the State were moving to be compliant with the issues and alleviated the need to legislate those things. Requiring district attorneys' offices to maintain databases with the information was not required because some counties already had a policy in place. He said Churchill County had a policy in place and had distributed it. He said it was Procedure No. 77, created May 23,

2007. The Churchill County District Attorney's office kept track of inducements made to potential witnesses. Clark County District Attorney's Office was in the process of creating a policy. He said it required the office be compliant under *Brady*. He said their approach would include a database, an inducement index, to keep track of inducements offered witnesses who testified in a case. He said requiring attorneys to reach out and do something was a passive approach. The system did not impose the information upon the attorney. He said they also hoped to implement a new case management system. Nevada prosecutors were sensitive to the issue, and there was no benefit in enacting legislation.

David Stanton, Clark County District Attorney's Office, said other items relative to an informant's testimony were disclosed in advance of trial of any intent to use informants at trial, [Exhibit E](#). He said it was required by Nevada statutes already. There was also reference to disclosure of rebuttal witnesses. He said it would be difficult to meaningfully assess rebuttal witnesses to include whatever the ultimate definition of informant was considered by the Commission. Mr. Stanton said the corroboration of all informant witnesses already existed in the law. He said it was addressed by the United States Supreme Court and was not an issue.

Commissioner Kohn asked Mr. Stanton about Item C in [Exhibit E](#). He agreed they were required by law if they were an accomplice, but what if they were not an accomplice. He asked how cellmate testimony was handled and did it have to be substantiated in any way. Mr. Stanton replied it was substantiated by the "great vehicle to ascertain truth," the cross-examination process. Commissioner Kohn asked if there was any requirement of corroboration. Mr. Stanton replied under those circumstances, no. Commissioner Kohn asked if he had read Procedure 77, created by the Churchill County District Attorney's Office. Mr. Stanton replied he had not read it. Commissioner Kohn asked Mr. Lalli if he had objections to Procedure 77 being made a statute.

Mr. Lalli said from a philosophical standpoint, if there was not a need for legislation, why enact it. Churchill County did a good job with their policy, and Clark County was working on their policy. He said there were other things Legislators needed to do besides enact needless legislation.

Commissioner Kohn said he had been in murder cases where they asked, under controlling case law, for all inducements. He said they had been told there were no inducements, yet district attorney's appeared at sentencing for those witnesses and testified on their behalf. Commissioner Kohn said he believed there was a need.

Mr. Lalli asked Commissioner Kohn for the case. He said trends should be the concern in legislation. If there were a systematic policy and Commissioner Kohn could recite those

cases, Mr. Lalli requested that information. Commissioner Kohn replied he would bring it to Mr. Lalli.

Commissioner Mallory commented on an article in the "California Bar Journal" where former prosecutors were being prosecuted for failure to turn over *Brady* material during cases. He said it appeared they were trying to have multiple remedies where remedies already existed.

Mr. Kandt opened the discussion on Item E of [Exhibit E](#). He said it entailed amending the burglary statute. He said Mr. Lalli would lead the discussion.

Mr. Lalli said he wanted to move to Item H of [Exhibit E](#). He said a deputy from his office, Sandra DiGiacomo, was in the Repeat Offender/Career Criminal Unit. She was going to discuss habitual criminal issues and ties into the use of the burglary statute.

Sandra DiGiacomo, Clark County Chief Deputy District Attorney, said with regard to the habitual criminal statute, it was her understanding that the Commission had been addressed with regard to staleness and use or misuse of discretion by the courts. She said Clark County had a habitual offender program. She said when looking at a case they were going to prosecute, they looked at the priors and the current case. She said METRO would not send a case unless there were three convictions in three separate years. She said drug convictions were not considered as one of the convictions. She referred to cases Scott Coffee from the Public Defenders Office had mentioned at an earlier Commission meeting. She said Mr. Coffee provided them with two of the names cited. The cases showed the gentlemen fell within the habitual criminal statute. The first case referred to someone as being a petty thief for using stolen credit cards. She said there were two separate cases on him. She said he started his first felony convictions in 1980 for sale of controlled substance. He moved throughout the system and escalated his felony convictions. She said he had a criminal history over the past 28 years. The other case referred to an identity thief. He was sentenced as a habitual criminal in Nevada when he had never been to prison before. His prior convictions included five from Oregon where he was given probation. He committed the same crimes in another state and again in Nevada. She said the majority of habitual criminals were multi-jurisdictional. They moved from state to state based upon the penalties in the state. She said they looked at habitual criminal status as someone who had been in and out of the system constantly. If someone had been in jail for 10 years, got out, and continued to do what he did 10 years ago, he would not be considered for staleness. She said if a crime were committed in the 1980's and someone remained clean after that with no arrest record for 20 years, it would not be considered for habitual criminal treatment.

Ms. DiGiacomo said another issue was the way the cases were counted. She said if someone committed a series of burglaries and was tried in one indictment, even though they committed eight or nine different burglaries on different dates, it counted as one crime.

Because it came out of one case, the courts considered it as one crime. She said the majority of cases they had were burglaries and it was a topic with the Commission because it was a Category B felony. She had a defendant who had committed commercial burglaries since 1991, except for the times he was in prison. She said commercial burglaries affected the community as much as residential ones did. She said there was a huge impact on the community from commercial burglaries.

Mr. Lalli asked the retail representative to present her comments.

Lea Lipscomb, Retail Association of Nevada, supported the District Attorneys Association's position regarding the burglary statute. She said they worked closely with the Association to combat shoplifting and organized retail theft. She said nationally those crimes cost the retail industry over \$30 billion a year. She said in Nevada those crimes cost retailers more than \$250 million a year. She said that amounted to over \$16 million in lost sales tax revenue for the State. She reiterated her organization was in favor of keeping the burglary statute language unchanged.

Commissioner Siegel returned to the point that was made concerning the commercial and home burglaries being equivalent. He said the emotional impact on families and individuals from home burglaries had been emphasized. He asked how that was equivalent with the commercial burglary.

Mr. Helzer said he did not deny what Commissioner Siegel said, however he did not think the answer was reducing the impact of commercial burglary. He said the impact of a home burglary was real, but reducing the punishment or seriousness of a commercial burglary was not an answer to the problem.

Commissioner Kohn asked Mr. Helzer his opinion on decreasing the penalty for commercial burglary and increasing the punishment if burglary of commercial businesses was their vocation. He said that a statute similar to California Penal Code 17b allowed the court to have the discretion to reduce a burglary to a misdemeanor because it was a "glorified" petty larceny. He asked if the Commission and the District Attorney would consider more discretion to the courts to consider misdemeanors and also make it more egregious to enter the house.

Mr. Helzer replied if they looked at the issue they would have to expand a commercial burglary to include factors not discussed today. He said commercial burglary could be considered a gateway crime by youth. He said if things were labeled "nothing more than shoplifting," it put a stamp of approval and acceptability on the conduct. He said most prosecutors agreed it was often a situation where an individual incorporated the assistance of

juvenile individuals. They often saw that the lookout or driver of the get a way car were juveniles. Mr. Helzer said there were no easy answers. There was a lot of variety in the cases.

Commissioner Kohn said Dr. Austin's presentation mentioned having more discretion in sentencing and less plea bargaining. He said the defense attorneys agreed all the cases Mr. Helzer discussed should be felonies. He said when a person committed a true petty larceny, it was a recognized crime throughout Anglo-American history. He suggested considering different grades of burglary.

Mr. Helzer said he found it difficult to trust the judiciary with making the right reduction concerning a burglary, but then saying the habitual criminal statute needed to be revisited. He said the habitual criminal statute was completely discretionary with the judge.

Commissioner Digesti said he sometimes found it difficult to trust the discretion of the prosecutors in these types of cases. A second conviction for burglary in Nevada required a mandatory sentence of imprisonment. He disagreed with Mr. Helzer's comment that changing the burglary statute as applied to commercial burglary was bestowing a stamp of approval for an individual's conduct. California Penal Code 17b did not place a stamp of approval on a burglary. He said in California there were infractions, felonies or misdemeanors. California did not have a gross misdemeanor. Someone charged with a burglary, but treated as a misdemeanor at the discretion of the judge or prosecutor, could be sentenced for one year in the county jail. He said it allowed the discretion to be placed somewhere else, more appropriately with the judiciary to fashion a sentence fair and appropriate under the circumstance of the particular case. It allowed the courts the discretion of not making young people felons at age 18 or 19. He advocated looking at the burglary statute under certain context and breaking it down into degrees. He did not see any harm from doing that. The punishment was still there, and the potential and message conveyed. He agreed with Mr. Kohn that if individuals were committing burglaries as a livelihood, they should go to prison. He asked for thoughts concerning breaking the burglary statutes into degrees, first and second degree burglary.

Mr. Lalli said he objected to it. Small business owners who were trying to meet the mortgage and live on the income were seriously impacted by a commercial burglary. He said it was interesting, and he shared the observation of Commissioner Kohn, that a lot of it had to do with discretion. He said if discretion was taken away, it was dangerous. He referred to the California Penal Code 17b where a judge can reduce a felony to a misdemeanor. He said the separation of powers issues had to be considered. Prosecutors made decisions when they negotiated cases as to whether somebody ought to be a felon. He said the prosecutors were beholden to the electorate. The public had the ability, through the electoral process, to remove the current district attorney and elect a new one with a different philosophy. He said changing the burglary statute was one step further in removing the discretion of prosecutors.

Commissioner Digesti said the California Penal Code 17b did not give the court the ability to reduce a felony to a misdemeanor offense. He said it had to be brought by motion, either by the district attorney or defense counsel. His recollection of the statute was discretion was only vested with the sentencing court when the matter and the issue were brought before the court. He said both sides then had an opportunity to comment and object.

Ms. DiGiacomo commented with regard to 17b. If discretion was taken away from the district attorney's office, it affected how they negotiated cases.

Commissioner Mallory commented many state burglary statutes had more severe punishments than one to ten years. He said he knew of those with one to twenty years. He said 86 percent of businesses in the United States were small businesses. He said that bolstered Mr. Helzer's argument on the impact of commercial burglaries.

Mr. Kandt opened the discussion on Item F in [Exhibit E](#).

Ms. Erickson said there was a mention of inserting "an intent to distribute" argument into the trafficking statute. She said from a prosecution stand point it reduced their ability to prosecute those cases. She said intent was extremely difficult to prove. She said there was some concern the trafficking laws were too harsh. She suggested raising the amounts rather than insert an intent requirement.

Commissioner Kohn said an earlier suggestion was looking at the weight of the drug, excluding the fillers. He said the person who had an ounce of pure heroin versus the person with an ounce of heroin that was cut eight times, the second person was much lower in the drug hierarchy. He asked how Ms. Erickson felt about changing the actual weight of the substance in statute.

Ms. Erickson replied the crime lab was already overworked. She was interested in how difficult it would be to extract the purity level. She said the person cutting and selling the heroin made a lot of money.

Commissioner Kohn said the person moving an ounce of cut heroin was lower than the person with a pure ounce.

Ms. Erickson respectfully disagreed.

Mr. Lalli said Chief Deputy District Attorney David Stanton was present to address Item G in [Exhibit E](#).

David Stanton said Item G dealt with amending the statute for the deadly weapon enhancement by narrowing the application. He reminded the Commission the 1990's Nevada Supreme Court had to grapple with the definition of a deadly weapon using the functional test. He said it was a failure in the ability to grasp and clearly articulate a rule and definition of a deadly weapon using that test. The majority of cases using non-traditional deadly weapons would make it unworkable again. The use of a baseball bat, knives and a telephone cord were all part of the attempt to define a deadly weapon. He submitted it was unworkable to legislatively define a deadly weapon in the functional test. It led to significantly inconsistent results. He offered as an example, the Nevada Supreme Court trying to define a knife as a deadly weapon and whether that knife, by its design, was to be used in a criminal or deadly weapon fashion. He said the design of the knife was irrelevant to the manner and cause of death. Any further amendment to the deadly weapon definition, besides what was done last Legislative Session, was unworkable.

Chair Hardesty said he did not recall earlier discussion of any change to the deadly weapons enhancement statute. He said the Commission minutes may reveal some mention of some of these topics, but he was not aware of any specific proposal on that point.

Mr. Stanton said he was not referring to a proposal to amend the statute. He referred to the past Legislative Session reducing the deadly weapons punishment from a mandatory consecutive time to a lesser time encompassing the life sentences.

Chair Hardesty said he was not aware of anyone making a specific proposal to the Commission to pass on to the Legislature to further modify the deadly weapon enhancement statute from what was modified in the last session.

Mr. Stanton said his notes referred to a proposal to amend the statute narrowing the definition of the deadly weapon.

Mr. Lalli said that was good news. The last issue they addressed was Item J.

Chair Hardesty asked if the discussion of Item H was completed. He asked Ms. DiGiacomo to state her views as to whether the habitual criminal statute in Nevada was being applied consistently by the judicial system.

Ms. DiGiacomo said in Clark County it was consistent. The majority of the work in her office was by stipulation. The majority of the judges considered it. Chair Hardesty said the majority of the habitual criminal cases in Clark County were resolved by stipulation to a habitual criminal finding and sentence. Ms. DiGiacomo replied he was correct. She said she had 60 cases that were eligible: 5 she did not seek habitual status, 55 were eligible and, of those, 45 were found habitual criminals. She said 39 of the 45 were by stipulation.

Chair Hardesty asked if there were statistics for the entire team.

William Kephart, Clark County District Attorney's Office, said the unit was split into three people per team. The numbers were all similar to Ms. DiGiacomo's figures. He said, with respect to the habitual statute, to assume because the statute was there it was utilized was an incorrect understanding. He said his office did a special screening before they accepted a habitual criminal case. They focused on approximately 10 percent of the population who committed 80 percent of the crimes. He said the courts were relatively consistent with regard to applying the statute. He said there were a number of judges who applied habitual statutes when they had to under the mandatory violent-type sentencing.

Chair Hardesty said that sounded inconsistent; some judges habitualize and others consistently did not do so. Mr. Kephart said they entered into a situation with the defendant where the defendant was given a negotiation where they agreed to the habitual sentence, short of being prosecuted for a number of different offenses. That was why a number of their cases were done by stipulation. Mr. Kephart said a number of people entering Clark County were multi-state offenders. They were addressing the multi-state offenders because they realized they were coming to Clark County after committing a number of felonies in California, Arizona or Utah. He said Washoe County was addressing the problem. He said they had judges sentencing heavier than in Clark County. He said his team believed the multi-state offender deserved a greater penalty and the statute allowed for that. The judges in Clark County were indirectly involved with respect to whether the State was unreasonable in prosecuting cases.

Chair Hardesty asked Ms. Erickson if she believed the judges in Washoe County were applying the statute consistently. Ms. Erickson said the vast majority of judges in Washoe County took habitual criminal very seriously. She said they considered all aspects because it was discretionary. She said with the exception of one judge who was theoretically opposed to habitual criminal, all of the judges took it seriously and the imposition of the sentence was fair.

Mr. Lalli said the last item on the memorandum was Item J, decriminalizing traffic offenses. He asked if the decriminalization of traffic offenses was pertinent to the Commission.

Chair Hardesty said a witness, Mr. Vilorio, made a presentation to the Commission. He offered suggestions to improve the system.

Lt. Carlos Cordeiro, Las Vegas METRO Traffic Division, said highway safety was a top priority for the METRO Police Department. He said there were 133 fatal accidents last year and they hoped to save 30 or 35 people from fatal accidents this year. In his jurisdiction there



were approximately 30,000 accidents a year and 59 percent were accidents with injuries. His biggest concern was the message to the motoring public that METRO Police Department was putting less focus on traffic enforcement and roadway safety by decriminalizing the traffic statutes. He said it was important to retain the strongest possible posture in addressing traffic safety.

Mr. Lalli said in Clark County a system was in place to handle traffic matters through the municipal courts and the justice courts. He said some consideration needed to be given to what system would replace the current ones and the potential financial impact to the county.

Chair Hardesty said the testimony from Mr. Vilorio was not to eliminate traffic laws in Nevada. The direction of his proposal was to find ways to more efficiently enforce the traffic laws, but do so in a manner that generated additional revenue at less cost to the system. He did not propose the elimination of all the traffic laws. Chair Hardesty said he did not want the representative from the police department to think that was the case. Chair Hardesty said one of the specific points made was it made no sense to have an officer have to testify in a traffic offense. The question asked was were there efficiencies that could be made in the system used to enforce and collect the results of traffic violations?

Mr. Lalli said an officer rarely had to testify in a speeding case, for example. He said the overwhelming number of cases was negotiated. He said the greatest system in Clark County was the Justice Court implementing an on-line system for people to handle their traffic matters. He said the changes made through the courts helped raise more money with fewer personnel. He said he understood from the earlier discussion that it was suggested to administratively deal with traffic as opposed to dealing with it through the criminal justice system. The concern was a system was already in place.

Lt. Cordeiro said traffic officers went to court more often than any other officer in a police department. He said going to court was not difficult, it just needed to be more efficient. He said they had asked for the development of a night court.

Chair Hardesty asked Lt. Cordeiro and his colleagues to offer any further suggestions they might have to the Commission regarding the traffic court systems.

Commissioner Flynn said the duties of the Commission applied to felonies and gross misdemeanors. He said based on all the other items on the agenda, the Sheriff and Chiefs Association would not oppose traffic laws being misdemeanors at this time.

Chair Hardesty opened the afternoon session of the Commission. He asked Ms. Clark to call the roll. Commissioners Herndon, Miller and Amodei were absent. He said there several additional presentations scheduled for the afternoon.

Larry Frankel, State Legislative Counsel, Washington Legislative Office of the American Civil Liberties Union, said the ACLU was America's oldest and largest civil liberties organization. Mr. Frankel read his testimony to the Commission. ([Exhibit H](#)) He said the focus of his testimony was the habitual offender statutes. Mr. Frankel said there had been a dramatic growth in the breadth and depth of state habitual offender laws.

Mr. Frankel said some of Nevada's statutes could be improved. In California, the "Three Strikes and You're Out" law has such a broad scope of what counted as a prior offense, the absence of any judicial discretion, and any felony can be counted as the third strike, had led to results many believed were unduly harsh and fiscally unsound. He said by and large most states targeted their habitual offender statutes on those who repeatedly committed serious and violent felonies.

States varied over how much discretion judges were given. Nevada was one of the states that preserved a degree of judicial discretion in its habitual offender statutes. Nevada had three different statutory sections: NRS 207.010, NRS 207.012, and NRS 207.014. Mr. Frankel said Nevada had not limited the application of its habitual offender statutes to violent or serious felonies. He said eliminating the over-sentencing of nonviolent offenders would help relieve the over-taxed criminal justice system.

Mr. Frankel read criticisms of the habitual offender statutes. He said the most common constitutional attack on habitual offender statutes was they placed defendants in double jeopardy by punishing them twice for the same crime. The United States Supreme Court stated the first crime was used only to enhance the punishment for a second crime. The Court rejected many claims that the statutes resulted in cruel and unusual punishment. Mr. Frankel said by 2004, half of all the states had changed their sentencing laws. The enactment of the laws had more to do with public perception of how bad crime was, but there was little evidence the laws actually influenced the crime rate.

Mr. Frankel said proponents of habitual offender statutes argued the measure reduced crime by extending sentences of offenders who were likely to recommit. The reason longer sentences produced diminished returns was most criminal careers lasted only five to ten years. He said most analysts agreed continued growth in incarceration prevented fewer, if any, crimes than past increases had and cost taxpayers substantially more to achieve. He added habitual offender statutes severely limited the ability of a judge to account for all of the facts in a case and may force them to impose unfairly harsh punishment on a non-violent offender.

Mr. Frankel outlined some of the national trends in sentencing reform. Some states had passed legislation establishing or expanding diversion options, including drugs for drug

offenders. Some states were allowing early release of non-violent offenders as a means of dealing with prison crowding.

In conclusion, Mr. Frankel stated Nevada was looking at other ways to better distinguish between violent and non-violent criminals. He suggested modifications to the existing habitual offender statutes so non-violent offenses were not treated as triggering offenses under the statutes. Another suggested reform amended existing law so only prior offenses leading to incarceration would be treated as predicated offenses.

Commissioner Siegel asked Mr. Frankel about some of the elements or strategies in Pennsylvania that allowed the reform package to be prepared.

Mr. Frankel said some of the elements were the fact the Department of Correction's budget went over \$1 billion. He said building three more state prisons concerned people. The county jails were becoming overcrowded and wanted more prisoners transferred to state prisons rather than county jails. He said the DOC spearheaded the efforts for the reforms. He said legislators realized too much was going into prisons to the detriment of other programs.

Commissioner Siegel asked if they had a commission such as this one. Mr. Frankel replied they did not. They had a number of people offering data and information.

Chair Hardesty asked about the issue of hard data. He said the Truth in Sentencing Subcommittee received presentations from Dr. Austin and they requested additional data on this topic. They requested incarceration information of defendants sentenced as habitual offenders under each of the various statutes. He said with better numbers, one could better assess to what extent this population occupied the total prison population. He said it seemed from the testimony of the Clark County District Attorney's Office there was a much higher level of discretion under NRS 207.010 than existed in other states. Mr. Frankel agreed, but he added that level of discretion was discretion also given to the prosecutors and not just the judiciary. He said the data probably cannot show how the statutes were used for plea agreements or sentences that may not fall under those statutes but may contribute to longer sentences within the prisons.

Chair Hardesty asked Mr. Frankel about any legislation he had encountered that attempted to define "non-violent." Mr. Frankel said the term was usually defined by what crimes they classified as predicated or triggering offenses. It was relatively unusual that petty larceny was a triggering offense. He said it was usually defined as murder, rape, aggravated assault and robbery. He said they did not use the terms violent or non-violent.

Chair Hardesty said Richard Dieter was offering, via telephone, testimony concerning the Death Penalty Information Center.

Dr. Siegel said he invited Mr. Dieter to speak to the Commission.

Richard Dieter, Executive Director, Death Penalty Information Center, Washington D.C., spoke on the costs of the death penalty. He said his organization was a non-profit and focused on research and analysis of capital punishment. He said the issue of the cost of the death penalty had received increasing attention for two reasons. First, the cost of capital punishment had grown, and second, all states were experiencing the effects of the economic slow-down and were seeking ways to reduce expenses. He said he had reviewed every state and federal study of the costs of the death penalty for the past twenty five-years. All the studies concluded the cost of the death penalty amounted to a net expense to the state and taxpayers. He said the death penalty was also about a search for justice and the safety of the community. He mentioned an article from the *Wall Street Journal* that linked the death penalty to its high costs, saying having the death penalty was a cost to the state. He said quite a few jurisdictions with the death penalty had to cut back on other vital services. Some states released people from prison early as a cost-saving method. The cost issue had reached crisis proportions in some states. He said a report stated California was spending \$137 million per year on the death penalty. He said the commission in California said a comparable sentence of the maximum punishment of life in prison without parole would cost \$11 million dollars per year. Mr. Dieter said carrying out an execution was not the cost, but the death penalty system grinds on with many expenses. He said two states, New York and New Jersey, abolished the death penalty.

Mr. Dieter said sentencing someone to life in prison was also very expensive. He said the death penalty costs were accrued up front. This was especially true at trial and the early appeals process. A life imprisonment cost was spread out over decades. He said \$1 million paid gradually over a course of many years was less expensive. He said in most cases where the prosecution announces the death penalty will be sought, it was never imposed and even when it was imposed, it was rarely carried out. He said the individual expenses of the death penalty resulted in a substantial net cost to the taxpayer. He said relatively few cases resulted in an execution. The average time between sentencing and execution was 12 years. A study found approximately two-thirds of death sentences were overturned on appeal. He said when they were re-tried, approximately 82 percent resulted in a life sentence. Nationally about 12 percent of the people sentenced to death were executed. He said it was possible to fashion a more efficient death penalty system. He said even for a state like Texas, which executed 33 percent of the people sentenced to death, the cost per case was \$2.3 million. Nevada's death penalty was similar to other states. There were many potential capital cases with relatively few death sentences and fewer executions. He said many were overturned on appeal. Almost all the people executed in Nevada waived the opportunity to complete their appeals process. He said using the death penalty to eventually get to life without parole was the most expensive form of a life sentence.

Mr. Dieter summarized some of the more in-depth studies that had been done about the cost of the death penalty. He said few states had taken the expense and time to study the costs. He said there were some results from legislative bodies and some from the media. The most comprehensive study on the death penalty was done at Duke University in North Carolina. Their conclusion was the state was spending \$2.2 million per execution over the cost of a non-death penalty sentence of life imprisonment. A study by the *Miami Herald* in Florida concluded Florida spent \$3.2 million per execution. He said a follow-up study was done about the costs, and they found the cost had increased to \$24 million per execution from the 1980s when the first study was done. He said there were fewer executions, and the costs per execution were going up. The death penalty as a tool of the justice system was focusing on fewer people.

Mr. Dieter concluded it was not his role to advocate any particular legislative remedy for the costs. He pointed out the trend in this country was moving away from using the death penalty. He said there was a 60 percent drop in death sentences since 1999. He added there was a 50 percent drop in executions and a decrease in the size of the national death row. He said opinion polls showed an increase in support for life without parole as a substitute for the death penalty. The death penalty concentrated millions of dollars on a few people with almost no control over the outcome. He said it was true you cannot put a price on justice, but there were programs with proven track records for improving the safety of the community.

Chair Hardesty asked if the Death Penalty Information Center had calculated the cost of the death penalty in Nevada. Mr. Dieter replied they had not, and he did not know of a comprehensive study that had been done here. Chair Hardesty asked if the studies Mr. Dieter had seen listed the components that comprised the costs. Mr. Dieter said the North Carolina study listed the costs. He said they even measured something they called opportunity costs. He said they were told judges, prosecutors and some public defenders were paid by salary so there was no line item for the death penalty. He said they compared the hours of a capital case versus one that was not. He said the opportunity costs to the state in a capital case were many times more expensive.

Commissioner Farley asked if anyone had done a study on the cost of parole hearings and appeals costs versus the death penalty. She said he talked about all the money it cost to keep someone away from the death penalty.

Mr. Dieter said most of the studies he mentioned were not measuring the cost of the death penalty in total, but the cost of the death penalty as extra compared to a case where the person was sentenced to life. He said \$20,000 per inmate per year, times 40 years was the cost of a life sentence. The studies were measuring how much more the cost was for the death penalty. Although it was counter intuitive, every study concluded the legal costs were

greater for death penalty cases. He said the death penalty was not about costs. He said a million dollars could buy 40 more police on the streets, and that might save lives.

Commissioner Farley said she wanted to see a study from the other side to see what the costs were as opposed to the death penalty. Mr. Dieter said when someone was murdered the costs were incalculable, but there were calculable costs in states.

Chair Hardesty said he wanted to take item D, Agenda Item XIII, for discussion concerning the Victims Subcommittee report.

Commissioner Masto opened the discussion with Sue Meuschke, Bryan Nix and Andrea Sundberg reporting to the Commission.

Chair Hardesty said this was the report of the Subcommittee to Consider Issues Related to Victims, including the rights of victims, relevant statistics and sources of funding for victims of crime in Nevada.

Commissioner Masto and Commissioner Farley chaired the subcommittee addressing victims' advocates, rights and compensation program. Commissioner Masto provided a general overview of the subcommittee and their issues. ([Exhibit I](#)) She said victim advocacy in Nevada was broken down into various counties that provided victim services. She mentioned domestic advocacy services were offered in all of Nevada's counties. Some services for victims were not available. The biggest challenges were resources and personnel to provide services. She said this was the first time Nevada had approached victims as well as the services available to discuss what was available in the State. The lack of resources spoke not only to limited funding, but to the limited ability to provide the services even when the funding was available. She said many advocates were concerned about the release of inmates on an overburdened system. She listed some examples of resource shortages, including victim advocates, transportation services, mental health services, and legal services. Another challenge was uneven access to the available services. She mentioned crime compensation for victims was not applied consistently to all victims in Nevada. The Innocent Victim Regulation presented problems when the interpretation overly penalized victims of sexual and domestic violence. Another challenge was advocacy services. The lack of advocates in rural communities placed rural victims at a distinct disadvantage. Recent funding cuts to Domestic Violence programs threatened to dismantle one of the few statewide victims' services networks in Nevada. She said interstate issues made it difficult to coordinate services. Commissioner Masto said systemic barriers created another problem for victims. She said communication problems included navigating systems, victim notification and victim notification of appeals hearings. She said Victim Notification Network (VINE), existed in Clark and Washoe County, but in none of the other counties. The last page of [Exhibit I](#) listed recommendations from the Subcommittee. She said they were not specific

recommendations for the Legislature. She said the last recommendation was to continue the Subcommittee meetings to review access to services, compile additional information on current systems, and develop more in-depth analysis of the challenges and solutions.

Sue Meuschke, Executive Director, Nevada Network Against Domestic Violence, said she was one of the members of the Subcommittee. She said victims of domestic violence comprised the largest victim category in the State. She said 14,613 Orders for Protection, both temporary and extended, were issued in 2007. She said 31,247 incidences of domestic violence were reported by law enforcement in 2005; over 37,000 individuals contacted domestic violence programs in 2007. ([Exhibit K](#)) She said in Assembly District No. 33, the Committee Against Domestic Violence provided services for Elko, Eureka and White Pine County, and limited shelter services for Lander County. ([Exhibit J](#)) Ms. Meuschke said there were fifteen domestic violence programs in the State. She said as of July 1, 2008, programs will experience a 28.7 percent decrease in State grants from the State Domestic Violence Fund. She said the Fund received its revenue from every marriage license sold in the State. The justice system faced similar resource issues which impacted their ability to adequately address crimes including domestic violence. She said each of the domestic violence programs was a private non-profit which provided a range of services based on their ability. She added there were many systemic barriers for most victims.

Andrea Sundberg, Executive Director, Nevada Coalition Against Sexual Violence, said she was also a member of the Subcommittee. She acknowledged the advocates, nurses, counselors and members of law enforcement who provided services to victims of sexual assault. She said her report provided a brief overview of services available in Nevada. ([Exhibit L](#)) She said there were major gaps, especially in rural areas, where there were almost no services for victims of sexual assault. She said if a victim of sexual assault in Elko County needed to obtain a sexual assault forensic exam, they had to come to Reno. The Uniform Crime Report in 2007 stated law enforcement in Nevada reported 1,094 rape cases. Of those cases, 20.66 percent were cleared by an arrest or identification of a suspect. She said 192 of the 1,094 cases actually resulted in some sort of an arrest. The cases did not include rapes of someone under the age of 14. She added only 40 percent of victims reported sexual assaults to law enforcement. The State had three programs focusing on the issues of survivors of sexual assault; the Rape Crisis Center in Las Vegas, the Crisis Call Center in Reno, and Sexual Assault Advocates based in Carson City. She said all the agencies had experienced funding cuts which resulted in a reduction of services. The programs all refer to counseling services throughout Nevada. Clark County had a waiting period of up to three months if victims were seeking private counseling services. She said of the victims who applied to the Victims' Crime Compensation Program in Las Vegas, approximately 30 percent received a denial of the application. The victim failing to appear for the interview was the least likely reason for denial. The primary reason for denial according to the Rape Crisis Center in Las Vegas was the victim was under the age of 21 and had consumed alcohol. She said victims of

sexual assault often turned to drugs and alcohol for coping with and recovering from their trauma.

Ms. Sundberg stated there were serious limitations on counseling services available in rural communities. She said another major gap was certified nurses to conduct sexual assault exams. She said there were 17 certified nurses in Nevada to conduct those exams. Reno was opening a facility for victims of sexual assault to obtain the sexual assault forensic exam in a safe environment. She said certified nurses needed to be available throughout the State. The issues were imperative for all the State, but the rural communities had serious problems for survivors needing access to services. To improve services for those impacted by sexual assault, she recommended the funding resources were available for programs to assist all survivors. She recommended finding ways to increase the number of sexual assault nurse examiner units and the number of certified nurses. She said they needed to find ways for victims who were intoxicated to find ways to access Victims of Crime Compensation Program so they received services.

Commissioner Masto mentioned the second page attached to [Exhibit J](#), "Victims Advocacy in Nevada," set out the various sources of funding for victim advocacy in the State. She said there were three entities that administered funds. She mentioned Bryan Nix administered the Victims of Crime Compensation Program.

Bryan A. Nix, Esq., Program Coordinator, Nevada Department of Administration, Victims of Crime Program, (VOCP), said the Program was one component of the federal dollars that came into Nevada. He said the others were Victim Assistance and Victim of Crime Compensation. His organization was the compensation provider for a variety of benefits available to victims in Nevada. He referenced his handout as a summary of the organization. ([Exhibit M](#)) They provided a broad range of payment for medical services, counseling, lost wages and other types of funding for relocation expenses and other items. He said the program was designed, by statute and policy, to help innocent victims of crime, not every victim of crime. He said there were criteria they had to apply to ensure the victim did not contribute to their own victimization. The use of alcohol was an issue compensation officers considered under the policies of the Board of Examiners. He said nobody was denied because of use of alcohol, per se, but alcohol was a contributing factor, and victims may make bad choices because of drugs and alcohol. The organization provided assistance to people who had alcohol in their lives as long as it was not a contributing factor to the crime. He said the issue of young people, under drinking age, using alcohol was not a bar to compensation, but a factor for consideration whether or not they met the overall qualifications. He referenced page 4 of [Exhibit M](#) for the variety of criteria that determined eligibility for victims in the Nevada system. Mr. Nix said the maximum amount they could pay was \$50,000, but the Board of Examiners' policy was the current claim limit was set at \$35,000. The program was funded with federal dollars and fines and penalties against criminals; there were no General



Fund dollars in the program. Mr. Nix said his organization only paid claims for people who suffered physical injury. He said they paid claims within two to three weeks of receiving the billing for the claims. He said he attached the Nevada Revised Statutes and Board of Examiners policies to [Exhibit M](#). The Victim of Crime Compensation Program in Nevada and throughout the country had caps on claim limits and various services.

Commissioner Flynn asked why there were so few certified nurses to perform the sexual assault examinations.

Ms. Sundberg said the criteria for certification were set by the Nevada Nursing Board. She said they mandated only Registered Nurses were eligible to become certified nurses. She said they had to pass a written exam before being allowed to perform any exams. The written exam required practical experience. She said another major issue was the nursing shortage. She said it was difficult to have people observe exams for practical experience so they could take the written test.

Commissioner Flynn asked for further explanation as to why there was no compensation for sexual assault victims who used alcohol and were under the age of 21.

Mr. Nix said there was not a rule against providing compensation, but each case was measured on its own merits. He said a compensation officer had to look at contributory conduct issues. There were cases where somebody was so intoxicated their behavior became contributory to the crime committed against them. He said the factors had to be individually weighed. Currently, they were revising their policies to be submitted to the Board of Examiners, and he said this was an area they were re-examining. He said they were also looking at a policy related to drug use and abuse as related to contributory conduct. He said his organization would be working with the Subcommittee and victims' advocates throughout the State. He said alcohol and sexual assault issues were very disturbing. He said their behavior often excluded them from participation in the program because they were not innocent victims of crime under the organization's guidelines.

Chair Hardesty asked if every woman who was a victim of date rape was excluded.

Mr. Nix replied not necessarily, but their behavior may be a factor in the context of that crime and had to be evaluated. Chair Hardesty said it sounded like a bar to him, exclusion to recovery.

Commissioner Siegel asked Mr. Nix if there were a "needs" or an income test for eligibility in his program. Mr. Nix replied not really. He said they did not test everybody to see if they met a certain income eligibility. The focus of the program was to try to help victims become whole. He said there were other criteria, such as if they had insurance, or methods of

payment other than this program. He said those methods had to be exhausted because his organization was a payer of last resort.

Commissioner Siegel asked Attorney General Masto if there were plans to determine a dollar amount, of which the State would be appraised, of the needed amount to take care of the issue of caring for victims of crime.

Commissioner Masto said they were just now determining the number of advocates in the State including part-time, full time and volunteers. She said to put a dollar amount on it would be very difficult. She said the challenge now was to provide the level of service needed in the State with diminishing dollars.

Commissioner Farley said there were many volunteers working. She said it was impossible to put a dollar amount on the hundreds of people who volunteered their time.

Commissioner Masto said part of the problem with putting a dollar amount on the program was they were not sure they were identifying all the victims.

Ms. Meuschke said another issue for nonprofits was using State dollars to leverage private and federal dollars. She said they worked hard determining how to put it together in the most cost effective way. She said the dollar amount changed with the circumstances. They were seeing a decreasing funding base. She added they needed to do a better job of partnering with existing systems and utilizing resources in the most effective ways. She said they needed to make sure victims who were legally using alcohol and had a crime committed against them were not barred from compensation. Domestic violence victims used to be barred from compensation merely because of the relationship. Victim advocates had to go to the Legislature in order to change that. She stated much work needed to be done: about dollars, policy, priorities and attitudes.

Chair Hardesty said the Subcommittee had not had a lot of time to do all the work they wanted to do. He said it was encouraging to know there were new collaborative efforts among the various interest groups involved in these matters. He said it was vitally important to form a business plan that addressed both the revenue side and the expense side. He asked the Subcommittee to examine the possibility of looking at existing revenue sources, determining whether they can be improved, whether other revenue sources could be seized upon, and improve the leverage of the revenues. He said he noticed in the report from Mr. Nix, he paid approximately one-third of the amount of expenses billed. Chair Hardesty said without any further studies they knew victims of crime were underfunded or unable to compensate for two-thirds of the costs actually incurred by individuals. He was also concerned by the absence of any contribution from the General Fund. He said NRS 217.010 declared it was the policy of this State to provide assistance to persons who were victims of violent crimes or the dependants of victims of violent crimes. Chair Hardesty asked about the

Crime Victim Compensation State Certification Form. The report certified revenue and expenses from October 2006 and September 2007, but then referred to a VOCA grant for 2007-2008. He asked why there appeared to be different fiscal years in the report.

Mr. Nix said they reduced the credit for dollars spent on victims by the previous federal grant. In determining the grant for the 60 percent match, they took out the prior grant because it was federal dollars. This ensured they were only being matched on State dollars.

Chair Hardesty said the leverage that people looked at may not be as beneficial as one might perceive. He said the Court Costs in Item 2 of Part II of [Exhibit M](#) were actually the administrative assessments that were assessed by judges in the State. Mr. Nix said the form was a federal one, and that was the way the category was listed. Chair Hardesty said with respect to the court assessments, it included both misdemeanor and felony assessments. Mr. Nix said he thought it also included bond fees and forfeitures for bail bonds. Chair Hardesty said he was surprised there were no bond forfeitures during the year. He asked if the revenue was combined under administrative assessments. He said those were two separate subjects. Mr. Nix said there may not have been any bond forfeitures the program was entitled to receive.

Chair Hardesty told Attorney General Mastro it was an area that required greater evaluation. He said looking at the numbers, he was troubled by some of the items and entries. He wondered if they were maximizing their capabilities in this area or whether some of these revenue areas needed reexamining. He added the Commission was about to make recommendations in anticipation of Bill Draft Requests, (BDRs) for the first of September. He asked if they had an opportunity to make recommendations for statutory changes would they want the Commission to advance their recommendations in the interest of victims of crime. Ms. Meuschke and Ms. Sundberg replied they would like the opportunity.

Chair Hardesty requested that the Subcommittee make specific statutory suggestions to the Commission by the sixth or seventh of August. Chair Hardesty said he was concerned about the numbers he had seen. The Budget Office needed to provide the Subcommittee with some very specific breakdowns on the issues of assessments, bond forfeitures, and all the items listed in the report. He said Category 8 identified Restitution Recoveries. Fines and Penalties, Category 4, may include misdemeanors as well as felonies, which it should, as it included domestic violence. He said the fundamental question was the relationship and connection between the revenue source and expenditure source. He asked how the marriage license fee funded domestic violence. He said the work of the Subcommittee needed to continue. He said he would entertain a motion to make the Subcommittee a permanent subcommittee of the Commission.

Commissioner Kohn moved to make the Subcommittee on Victims' Rights a permanent subcommittee of the Commission. Commissioner Skolnik seconded the motion. The motion carried. The Subcommittee will be a permanent operating subcommittee of the Commission.

Commissioner Kohn told Attorney General Masto one of the things that most concerned him was the lack of mental health throughout the State. He said those victims became his clients. He asked if she could provide the Commission with some idea of the cost and how to help victims with mental health.

Commissioner Masto asked if they were making a distinction between treatment and victim advocates. She said the victim advocates were individuals there to assist people through the system. She asked if that was what he meant. She asked if he meant victim advocates for individuals with mental health problems to assist them through the system, or did he mean the treatment side of the question.

Commissioner Carpenter asked if the 28 percent reduction in funds was from the decrease in marriage license sales.

Ms. Meuschke said it was a combination of decreasing sales in marriage licenses as well as an error in tracking the revenue source and over-granting money.

Chair Hardesty asked her to repeat what she had said.

Ms. Meuschke said there were a decreasing number of marriage licenses sold in Nevada, which had decreased the revenue source. She said the way the grant situation was established, programs were receiving grants in excess of the incoming revenues. She said when that was finally discovered, grants had to be decreased by 28 percent.

Chair Hardesty said where State agencies were cutting 4.5 or 6.5 percent, her organization was looking at a 28 percent decrease due to prior over-funding or estimation of revenue. Ms. Meuschke replied he was correct.

Commissioner Carpenter said in Elko, with such a cut, people would have to be laid off work. She said yes they will have to lay-off people, particularly for non-profits with a marginal overhead.

Chair Hardesty asked how much the 28 percent cut represented in dollars. Ms. Meuschke said it was approximately \$900,000. Two agencies in southern Nevada had to lay-off staff because of these cuts. Chair Hardesty said this sounded like a matter of some urgency.

Commissioner Horsford asked Mr. Nix about the information on victims who were either due money or were dispersed money. He asked if the information could be broken down by zip code, and if so, whether Mr. Nix could coordinate with Dr. Austin. He said an overlay could be built showing where crimes happened, victims were located and disbursements occurred. He said that would show where there were gaps of services.

Mr. Nix said he was not sure zip code information was gathered in a way in which it could be tracked within their system. He said they provided a map showing payments by county which provided an overview of how funds were disbursed state-wide. He said within the metropolitan area of Las Vegas he did not know if they could track by zip code.

Commissioner Horsford said it seemed Mr. Nix did not have adequate staff to meet his charge. He said there were two funded positions for Las Vegas of which one was vacant. He asked if the position was being maintained. Mr. Nix said the vacancy was a hiring freeze vacancy. He said he asked for permission to fill the vacancy, but they had not had a response to the request. He said they developed a claims management system that allowed them to process their claims efficiently. He said they were considering not filling the vacancy because of the efficiency created within the agency.

Chair Hardesty said for the period Mr. Nix was talking about they had a reserved carry-over of \$750,000. He asked what his reserved carry-over was presently. Mr. Nix said he was not sure of the amount. He said having a reserve of any kind was an anomaly. The Board of Examiners adopted new policies last year that allowed them to clear out approximately \$4 million in back claims. He said they did not need their federal grant at the time they received it. He said not including federal funds, they had over \$1 million to pay claims over the next quarter. He said they paid claims current as expenses were incurred and each quarter they paid victims' debts, typically emergency room hospital bills.

Chair Hardesty said Mr. Nix was allocated administrative assessments that went to the executive branch. He said he participated in the share of executive branch portions of the administrative assessments. Chair Hardesty said each year the organization was budgeted to receive a certain level of revenue based upon anticipated amounts of administrative assessments from the courts throughout State. Chair Hardesty asked what happened if the amount of administrative assessment revenue exceeded the amount budgeted. He asked if it reverted to the General Fund.

Mr. Nix was not sure where the money went; he was not sure if it reverted to the General Fund.

Chair Hardesty said the Supreme Court reported to the Interim Finance Committee that they were reverting \$2.3 million to the State. Of that sum, almost \$900,000 was additional administrative assessment revenue received by the Supreme Court that was in excess of the

Court's budget. Chair Hardesty said he suspected this fund, which was not funded by the General Fund, received excess administrative assessment money over and above the budget. He said instead of the money going to victims of crime, it was returned to the General Fund in an operation which was short of personnel. Chair Hardesty said if that was true clearly something needed to be reversed and corrected through legislation. He asked Mr. Nix to research and advise the Commission right away.

Commissioner Mallory asked Mr. Nix about items concerning eligibility criteria for the Victims of Crime Program. He asked if the criteria were legislative or something the Board of Examiners decided. He said he was educated by Ms. Meuschke and others about the complexity of "victimology" in these cases. The references stated if the victim did not contribute to the crime in any way and fully cooperated with law enforcement officials during the investigation and prosecution of the offender, they were eligible for assistance. Commissioner Mallory said the issues were much more complex than the words indicated. He said if the requirements came from the Legislature, they might be subject to additional legislation if appropriate.

Mr. Nix said the requirements were a combination of statute and Board of Examiners' policy. He said it went back to the innocent victim of crime issue and whether their behavior contributed to their crime. He offered an example of someone starting a fight and then losing the fight. He said that would be a victim whose behavior contributed to their own injuries and would be denied assistance.

Commissioner Mallory said he was thinking more about sexual assault and domestic violence cases.

Mr. Nix said it was primarily the policy of the Board, adopted pursuant to language in the statute that required the victim to not contribute to their own circumstances by their own behavior.

Commissioner Parks said his concern dealt with the restitution. He asked if there was further information concerning the amount of restitution ordered versus the amount paid. He asked what steps and efforts were made to have the perpetrator of the crime pay the restitution ordered.

Mr. Nix said his organization did not track restitution orders by the court. He said they occasionally received restitution payments directly to the program. He did not know what the restitution dollar amount shown meant. He said they were looking at restitution issues as a way to increase revenue into the Agency. Some Victim of Crime programs in the country had entire staffs dedicated to following and collecting restitution.

Chair Hardesty asked Mr. Nix to determine the source of the restitution dollar amount. He said if it was court-ordered restitution, it was a surprisingly low number. The subject of restitution needed to be further examined by the Commission.

Commissioner Farley asked Mr. Nix if there were a way to track who had been denied victims' compensation because they contributed to their offense.

Mr. Nix said they could track denied claims in order to report on the reason for the denial. He said some people simply did not follow up on their application. He said they could provide a report on why claims were denied.

Commissioner Farley asked if Mr. Nix could provide a of how many people who were denied in the past eighteen months. Mr. Nix said yes he could, and it was approximately fifty percent of the applications submitted each year. Commissioner Farley requested Mr. Nix provide a reason and a break-down of the percentage of denials.

Chair Hardesty opened the discussion on Agenda Item X concerning the Adam Walsh Act and Assembly Bill (A.B.) 579. .

Commissioner Masto said she brought the Act of Litigation concerning the Adam Walsh Act. She said A.B. 579 mirrored the Adam Walsh Act. Commissioner Masto said there was also litigation with Senate Bill (S.B.) 481, concerning the residency requirement for some of the offenders who would become Tier 3 offenders. Lawsuits were filed in the 8th, the 6th, and the 9th Judicial Districts, and at the federal level. Commission Masto said the 6th and 9th Judicial Districts' actions were stayed by the judges as to the named plaintiffs. In the 8th Judicial District there were 19 cases which were stayed as to the named plaintiffs also. She said that meant that only in those jurisdictions impacting the individuals who brought the actions was the enforcement of the actions on A.B. 579 and S.B. 481 stayed. In the federal action there was an additional action brought to stay the enforcement of A.B. 571 and S.B. 481. Both of those items were stayed pending hearings on August 26, 2008. She said in this State, because the federal action had been stayed, the enforcement of A.B. 579 and S.B. 481 had been stayed by the federal court, it applied statewide. The hearing for the federal action was scheduled for August 26, 2008. She said hearings were scheduled in the 9th Judicial District for July 31, 2008; the 8th Judicial District on August 29, 2008 and the 6th Judicial District was not yet scheduled.

Chair Hardesty said he was placing this item on a future agenda for further discussion. He said Ms. Hinds had requested it be placed on an agenda for public comment. Chair Hardesty opened the discussion for reports from subcommittees.

Chair Hardesty said the Commission had heard Dr. Austin on Truth in Sentencing and the subcommittee was moving forward.

Commissioner Horsford said the subcommittee on Juvenile Justice was meeting one more time and the final written recommendations would be presented at the August Commission meeting.

Chair Hardesty said Commissioner Herndon's subcommittee, Mandatory Drug Sentencing, was going forward with their work. He said Item XII on the Agenda was continued to the next meeting and Item XI was also continued to the next meeting. Chair Hardesty returned to Item IV on the Agenda and said Item V would follow.

Commissioner Salling updated the activities of the Parole Board during the Special Session. The Legislature voted in Senate Bill (S.B.) 4, which suspended some of the provisions of S.B. 471 until July 2009. She said it specifically suspended the requirement for parole hearings to be face-to-face and some noticing requirements. She said the requirement for the inmate to be allowed to have a representative was suspended temporarily. The idea behind the suspension was to allow the Parole Board to catch up with the backlog. Commissioner Salling said the Board had a backlog of 900 and expected the August hearings to be 1,800. She said even though the Legislature passed the law, the Parole Board did not expect to need until July 2009, to catch up on the backlog. She said the plan was for the last two weeks in July to schedule the in absentia hearings. The Parole Board hoped to complete the backlog of 900 by the end of July. The first of August the Board planned to do 50 hearings a day, sitting in panels. She said the hearings were open as they always had been and victims may come to the hearings and add their input. Commissioner Salling said by the end of September, the Board hoped to be totally caught up with the backlog and be able to schedule hearings two months in advance and three months in advance by the end of November. She said they understood it was the Legislature's intention for S.B. 471 to take place.

Commissioner Curtis said there would be quite a few more parolees. He said they were not going to keep anyone in prison who was eligible for release. He said the budget cuts were significant. The supervision levels may be deficient compared to past history. People leaving prison still had to qualify and have a plan. He said with the current budget he was not sure of the level of supervision for parolees. As of June 30, 2008, his division had 87 openings. The first budget cut removed 52 personnel and an additional cut of 4 percent was significant. He said most of the divisions' vacancies were in the south; 56 in the Southern Command; 7 at Headquarters in Carson City; and 24 in the Northern Command. Training, grants and motor vehicles were cut or eliminated. He said there were many schemes to save money. He said there had been no lay-offs.



Chair Hardesty said extending the time period for probation from five years to a longer period of time had been discussed in other meetings. He said it was to extend the time of supervision as a public safety issue and also to extend the time for an individual to pay restitution. He asked Commissioner Curtis if the Division of Parole and Probation had considered lengthening the probationary period and reducing the supervision fee.

Commissioner Curtis said they had discussed eliminating trying to collect the restitution fees. He said supervision fees were a budgeted item which was returned to the Division. He said lengthening probation added to the work load. Chair Hardesty wanted to discuss expanding the restitution period and having the State contract with private collection agencies or internal agencies to collect the restitution. Chair Hardesty said many defendants were more concerned about the impact on their credit report from a collection agency than they were about being revoked and sent to jail for 48 hours.

Commissioner Siegel said an anticipated 1,000 people were being added to the rolls of the Division of Parole and Probation. The division had lost many personnel, and the State wanted the Division to take over supervision of 2,000 to 3,000 Tier 3 sex offenders.

Commissioner Curtis said he did not anticipate supervising more sex offenders. He said that responsibility would go to local law enforcement. The State Board of Parole Commissioners' impact based on the changes in S.B. 4 was significant, but they were not going to occur all at once.

Commissioner Skolnik said the Southern Nevada Correctional Center closed last week. Silver Springs Conservation Camp was also closed last week. He said the closures were accomplished without any layoffs or releasing any inmates. He said the Department of Corrections would get through fiscal year 2009 without significant impact on staffing unless there were significant cuts. He said they tried to save as many jobs as possible. They had made a commitment to not impact training, or programs or re-entry this year.

Chair Hardesty opened discussion on Agenda Item XVI, potential topics for future meetings. He suggested August 18, 2007, for the next meeting. He said most of the meeting would be devoted to recommendations for the Legislature. He outlined his ideas of how the Commission would make their recommendations. He said he would turn the recommendations over to the Steering Committee to prioritize and organize them. He said the Commission was faced with a lack of Bill Draft Requests (BDR). He said Assemblyman Parks, Assemblyman Carpenter and Assemblyman Bernie Anderson plus Senator Amodei were willing to extend some BDRs to the Commission to use for presenting or converting some of the recommendations of the Commission. He suggested the Commission categorize or separate its recommendations into the outline agreed to in October. He anticipated a number of recommendations from the Commission. He said the Commission agreed they

would structure their outline to subjects dealing with pre-arrest, sentencing, probation, incarceration, alternatives to incarceration and victims' rights subjects. The study of Juvenile Justice was added since the October meeting and would be a separate category. He said the recommendations from the Truth in Sentencing subcommittee would be spread throughout some of those subjects.

Commissioner Mallory assumed the categories would narrow and be more precise and concise after the next meeting. Chair Hardesty agreed.

Chair Hardesty said the Legislature specifically requested the Commission comment on A.B. 510. He said, for example, victims' rights had some specific recommendations. He anticipated more specific recommendations in the form of BDRs. He said there was a category on victims' rights and the Commission would vote to approve, amend, accept or modify the report from the subcommittee. It included the acceptance of the recommendations and put forward Bill Draft Requests. He said to the extent the subcommittee identified fiscal issues he expected those to be in the nature of recommendations to the money committees of the Legislature, the Board of Examiners and the Governor to determine whether there should be fiscal adjustments. He said the same would be true for other categories; the Specialty Courts for example. He said the Drug Court presentation included a definition of their needs; and business plans with a \$42 million price tag on it. He said they identified some resources for consideration. He said one question was whether the Commission endorsed the recommendations made by the judges on Specialty Courts. The purpose of the Steering Committee was to organize the various topics and the recommendations. He said the Commission's task in August was to debate some of the recommendations.

Commissioner Parks said he agreed it was a reasonable approach to follow.

Commissioner Siegel asked if the Commission was going to deal with all ten items in one process or if it was going to be broken into two segments. Chair Hardesty suggested urgent priority recommendations in each area. He suggested the Commission prioritize their recommendations. He said the Commission may be in a position to make a series of recommendations in one particular area, such as A.B. 510. There would be ongoing recommendations through the fall, winter and into the spring. He said that was the case with the Victims' Rights Subcommittee. The Commission had a deadline of September 1 for their initial report. He said they must satisfy BDR requests.

Chair Hardesty said he would open the discussion with Dorla Salling, State Board of Parole Commissioners. He received a memo from her with recommendations she proposed the Commission consider. He asked Commissioner Salling to present her ideas. Chair Hardesty requested Commissioner Salling ask her Board whether the Commission should make recommendations concerning structural changes.

Commissioner Salling said she was bringing the topics to the attention of the Commission. ([Exhibit N](#)) She was not advocating any specific items. She said clarification regarding mandatory parole was the first item. She said a BDR might be required. During a Legislative Commission meeting the Parole Board received comments from Legislators indicating they thought mandatory parole meant people had to be released on their mandatory eligibility date. The law did not say that. If it was the Legislative intent, a BDR was needed actually stating the intent. She said if the concept was when an individual reached the mandatory eligibility date, to actually mandatorily receive parole, a letter of intent was needed.

Commissioner Salling said the second topic was clarifying the issues regarding the psychological panels for sex offenders required by statute. She said when psychological panels were introduced, the legislative intent was to determine if the sex offenders were a threat to the community. She identified several points concerning who needed a psychological panel and under what conditions.

Commissioner Salling said there were suggestions regarding the Pardons Board. Her office administered the Pardons Board. She said there was suggested language allowing the Board to meet more often and in panels. She said currently the Pardons Board meets twice a year.

Chair Hardesty said he wanted all the recommendations supported with statistical information to the extent possible. He believed there were 200 to 300 pardon requests. He said the Pardons Board only heard approximately 18 cases last spring, excluding deportation cases.

Commissioner Salling said the Pardons Board was only administered from the Parole Commission office. The next item was clarification regarding statutory language in NRS 50.050. The language spoke to the requirement for an interpreter when someone was hearing impaired but did not require the State to pay for an interpreter for someone who did not speak English. She said there was a large non-English speaking population and the department did not have interpreters.

Commissioner Salling said her fifth suggestion was more controversial. She said it was to aggregate the minimum and maximum sentences rather than being served consecutively. It would prevent victims from having to come so many times for different parole hearings. She said it would be the same in terms of time served except at the end. If they received parole it would be for a longer period of time. She said it would apply to the B, C and D crimes but not the A crimes and the maximum could not exceed 20 years.

Commissioner Salling's last suggestion was to create incentives for alternatives to incarceration and establishing community programs for the treatment of drug and alcohol

abuse. She said counties would pay a portion for keeping someone incarcerated in prison, and some of that money would go to their treatment in the community. She said it included developing some type of half-way-back concept for treatment of the technical violators.

Chair Hardesty asked Commissioner Salling if she had reviewed the structure of the Board. She replied it had been discussed with the Board and the changes made in the 24th Special Session allowed the Board to catch up the backlog. She said hearing examiners had been hired to assist with the backlog.

Commissioner Mallory asked if Commissioner Salling could give them a list of the *Nevada Revised Statutes* she discussed that needed clarification. The statutes could be reviewed ahead of the next meeting. Commissioner Salling replied she would supply the statutes.

Chair Hardesty said Commissioner Salling already commented about improvements to A.B. 510. He said if she identified any others areas needing improvement, the Commission welcomed the information.

Commissioner Horsford and Commissioner Flynn added they did not have further topics for discussion at this time.

Commissioner Parks said he had hand-outs provided by Teresa Werner ([Exhibit O](#)), and Michelle Ravell ([Exhibit P](#)). Ms. Werner's exhibit dealt with stream-lining parole and reducing prison budgets. Ms. Ravelle's referenced Agenda Item IV.D, the Purpose and Impact of Senate Bill No. 4. Commissioner Parks said having the process of consecutive sentences handled through an administrative process rather than a specific parole hearing had been discussed last Session.

Chair Hardesty said citizens' suggestions would be referred to the Steering Committee for Organization. He said the suggestions would be prioritized and put into the various categories discussed earlier.

Commissioner Digesti stated any of the recommendations he had were already encompassed in the outline. He said he would reserve his comments until the August 18th meeting.

Commissioner Carpenter said the Commission needed to discuss the Adam Walsh Act. He said it was causing many problems in his area. He said there was a man living in Elko who was in an incident over 50 years ago and served time prison. He said if the current Tier was changed for this man, it would ruin his life. He said other instances had been brought to his attention. He did not think when the bill was passed in the Legislature, the people affected would be retried or whatever was happening. He said it was not right. He said if a judge did not do something, the Commission needed to act on the problem.

Chair Hardesty asked Commissioner Carpenter if the item could be placed on the fall agenda due to the litigation.

Commissioner Curtis said Mark Woods suggested A.B. 510 be made applicable to gross misdemeanors. Chair Hardesty said it would be on the agenda as well as restitution.

Commissioner Farley said she wanted to wait until the August 18th meeting to make her suggestions.

Commissioner Skolnik said he wanted more transitional programming in the community in order to reduce recidivism. Chair Hardesty said the Commission was discussing recommendations regarding transitional programs and alternative to incarceration.

Commissioner Mallory recommended including boot camp as an alternative to incarceration, along with Specialty Courts. He seconded Commissioner Salling's recommendation on preventing victims from having to appear numerous times for parole hearings.

Chair Hardesty said aggregating the sentences was a creative way to stream-line the parole hearings and adding more time for supervision could be a real benefit.

Commissioner Siegel had nine suggestions. He said pre-sentencing reports were the first thing he reviewed. He said a gap was observed between Parole and Probation and district judges. He proposed the Commission ask how that gap could be closed. The second suggestion concerned older offenders. The Commission needed to consider how to deal with the aging population in prisons. Thirdly, Commissioner Siegel asked how the Commission was going to deal with the reality the State has no more money. The Commission identified a range of substantial program needs in the prisons. He said the over all approach to money in context to the fiscal crisis needed discussion. Commissioner Siegel said the Legislature might want the Commission's input on the minimal staffing needs of Parole and Probation, Corrections and the Parole Board. His next item was substantial assistance. He said the Commission had addressed the subject repeatedly. He said clarifying what substantial assistance meant statutorily and trying to make the application more consistent needed further discussion. Next he mentioned habitual criminal statutes; there were proposals today on the use of old priors on non-violent offenses. Commissioner Siegel next referred to questions concerning biological evidence. He wanted the Commission to follow up on it. He said the questions were whether there was a need for more statutory language on the preservation of biological evidence. He next mentioned considering a model policy for eyewitness identification. He wanted to formalize the policy. Commissioner Siegel's final topic concerned the minimal needs of prisoners when they were released from prison.

Chair Hardesty said he had between 80 and 90 recommendations for debate. He said the topics would be organized through the Steering Committee. He added if there were additional suggestions; email them to him before the 4th of August.

Chair Hardesty opened the meeting for public comment, Agenda Item XV.

Tonja Brown asked for a clarification on A.B. 510 concerning the enhancements. She said during the subcommittee and testimony by many witnesses, they asked to have it be retroactive. She said there was no mention anywhere about it being retroactive except in the minutes of testimony. She asked when it applied, last year or further back.

Chair Hardesty said he assumed she was referring to the deadly weapon enhancement and the change in sentencing for deadly weapon enhancement. Ms. Brown referred to a newspaper article concerning a man in Texas who was cleared of a charge with DNA. The man had been identified by eyewitnesses. She said she wanted a study of the eyewitness testimony. Ms. Brown said she discussed her brother over the years. She added she had been a victim of abuse before she was the age of thirteen. She said the jurors were also victims. She said the jurors were re-victimized when they learned they sent an innocent person to prison. She submitted a DNA bill in which anyone can have their DNA samples tested. She said there was no fiscal impact for the State. It dealt with having DNA tested at the expense of the inmate, family or friends. She said she believed it was only the innocent who wanted DNA tests. Finally, she said regarding the enhancements of A.B. 510, there was ongoing litigation in courts throughout the State. She said the minutes reflected the testimony requesting it be retroactive. She said Senator Amodei went along with the testimony.

Pat Hines stated she was disappointed in the Attorney General's report on the adult sex offender situation and status. She mentioned the problems with the Adam Walsh Act. She said raising the tier levels would destroy many lives. Ms. Hines said everyone should look through the law passed as the Adam Walsh Act. She said the role of state attorney generals was difficult to determine in the law. She said prior to A.B. 579 there was community notification for adult sex offenders. She referred to page 596 of the Adam Walsh Act dealing with options available to the states. She said none of the options had been adopted by Nevada. She said on the same page it mentioned the site should include instructions on how to seek correction of information that an individual contended were erroneous. She was disappointed the committee was not taking the Adam Walsh Act as one of its projects. She said she wanted to say a few things about the Parole Board. The Special Session and what came out of it concerning the Parole Board was very shocking. Ms. Hines was concerned about the number of in absentia parole hearings being withheld for a year. She said she did not see how the Parole Board was going to catch up on the backlog. She said she had the list of parole eligibility for August and there were 1,950 people eligible for parole. Ms. Hines

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said she was curious to know how many hearing masters now worked for the parole board and if all the positions had been filled.

Chair Hardesty asked if there were further public comments. There were three handouts to be included in the minutes: "A More Efficient and Effective Prison in Nevada," from Marie Calzada ([Exhibit Q](#)); "Transition Centers", from Pamela J. Dalton ([Exhibit R](#)); and "Comments from William Mark Clark", ([Exhibit S](#)),.

Chair Hardesty said the next meeting was scheduled for August 18, 2008. He said most of the time would be devoted to debating recommendations for the Commission. He asked for a motion to adjourn. Commissioner Skolnik moved to adjourn. Commissioner Curtis seconded the motion. The meeting adjourned at 5:19 p.m.

RESPECTFULLY SUBMITTED:

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Olivia Lodato, Interim Secretary

APPROVED BY:

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Justice James W. Hardesty, Chair  
Advisory Commissioner on the Administration of Justice

DATE:\_\_\_\_\_

**EXHIBITS**

**Committee Name: Advisory Commission on the Administration of Justice**

**Date: July 7, 2008**

**Time of Meeting: 9:00 a.m.**

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
	C	Dr. James Austin, JFA Associates	PowerPoint Presentation
	D	Dr. James Richardson	Judicial Leadership Survey
	E	Brett Kandt	Memo from Prosecuting Attorneys Council
	F	Commissioner Miller	E-mail regarding photo lineup
	G	Renee Romero	Washoe Forensic Lab
	H	Larry Frankel	ACLU-Habitual Criminals
	I	Commissioner Cortez-Masto	Overview of Subcommittee Related to Victims
	J	Commissioner Cortez-Masto	Funding for Victim Advocacy
	K	Susan Meuschke	NV Network Against Domestic Violence
	L	Andrea Sundberg	NV Sexual Assault Services I
	M	Bryan A. Nix	Victims of Crimes Program
	N	Dorla M. Salling	Ideas for Discussion
	O	Teresa Werner	Streamline Paroles
	P	Michelle Ravell	Agenda Item IV.D
	Q	Marie Calzada	Efficient & Effective Prison in NV
	R	Pamela J. Dalton	Transition Centers
	S	William Mark Clarke	Comments