

**MINUTES OF THE  
ADVISORY COMMISSION ON THE  
ADMINISTRATION OF JUSTICE  
October 30, 2007**

The meeting of the Advisory Commission on the Administration of Justice (NRS 176.0123) was called to order by Justice James W. Hardesty, Chairman, at 9:03 a.m. on October 30, 2007, at the Legislative Building, Room 1214, 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](#).

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

Justice James W. Hardesty, Nevada Supreme Court, Chairman  
Assemblyman John Carpenter, Assembly District 33  
Larry Digesti, Representative, State Bar of Nevada  
Gayle W. Farley, Victims Rights Advocate  
John Allan Gonska, Chief, Division of Parole and Probation  
Phil Kohn, Clark County Public Defender  
Arthur Mallory, Churchill County District Attorney  
James Miller, Sheriff, Storey County  
Dorla M. Salling, Chairwoman, State Board of Parole Commissioners  
Richard Siegel, President, ACLU of Nevada, Inmate Advocate  
Howard Skolnik, Director, Department of Corrections

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

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

**COMMISSION MEMBERS EXCUSED**

Senator Mark Amodei, Capital Senatorial District  
Douglas Herndon, Judge, Eighth Judicial District Court  
Catherine Cortez Masto, Attorney General

**OTHER LEGISLATORS PRESENT**

Assemblyman Bernie Anderson, Washoe District 31  
Assemblywoman RoseMary Womack, Clark District 23

**OTHERS PRESENT:**

Janet Traut, Senior Deputy Attorney General

Linda Blevins, Secretary

Chairman Hardesty called the Commission to order and roll was taken. It was noted that John Kelleher, Chief Deputy Attorney General, was present as a representative for Catherine Cortez Masto, Attorney General.

The first agenda item was the approval of minutes for the September 12, 2007, meeting. Chairman Hardesty requested the Commission voice any changes or corrections.

There being no requests for corrections or modifications, Chairman Hardesty requested a motion for adoption of the minutes.

ASSEMBLYMAN CARPENTER MOVED TO APPROVE THE MINUTES OF  
SEPTEMBER 12, 2007.

DR. RICHARD SIEGEL SECONDED THE MOTION.

THE MOTION CARRIED.

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Chairman Hardesty recognized Howard Skolnik, Director, Department of Corrections, for a presentation concerning the population of inmates in prisons, the status of the Department's computer system, and the impact of Assembly Bill (A.B.) 510 on eligibility and release of inmates.

Mr. Skolnik began his presentation by noting that until recently the prison population was showing a decline as a result of A.B. 510. There was a substantial reversal of the decline with an increase of approximately 90 inmates in the first two weeks of October 2007. It was believed the initial decline was a result of the probation and parolees discharged effective July 1, 2007, who had no opportunity to become technical violators. The 90 days for processing those inmates through the system had ended.

Additionally, A.B. 471 had a significant impact on the Board of Parole Commissioners and substantially increased the amount of time required for each hearing, thereby resulting in a backlog of hearings anticipated to run until April 2008. The intake for the prison system had not declined. According to Mr. Skolnik, it was anticipated the prison population growth would resume for the Department. Data for A.B. 510 was still being accumulated and the significant impact had not yet been fully determined.

Mr. Skolnik next addressed the issue of the money put into the Interim Finance Committee (IFC) Contingency Fund from the Department of Corrections resulting from prison population reductions. The Department was running over 1,000 inmates in excess of the population for which the prison system was constructed. The Ely State Prison currently housed 192 inmates over the maximum and was short 70 correctional officers. The Department had requested volunteers to work at the Ely facility. Substantial overtime had been accumulated as a result of the overcrowding.

In addition, the empty beds in the system at the present time were the least expensive operationally as they were primarily in the transitional housing facility with a few in the camps. There was no money allocated for the inmate-driven costs because the inmates were required to pay for the costs. Mr. Skolnik was doubtful the Department would realize the substantial savings anticipated during the 2007 Legislative Session.

Referring to testimony provided by Mr. Skolnik at the previous Commission meeting, Chairman Hardesty noted the number of releases was estimated at 470 to 510 inmates. These were individuals for whom parole had been granted and with the credits from A.B. 510 were eligible to be released. Chairman Hardesty was interested to learn whether or not those individuals had been released. Secondly, Chairman Hardesty asked the status of the 620 inmates who had parole eligibility accelerated under A.B. 510 as noted by Mr. Skolnik at an earlier meeting.

Mr. Skolnik responded that the over 400 inmates were granted parole with the credits received from A.B. 510 and were referred for a parole plan. If the plan was accepted and the dates had been achieved, they would be released. The Department was not tracking those individuals.

Although the Department's new computer system was running smoothly and posting of time credits for inmates was up-to-date, staff shortages prevented up-to-date internal reporting. The vacant positions, as reported to the Commission at the September 12, 2007, meeting, had continued to be vacant.

Mr. Skolnik testified that the 620 inmates to which Chairman Hardesty referred were still incarcerated. The Parole Board had a backlog of hearings which delayed the parole of those individuals.

Chairman Hardesty requested Mr. Skolnik updated the numbers when the staff situation was resolved. Mr. Skolnik was amenable to the request.

Assemblyman Carpenter was curious why data processing staff had not been hired to run the computer system at the maximum capacity.

Mr. Skolnik noted that until recently, all computer staff had to be approved through the Department of Information Technology (DoIT). As the DoIT hiring committee only met periodically, there was not an opportunity to have the applicants approved prior to the hiring freeze. Only the critical law enforcement-related positions had been exempted from the hiring

freeze. The information technology positions were scheduled for review on November 8, 2007, and Mr. Skolnik anticipated approval as the positions were critical for the Department of Corrections. Once the approval was received, the positions would be opened for recruitment.

Dr. Richard Siegel, President, ACLU of Nevada, Inmate Advocate, inquired whether the positions requested were replacement positions or new positions.

Mr. Skolnik responded that the positions were new positions. Initially the request was for 23 positions. By the time the budget was developed, the number had been reduced to 17 positions. Funding had been appropriated for 6 positions. Internal promotions filled some of the higher grade positions.

Chairman Hardesty thanked Mr. Skolnik for the information presented to the Commission. Chairman Hardesty advised the Commission that since the meeting of September 12, 2007, he had participated in several discussions with the representative from the Council of State Governments and Dr. James Austin, JFA Associates/The Institute, on the development of a matrix to allow the tracking of the prison population, the effects of A.B. 510, and other issues. He requested Dr. Austin present the Commission with the information collected.

Dr. Austin delivered a PowerPoint presentation for the Commission ([Exhibit C](#)) in which he outlined the tracking tool which he had developed for the State. Dr. Austin reminded the members that at the previous meeting it was deemed necessary to develop the capacity to monitor the system and get a better sense of how the various legislative and administrative reforms have had an impact on the prison, parole, and probation populations. If this could be accomplished effectively, Nevada would be one of the few states to do this in a systematic manner. Dr. Austin recommended that the presentation be updated monthly and reviewed at each meeting of the Commission.

The major reforms as outlined by Dr. Austin on page 2 of [Exhibit C](#) were:

- A.B. 510
  - Accelerates Parole Hearing Dates
  - Accelerates Parole Discharges
  - Accelerates Probation Discharges
  - Awards credits to prisoners completing risk reduction programs
- Parole Risk Based Guidelines
  - Increases grant rates for low risk prisoners
  - Increases grant rates for prisoners completing risk reduction programs
- Probation and Parole Revocation Matrix
  - Reduces returns to prison for technical violations
  - Reduces length of stay for technical violations

Dr. Austin next explained the Tracking Data on page 3 as follows:

1. Designed to monitor how the systems are responding to the new law and administrative reforms.
2. Separate theory from facts.
3. Uses monthly counts of prison, parole board, probation and parole daily populations, monthly admissions and releases, and decisions.
4. These data are broken down by relevant crime types.
5. Will be updated each month and distributed with analysis.
6. What is missing is reported crime, arrests, and court dispositions by crime types.

Page 4 of the exhibit was an example of a spreadsheet received from the Department of Corrections. Dr. Austin explained that the 2007 projections were inline with the projections issued in early 2007. The spreadsheet clearly indicated the majority of the inmates were Class B convictions.

Chairman Hardesty advised the members that Mr. Mallory had recast the sentencing matrix which was distributed to the Commission at the September 12, 2007, meeting ([Exhibit D](#)). The matrix now listed the category of offense such as Class A, Class B, and so forth.

Dr. Austin continued the presentation, noting that page 5 was a sample spreadsheet from the Division of Parole and Probation. The information was not broken into the class of offense. In addition to the population shown, the Division supervised approximately 1,000 individuals accepted from other states. Those individuals would be added to this matrix.

Mr. Mallory inquired how many parolees or probationers left Nevada and were being supervised by other states.

Captain Mark Woods, Executive Officer, Division of Parole and Probation (P&P), responded that Nevada had jurisdiction over a monthly average of 1,500 individuals supervised in other states.

Dr. Austin noted that page 5 of the spreadsheet contained a line titled "Probation Received." This had declined from January to September. Another important indicator was the "Revocations."

Moving forward to page 6 of the presentation, Dr. Austin reviewed the information obtained from the Board of Parole Commissioners. The numbers would be discussed later in the presentation.

Page 7 indicated the projected growth for the male prison population.

Page 8 showed that the female prison population was projected to nearly double over the next ten years.

Page 9 showed the actual and projected 2007 prison population from January to October 2007. There was a decline in the actual numbers from May to August and the numbers increased in September and October. According to Dr. Austin, the large number of cases the Parole Board had anticipated for review (approximately 1,600) would create a tremendous impact on these numbers.

Dr. Austin moved to page 10, the Parole Grant Rates by Hearings 2007. The chart indicated percentages for both discretionary and mandatory hearing rates. Discretionary parole was defined by Dr. Austin as the paroles granted at the inmate's first hearing at the discretion of the Parole Board. Mandatory parole was granted when an individual was reaching the end of their prison sentence. Grant rates were significantly higher for mandatory versus discretionary releases. The new risk-based guidelines were aimed at the discretionary hearing rates. This would ultimately show an increase in the discretionary release percentages.

Dr. Austin reviewed page 11 of the presentation, indicating the daily population supervised by P&P had dropped significantly from June to September 2007. The number of individuals released increased over the same period. The probation admissions declined slightly. The reason for the decline was unclear.

Prison admissions for May through September 2007 were approximately 550 per month. Although Class A offenders accounted for a small number of admissions they occupied as many as 2,500 beds over a longer term. Class B offenders accounted for the most admissions.

Page 12 of the presentation displayed the increase of discharges for July, August, and September 2007. According to Dr. Austin, probationers were taking advantage of the good time credits to shorten the length of the probation. It was hoped the incentives for good behavior would encourage the probationers.

The parole daily population indicated on page 13 had also dropped. This was apparent when viewing the spike in parole releases for the same time period. The graph on page 14 dramatized the July drop, and page 15 showed the increase in success rates for the same period. It was important that Mr. Skolnik could identify through the computer system the felony probation violators.

Dr. Austin outlined the next steps he believed should be taken as:

1. Evaluate effects of new parole guidelines and accelerated hearings over the next 3 to 4 months.
2. More detailed data on parole and probation revocations by type of violations.
3. Collect data on the number of people awarded program credits each month.
4. Secure more timely data on reported crime, arrests, and court dispositions.
5. Evaluate needs for substance abuse and mental health treatment for people appearing before the Parole Board and probation/parole revocations.
6. Conduct audit on why people who have been granted parole are still in custody.

Chairman Hardesty inquired about the daily costs for individuals who were not released although parole had been granted.

Dr. Austin did not know the cost but presumed the cost of incarceration was far above the cost of treatment. Possibly it was less expensive to release the individuals and provide treatment. If the Board of Parole Commissioners received funding to hire additional officers, the hearing officers could do a better job of recommending what should be the conditions of parole and whether the parolee should seek treatment. Treatment facilities could also relieve the burden for P&P and possibly reduce the number of revocations.

Dr. Austin was hopeful that by providing monthly reports such as [Exhibit C](#), the problem areas could be identified. Dr. Austin stated that many people have ideas, but evidence must be documented to prove the problem areas and identify solutions for those problems.

Chairman Hardesty noted that if 68 percent to 70 percent of the 600 or more individuals identified by Mr. Skolnik previously were considered by the Parole Board, the net result would be that 300 to 400 inmates in addition to the normal 300 to 400 inmates would be granted parole but could not be released. There would be 700 to 800 inmates who would continue to be incarcerated because the order imposed unnecessary conditions, the services were not available, or because of probation and parole supervision staff shortages.

Dr. Austin added that P&P must have sufficient staff resources to process the parole plans. If P&P was inundated with parole applications the backlog would prevent timely releases for the inmates.

Phil Kohn, Clark County Public Defender, noted that it was not only a rural Nevada problem. The Clark County social workers had only been able to identify less than 200 beds in the County available for people with drug or alcohol problems. With a population of two million that was clearly not enough.

Chairman Hardesty pointed out that the underutilization of specialty courts to assist and supervise those individuals was a problem. There were only 75 slots in mental health court for Clark County. It appeared to be imperative that a shift in resources and attention must be made to assist individuals in their return to the communities. When the sentences expired for the individuals, they were released without supervision or treatment which greatly increased the chances of recidivism.

Dr. Austin pointed out that historically Nevada had a relatively low recidivism rate. Seventy percent would not return to prison. The length of time served was not related to the recidivism rate. The strategy outlined was based on that research. By moving the inmates out faster through good time credits and better grant decision making by the Parole Board, it would have no impact on the recidivism rate. It was necessary to focus on the high-risk prisoner (the serious

offender). Supervision and services should be directed toward those individuals. The passage of A.B. 510 was based on that research.

Chairman Hardesty added that without the ability to fill the information technology positions available in the Department of Corrections, the necessary data could not be tracked to determine whether the system was working.

Dr. Austin requested to return to the Commission to update his presentation after input from P&P. This should give the members a better picture of the situation.

In response to Dr. Siegel, Dr. Austin explained that because of the method by which crimes were reported in other states, he did not have the numbers which showed how Nevada differed in the types of crimes for which people were incarcerated.

Mr. Skolnik pointed out that Nevada averaged about 18 months longer than the national average for incarceration.

Chairman Hardesty commented that Dr. Austin's graph showed that the Class B felons represented the largest proportional share of the prison population. One of the fundamental questions that the Commission had been asked to examine was whether there was consistency in the sentencing structures for Class B felons. Mr. Mallory's matrix ([Exhibit D](#)) showed whether there were consistencies for criminal behavior for Class B felons.

Gayle W. Farley, Victims Rights Advocate, asked whether there were many Class B felons that pled down from Class A felonies.

Dr. Austin explained that most of the cases did not go to trial when a plea was entered. Only three to five percent of criminal cases went to trial.

Chairman Hardesty noted that he was not aware of many Class A felonies that were pled down to Class B. The Commission should check into that process.

Dr. Siegel questioned whether IFC had the authority to make adjustments to state budgeting that would allow changes in the funding to move people waiting for parole into treatment facilities either inside or outside of the Department of Corrections (DOC).

The Commission members or representatives did not have that information immediately available.

James Miller, Sheriff, Storey County, inquired what contributed to the parole success rates as charted in [Exhibit C](#).

Dr. Austin believed the success rates were affected by the good time credits. The prisoners who were receiving good time credit subsequently spent less time on parole and their period of time at



risk was shortened. Statistics showed that individuals sentenced to prison were older and had less risk; whereas probationers were typically younger and higher risk. There was evidence that community programs suppressed the rates.

Sheriff Miller pointed out that Dr. Austin had not touched on the issues of the elderly inmates and requested information on the effects of the elderly in the prison system.

Dr. Austin responded that because of the length of stay in the system, the elderly population was growing which increased the health costs for the prison system. Undoubtedly the inmate had committed a heinous crime but because of age was now low risk and was requiring medical care. The question was whether the elderly inmate should be incarcerated or be given healthcare outside the system.

Mr. Skolnik agreed there was a substantial increase in the geriatric prisoner population. In Nevada, sentences of life without parole meant that the prisoner would die in prison. There were approximately 700 to 1,000 inmates who fell into that category and would ultimately require care in the institution. He pointed out that because someone was elderly did not mean the individual was no longer dangerous. Additionally there was the issue of prison accommodations for the elderly and disabled. The prisons were typically not flat land or wheelchair friendly. The compassionate release program was a possibility but each case had to be carefully considered.

Janet Traut, Senior Deputy Attorney General, mentioned that there was recently a Supreme Court decision where a compassionate release inmate was causing liability issues for the DOC because medical resources were not in place prior to release. If an inmate was considered for compassionate release, the resources for medical care must be a consideration prior to the release.

Chairman Hardesty believed the issue of the elderly inmates should be discussed and recommendations made to the Legislature. He also noted that at the prior Commission meeting there was discussion of the underutilization of the boot camp program.

Mr. Skolnik stated there were approximately 9,000 total inmates involved in some form of the boot camp program. He distributed [Exhibit E](#), a listing of the facilities, programs, and enrollment in those programs.

Sheriff Miller commented that he had toured a facility with Mr. Skolnik recently and was impressed with the vocational programs available to the inmates. The staff appeared to be dedicated and hardworking. He applauded Mr. Skolnik for operating an efficient system.

Dr. Austin noted that research showed that when more programs were available, the prison environment was safer. When inmates completed the various programs they were eligible to appear before the Parole Board earlier and became a lower risk.

Mr. Carpenter commented that the Legislature had tried for many years to put transitional programs in place. They had succeeded in having drug courts in all of the seventeen Nevada counties but what was lacking in the rural areas was mental health care. Elko County had budgeted for mental health counselors but was unable to recruit applicants.

Dr. Austin pointed out that over the next few years Nevada should be prepared to spend large amounts on the prison system. In his opinion the state should redirect funds to transitional treatment facilities.

Chairman Hardesty added that only \$1 million was added to the budget for specialty courts available in the second year of the biennium. In effect, the specialty courts throughout the state received no additional resources except through administrative assessments for the current year of the biennium. Drug courts and mental health courts had been extremely successful in the state but appeared to be overlooked in the budgeting process.

Raymond Flynn, Assistant Sheriff, Las Vegas Metro, commented that he would be providing Dr. Austin the statistics he requested on the total arrests and total reported crimes for Clark and Washoe Counties.

Chairman Hardesty recognized the program analysts for the Legislative Counsel Bureau, Fiscal Analysis Division. Tracy Raxter, Rick Combs, and Mark Krmpotic, explained the budget and evaluation process for the Department of Corrections, Division of Parole and Probation, and the Board of Parole Commissioners.

Mr. Raxter distributed [Exhibit F](#), Budget Overview of the Nevada Department of Corrections, to the Commission. According to Mr. Raxter, 84 percent of the DOC budget for the past three bienniums was funded primarily from the General Fund. The remaining 16 percent represented a combination of federal funds, charges for room and board for working inmates, inmate medical charges, inmate store sales, and Prison Industry sales. The total budget for DOC had increased from \$216 million in fiscal year (FY) 2004 to \$339 million in FY 2009. The federal funding received for DOC was mainly for the State Criminal Alien Assistance Program (SCAAP). The amount of funding varied from year-to-year and could not be estimated in advance. The funding was used to offset the State funding for DOC.

Discussion ensued between Mr. Raxter and Chairman Hardesty regarding the Immigration and Customs Enforcement (ICE) prisoners. The federal government required that DOC report the number of illegal aliens that would qualify for SCAAP. A calculation was then completed by ICE and funding was appropriated to each state. Chairman Hardesty requested Mr. Raxter work with DOC in preparing calculations to determine the amount of shortfall for the state to incarcerate prisoners on ICE holds.

Mr. Raxter continued the budget overview explaining the calculations for the inmate population, the primary driver for the DOC budget. The State utilized an outside consultant to develop the

inmate population projections. Based on the projections, DOC developed a biennial plan for inmate housing.

Mr. Raxter explained that when the Governor presented the proposed 2007-2009 Executive Budget to the Legislature, it included a recommendation for housing an average of 13,383 inmates in 2008 and 13,900 inmates in 2009. Subsequent to that, the State received an updated inmate population projection and the projections of the impact as a result of the passage of A.B. 510. Based on that information, the Legislature closed the DOC budget with an adjustment to the projected population as a result of the impact of A.B. 510. The adjustment was 50 percent of the reduction in the inmate population projected or 650 fewer inmates in the first year of the biennium and 760 fewer inmates in the second year of the biennium. The chart at the bottom of page 1 of the exhibit took these projections into account.

Chairman Hardesty expressed concerns that the perceived savings for DOC would be consumed because of the following issues:

- Inability of DOC to release the projected 470 to 520 inmates.
- Inability of the Parole Board to hear the approximately 600 inmates given parole eligibility because of good time credits.
- Unbudgeted overtime consequences for DOC.

Mr. Raxter responded that when the Legislature closed the State budget, \$6.3 million was allocated to the contingency fund for IFC. The legislation under the Appropriations Act stated that the DOC could approach IFC with a request to access the money if the savings did not materialize because the inmate population was not reduced as projected.

Dr. Siegel commented that on the bottom of page 2 of the exhibit, it indicated that \$338.9 million was spent for construction of 3,064 beds. It was his understanding that the following issues were factual assumptions:

1. The appropriation was because of growth in tax revenue over the previous four year period.
2. The State was not in a position to allocate \$170 million per year for prison construction through FY 2009.
3. The Health Trust Fund for the employees of the State of Nevada was competing for these funds.

Mr. Raxter provided the following background for the Commission:

The \$338.9 million was appropriated and authorized by the 2005 and 2007 Legislatures combined total over that two biennium period of time. As Dr. Siegel indicated, all of that has not been spent as of today. That is money that is appropriated and authorized to the State Public Works Board for the Capital Improvement Program as it relates to the Department of Corrections. State Public Works Board has a process they follow to build these facilities and it takes a number of years to do that.

These are the numbers as adjusted that . . . The Governor presents a Capital Improvement Program each biennium. For the Department of Corrections, that basically comes from the long-range CIP plan that the Department of Corrections appears and provides to the State Public Works Board when the Department of Corrections does their presentation to the State Public Works Board for the projects they are proposing for the next biennium. A basis for that is the long-range CIP plan that the Department of Corrections prepares. That long-range CIP plan is actually prepared based on the population projections the State receives from JFA Associates. There is a process there. One thing leads to another to get to that point.

That is basically where the \$338.9 million is coming from. It is from the CIP plan which is in turn coming from the DOC long-range CIP plan which in turn is coming from the population projections provided by JFA Associates.

Chairman Hardesty explained that Dr. Siegel was inquiring if there was a shortfall in revenue the ability of the State to meet the capital need was stalled, halted, or delayed.

Mr. Raxter stated that the CIP program was funded through a number of sources. In the case of the projects for DOC, it consisted of General Funds and General Obligation Bonds. The Bonds were repaid through a property tax levy that was dedicated for the CIP program.

Mr. Skolnik pointed out that the Lovelock Correctional Center was completed during a similar economic downturn. The prison sat vacant for two years until funding was available for staffing the facility. It was his understanding that a shortfall in state revenue would not delay the completion of capital projects which had broken ground.

Mr. Raxter continued the presentation of [Exhibit F](#) by addressing the current housing capacity and new facilities as outlined on page 2. Mr. Raxter explained that DOC defined emergency capacity threshold as "the point where the population density of an individual housing unit or institution required the use of unconventional housing or the population represented significant wear and tear on the physical plant or the normal supervision ability of the staff or the ability of the utility infrastructure to support the population." The DOC did not want to operate at that level over a long period of time because of the impact on the physical plan and the custody staff. The DOC began the current biennium with 1,400 to 1,500 beds over the emergency capacity threshold. In January 2008 an expansion of four modular housing units would be coming on line to address the critical need in the current fiscal year. The projects included in the \$338.9 million CIP plan were outlined in page 3 of the exhibit.

Mr. Raxter presented an overview of other major initiatives of the DOC as outlined on pages 4 and 5 of the exhibit which included:

- Correctional Programs
- Transitional Housing
- Special Salary Adjustments
- Offender Management Information System

Senator Horsford noted that it appeared to him that the expenditure per inmate for the transitional housing program was just over \$47,000 per inmate annually. If the program was fully utilized at the 400 bed capacity, it would be \$23,000 per inmate. He asked whether there was a cost benefit analysis for the programs and the expenditures per inmate that the State was paying.

Mr. Skolnik responded that the costs were identified for three inmates each in the 120-day program and the costs he referred to were annualized costs. It was very difficult to fill Casa Grande Transitional Housing facility. Women were placed in the facility to bolster the number of inmates receiving the program benefits. This was done without increased staffing and it had created a challenge for the Department. The beds were not filled because there were not enough non-violent inmates eligible for the program.

According to Dr. Siegel, the percentage increases in the DOC budget were not out-of-line with percentage increases of other major State programs over a 20 to 25 year period.

Following a short break, Chairman Hardesty reconvened the meeting and recognized Rick Combs, Program Analyst, for a presentation of [Exhibit G](#), an overview of the budget of the Division of Parole and Probation (P&P). The budget for P&P was primarily funded through General Fund appropriations since FY 2004. A chart on page 1 of the exhibit broke down the funding sources for the Division.

Mr. Combs outlined the expenditures, the impact of [A.B. 510](#) on the budget, and the caseload projection information for the first two months of FY 2008. The staffing for the Division was based on the legislatively-approved staffing ratios for the various activities conducted by the Division. Ratios were based on studies performed by outside sources. The last ratio study was completed in 1998 but a new study was being considered.

John Allan Gonska, Chief, Division of Parole and Probation, noted that ratios were concerns of every P&P agency throughout the country. He had no problem with the current ratios for Nevada. The Division was prepared to handle the projected numbers.

Senator Horsford asked Mr. Raxter to provide additional information on the inmate-driven cost breakdown.

Mr. Raxter quoted the costs as follows:

The rate varies depending on the type of facility but for purposes of example, I will pick an institution and give you the components of that rate. For Southern Nevada Correctional Center the rate for medical, which is the same Department-wide, is \$1,202 [per inmate] annually in FY 2008. Additionally, an inmate-driven amount is \$743.69 for food, \$42.37 for bakery items, \$27.81 for clothing, \$30.42 for inmate labor, and approximately \$187 for operating supplies.

Chairman Hardesty requested Mr. Raxter provide a schedule which showed the breakdown by prison facility.

Chairman Hardesty asked Mark Krmpotic, Program Analyst, to begin his presentation of [Exhibit H](#), the budget overview for the Parole Board. Mr. Krmpotic explained that the chart shown of page 1 of the exhibit listed the regular hearing, mandatory hearings, revocation hearings, mandatory revocation hearings, and included projections for FY 2008 and FY 2009. Mr. Krmpotic noted the projections were made without regard to additional hearings resulting from the passage of [A.B. 510](#).

In response to Chairman Hardesty, Mr. Krmpotic stated that the addition of the nine positions noted on page 2 of the exhibit was in response to the Commission's request resulting from the discussion of the September 12, 2007, meeting. The Legislative Counsel Bureau staff was in the process of reviewing the impact and proposed solutions to the requirements of [A.B. 510](#) and [S.B. 471](#). The funding for the positions was from the Contingency Funds set aside by the 2007 Legislature.

As an update, Chairman Hardesty advised the Commission that following the September 12, 2007, meeting special meetings were conducted with the leadership of the Assembly and Senate, Ms. Salling, Chief Gonska, Mr. Skolnik, Attorney General Masto, LCB fiscal analysts, and others. The Commission's concerns were presented to the Leadership. The Leadership indicated their willingness to work with the Parole Board staff to develop a budget and understand the fiscal consequences of the "bubble" caused by the passage of [A.B. 510](#). The proposal described by Mr. Krmpotic was precipitated by that meeting.

Mr. Mallory asked Ms. Salling whether the additional positions would satisfy the needs of the Parole Board.

Ms. Salling responded that it was difficult to predict whether the additional positions would be adequate. The changes described by Mr. Krmpotic were a result of a "best guess" estimate. She would keep the Commission up-to-date on the status.

Mr. Skolnik noted that the DOC was not certain whether the prison system would need the money set aside in the Contingency Fund before the end of the biennium.

Ms. Farley informed the Commission that she had been notified that one of the non-profit organizations to assist victims of crime and survivors had been eliminated from the budget.

Mr. Krmpotic was not aware of any budget cuts. To the best of his knowledge, the Governor was reviewing the budgets. The LCB administered a disbursement account which received an appropriation to the Urban League of Las Vegas for prisoner reentry programs and had not received notice for cutting the budget.

Chairman Hardesty recognized Cheri Emm-Smith, Mineral County District Attorney. Ms. Emm-Smith testified regarding programs available and lacking in Mineral County as follows:

The interest on parole eligibility impacts rural communities differently than the more urban communities. In prosecuting cases we consistently do deferred programs, either through drug court or Judge Davis indicates we should do a deferred and "let's see if we can work this out so we don't have someone with a criminal history and without the convictions." It is unique in the rural communities. The main reason is because a lot of those people who come in the criminal system in the rural communities come back to our community. They are absorbed back into our community as workers, parents, and brothers and sisters. When I go to Safeway I run into them on a consistent basis and see them on a daily basis when I go out to eat. There are three or four main restaurants in Hawthorne, and every one of them has defendants who work in those restaurants. I always try to give defendants dignity as individuals because they are going to be those people who I work side-by-side with. They are my constituents.

We have tried to do a drug court. We had a drug court going for a period of time and we would try to do some of the HB 3363 deferred programs. We lost that. Judge Blake is currently trying to reinstitute that. It has been going about a month. We have lost our funding.

The HB 3363 program is the diversion program. Rather than having a conviction entered against you, you can go into a diversion program where you go on probation. If you are successful on that then no conviction gets entered against you and you walk away from having a felony conviction. If you violate probation, then a judgment is entered against you and you will have that conviction and then continue on in the probation. If you violate that, then you come back on a possible revocation. At that point then you go into prison if we do not have any other services.

I have had a number of people who, because we do not have a drug court program, there is no treatment program in Mineral County. We have an AA or NA program that is sometimes working and sometimes it is not. That is often where individuals go to purchase their narcotics.

If I get someone on a DUI or minor use of narcotics, I try to get an evaluation so we can look at appropriate sentencing and treatment. There is no evaluator in



Mineral County. You have to go to Churchill or Lyon Counties, a drive of over 70 miles. Those individuals who have a DUI do not have a driver's license and often do not have a vehicle. There is no public transportation. I am stuck with having a person that I cannot identify a treatment program with them through community resources because we cannot get an evaluation.

Chairman Hardesty clarified that the absence of the resources created a different form of justice for rural Nevadans. The individuals could possibly qualify for diversion but lack of resources caused them to be convicted of a felony.

Ms. Emm-Smith agreed that was often the case. Also the individuals with mental health issues were kept in the communities without assistance because there were no services available.

Responding to a question from Phil Kohn, Clark County Public Defender, Ms. Emm-Smith stated that if resources were available, there were currently 13 individuals eligible for drug court. If the drug task force was operating, that number could double.

Chairman Hardesty inquired whether the realignment of the judicial districts would be of assistance to Mineral County.

Ms. Emm-Smith was unsure whether that would help their situation. Judge Blake was currently providing services.

Chairman Hardesty noted that Judge Blake was a senior judge and the money for the senior judge program was going to sunset at the end of the 2009 Legislative Session.

Mr. Kohn expressed the concern that if there was a consolidation there was no way for the indigent people to travel between counties.

Ms. Emm-Smith commented that it was not uncommon for defendants to return three or four times because the judge was trying to help them and work with them in light of the lack of resources.

Dr. Siegel was pleased to hear about the community-oriented justice system in Mineral County but had heard that harsher sentencing was typical in the rural counties of Nevada. He expressed an interest in obtaining data on county variations on sentencing.

Chairman Hardesty believed the information could be obtained; however, he wanted to dispel the myth that the rural county judges were over-sentencing defendants. It appeared to him that the rural county judges extended themselves beyond what the urban judges did in an effort to accommodate problems like those expressed by Ms. Emm-Smith. It was a difficult situation for the district attorneys and the judges in the rural counties.

In response to Ms. Farley, Ms. Emm-Smith stated that it was typically for defendants to return numerous times for narcotics use and sales.

Sheriff Miller asked whether there were outcries from the victims because the offenders were not removed from the community.

Ms. Emm-Smith noted that the small, rural communities were unique because the people who were victimized were often related to the offenders. It was difficult because if the offender was sent to prison, they returned to the community at the end of the sentence.

Following a brief recess, Chairman Hardesty reconvened the meeting recognizing R. Ben Graham, representing the Nevada District Attorneys Association and Clark County District Attorney, David Roger. Mr. Graham testified regarding S.B. No. 416 of the 1995 Legislation Session. According to Mr. Graham, the justification was an effort to provide truth for victims of crime so they to know the length of time the offender would spend in the prison system, to provide truth for prisoners, and to provide truth for the state by establishing absolutes on which to base projections concerning future spending needs for prisons. After 12 years, it appeared the Commission was hearing the same experts give the same testimony as was documented in 1995. One question that occurred to Mr. Graham when he heard testimony from Dr. Austin was why the Category E offenders were going to prison when they should be receiving mandatory probation.

The 1995 Legislative committees essentially reviewed the average sentences handed out for various offenses and attempted to pattern legislation to make sense out of the scheme. It was Mr. Graham's belief that judges simply did not know how long a defendant would be in prison for any given sentence. Individuals involved in the judicial system agreed that non-violent offenders should be kept out of prison and into alternative programs. Mr. Graham was hopeful the Commission would take a studied approach and review what happened in 1995 and what has happened since then. The Association was willing to meet with the Commission members to review sentences and suggest appropriate areas where the sentences could be reduced and discretion could be given to the courts.

Responding to a question from Dr. Siegel, Mr. Graham noted that a lack of funds had prevented the increase of staff to handle the increased workload for the district attorneys. Although the Association supported specialty courts, there were not funds available to hire sufficient staff to handle all of the cases.

Mr. Kohn commented regarding Mr. Graham's support of the specialty courts but was aware that the district attorneys were not participating in those courts. He requested Mr. Graham comment regarding the anticipated position of the district attorneys over the next few months.

Mr. Graham stated that he believed the emphasis was going to be on making sure that the right people were going to drug court. The dealers and traffickers or those not addicted should not be attending drug court.

Chairman Hardesty advised the Commission that not only rural communities but also Clark County had withdrawn participation in drug courts. This posed a serious threat to specialty courts in the State.

Mr. Mallory commented that other counties in Nevada supported the specialty courts. It appeared to him that there was an unusual budgetary situation in Clark County which precipitated the non-participation in the drug courts. This did not reflect the philosophy of prosecutors.

Chairman Hardesty indicated that following his meeting with the District Attorneys Association and the Association of Prosecuting Attorneys requesting additional data, he had received a letter from Mr. Mallory ([Exhibit I](#)). A copy was sent to Mr. Skolnik and all of the Commission members. Further presentation by Mr. Graham would have to wait until he could receive the statistical information that he (Mr. Graham) had requested.

Chairman Hardesty and Mr. Graham discussed the positions of the district attorneys and their support for the modification or discretion on the part of judges in mandatory sentences and the 1995 legislative issues.

Kristin Erickson, representing the Nevada District Attorneys Association, supported Mr. Graham's testimony. In her opinion, 98 percent of the sentences were appropriate and proportional. The system was not perfect but was one of the best systems in the world.

Mr. Carpenter expressed concerns that Clark County had withdrawn from the drug courts. He had not previously been aware of that situation.

Mr. Graham noted that the drug courts were still operating in the county, but at this time the district attorney was not staffing an individual in those courts.

Chairman Hardesty advised the Commissioners that the specialty courts in Nevada, with the exception of Elko, Pahrump, and Ely, were being supervised by senior district court judges. The Supreme Court had been attempting to work with the 8<sup>th</sup> Judicial District to place senior court judges into the program in Clark County. At a recent senior judge's meeting, all of the senior judges expressed concern that the absence of the district attorneys in the drug court program placed the program in jeopardy. The concern was that the advocacy of the district attorneys was an important component of the program.

Chairman Hardesty further noted that the mental health specialty court in the 8<sup>th</sup> Judicial District was also being supervised by a senior judge. However, as with the drug court program, there were no district attorneys in the program. There were only 75 slots in the mental health court program in Clark County. The County had identified over 600 defendants in the Clark County Jail that should be in the mental health court program. Therefore, when the Commission reflected on what recommendations should be made in these two areas, the recommendations

could be to reinstate programs that had been in existence for many years but had collapsed for reasons not related to what the Commission had been studying. This was a serious problem for Nevada. If the senior judge money currently allocated for the Supreme Court sunset in 2009, there would be no money to keep the senior judges in the programs.

Although not previously discussed, Dr. Siegel believed the issue of proportionality in terms of treatment of cases in sentencing was an important issue. The American Bar Association issued a report on the death penalty process and made a review of proportionality one of the important issues. Dr. Siegel requested the Commission obtain a copy of the report.

Phil Kohn, Clark County Public Defender, testified concerning fairness in the criminal justice system. Mr. Kohn agreed the worst offenders should be incarcerated and resources should be used correctly. He was concerned not with the issues between the rural and urban areas, but with the discrepancies between departments. In his opinion, Nevada was a tradition-based system and not a rule-based system. There were no patterned jury instructions. He also voiced concerns about innocent people being sent to prison because of incorrect eyewitness identifications.

Mr. Kohn further stated that the burglary statute had been changed several times and was responsible for many unnecessary arrests and convictions. As an example, Mr. Kohn described five felony burglary cases ranging from \$6.59 worth of Hershey's chocolate to \$123.00 theft from J. C. Penney. In his opinion, petty larceny should not be charged as a Class B felony. Mr. Kohn recommended the Commission review the burglary statute to ensure the Class B felons going to prison actually belonged there.

Jeremy T. Bosler, Washoe County Public Defender, supported the testimony of Mr. Kohn. In the opinion of Mr. Bosler, there were many areas of the judicial system that could be improved and he was anxious to work with the Commission to provide any information that would be beneficial. Mr. Bosler listed the following items he believed the Commission should consider for review:

1. Require video/audio taping of every statement taken in every case.
2. Implement the U. S. Department of Justice eyewitness identification procedures.
3. Place restrictions on the use of informants.
4. Provide rules for the preservation and retention of biological evidence.
5. Review the statute on burglary.
6. Review the statute on trafficking and possession of illegal narcotics.
7. Review the statute for the deadly weapon enhancement.
8. Provide drug and mental health treatment programs.
9. Review the habitual criminality thresholds.

Jennifer J. Lunt, Washoe County Alternate Public Defender, provided support for the testimony given by Mr. Kohn and Mr. Bosler. Ms. Lunt expressed her concern that fixing the system would be costly. The Commission must address the lack of mental health treatment facilities and the funding which would be required to establish these facilities. Ms. Lunt believed that

sentencing was incredibly arbitrary and needed to be reviewed by the Commission. Overall, Ms. Lunt agreed with the presentations provided by Mr. Kohn and Mr. Bosler and she looked forward to working with the Commission to improve the judicial system.

Daniel Silverstein, Clark County Public Defender, was in agreement with the presentations of his colleagues. The criminal statutes were very broad and needed to be improved. Statutes were being used in absurd ways which, in his opinion, was not the intent of the Legislature. He believed the Commission should also review the kidnapping statute.

Linda Bell, Vice President, Nevada Attorneys for Criminal Justice and Federal Public Defender, presented a concern regarding the consistent application of the habitual criminal statutes. Nevada had one habitual criminal statute for violent felons. There was another statute which dealt with repeat offenders. Recidivism was seen as a huge problem even for non-violent offenders. However, the statute was so broad that individuals were sentenced to life terms for petty thefts. In her opinion, this was not an effective use of the community resources. Additionally, there were concerns with the equity of the statute.

Thomas Pitaro, private practice attorney, expressed support for the testimony submitted by his colleagues. When statutes were drafted broadly they were abused. There appeared to be a constant elevation of penalties in the State. He believed everyone who worked in the criminal justice system would agree the system needed a reevaluation.

Senator Horsford believed the concerns expressed regarding the statutory authority imposed by the Legislature on certain offenses were legitimate. In part, he wondered how the Commission could formulate recommendation that could be acted upon by the Legislature. It appeared there were small issues that could be taken to the 2009 Legislature but the overall justice system would require many years to repair.

Chairman Hardesty explained that the Commission was charged by the statute to develop recommendations for the Legislature on a host of issues. The outline contained in the previous minutes was what he perceived to be areas on which the Commission should make recommendations. The first item was the question of sentencing. The hearing today was the first step on hearing the sentencing issues in Nevada. At some point, the Commission would vote on various suggestions that had been made at these hearings. It was the intention of the Chairman for the Commission to catalog the suggestions, debate them, make recommendations, and vote on them after the merits had been vetted. The opposing positions would also be sent forth with the recommendations for the Legislature's consideration.

Senator Horsford was interested in knowing the panel's position on juveniles being tried as adults, and secondly, whether there were statistics available for domestic battery arrests versus the final charges filed.

Mr. Kohn could provide the statistics on the numbers of juvenile tried as adults. He was troubled by the problem and would obtain the Clark County statistics and provide them to the Commission.

Mr. Bosler would provide the statistics for the certification of juveniles for Washoe County and how the certification was determined.

Mr. Kohn recommended the Commission invite Susan D. Roske, Clark County Chief Deputy Public Defender, Juvenile Division, to explain the certification process to the Commission.

Responding to Senator Horsford's inquiry, Mr. Kohn commented that domestic battery cases were being charged as coercion, a felony. In terms of the statistics, he was not aware whether they were available. Mr. Kohn would ask his staff to research the availability.

Mr. Digesti asked what recommendations the public defenders would make to the Commission to ensure consistency in sentencing. Secondly, what role the public defenders envisioned P&P having in the sentencing process.

Mr. Kohn responded that he had reviewed the mission statement of P&P and did not see fairness or consistency of sentences addressed in that statement. Sentences were dependent on the recommendations of P&P. As long as P&P was part of the Department of Public Safety, it was his opinion that a recommendation from P&P was not a fair process. Those sentencing recommendations should not be made by a law enforcement agency.

Mr. Digesti noted there was a concern with trying to achieve a sense of consistency and fairness in sentencing when dealing with many different judicial personalities. Often the length of sentence depended on which judge was assigned the case. He was uncertain how the Commission could come up with a recommendation to achieve that objective.

Ms. Lunt replied that one of the problems was that politicians run against crime and judges were politicians. Judges on the bench who were running for reelection were hard on criminals. Getting away from that system would promote fairness. Also, the Commission needed to address increasing the training and the numbers of defense lawyers, especially in the public defender offices.

Ms. Bell commented that the sentencing guidelines did not provide the consistency needed in the system. She had seen terrible inequities in the guidelines. Individuals have received sentences they did not deserve but there were no other options. The ideas discussed today would help provide some consistency but still give judges the flexibility to ensure the punishment fit the crime.

In response to Dr. Siegel, Mr. Bosler explained that the public defenders did not receive copies of bill drafts from the Legislature. Interested parties had to go directly to the individual legislator to receive or request a bill draft.

Mr. Graham submitted that the Association of Elected Officials could receive bill drafts. He was available to assist any member of the defense bar in seeking a bill draft request.

Dr. Siegel suggested that the recommendations proposed by the public defenders had not been submitted as bill drafts to the legislators. The legislators could not be expected to pass legislation unless or until they received bill draft proposals on the issue.

Chairman Hardesty clarified that his expectations for the Commission was to receive input from all interested parties, debate both sides of the issues, and prepare recommendations. However, the Commission would not be preparing bill drafts.

Ms. Farley and Mr. Kohn discussed the issue of Class A felonies pled to Class B felonies. It would be more likely that each district attorney would have the statistics she was inquiring about.

Mr. Graham stated he would attempt to get the statistics and provide them to the Commission.

Ms. Farley discussed the issue of victims and backgrounds of offenders with Mr. Bosler and Ms. Lunt. Ms. Lunt noted that she used the background of the client to advise the court how the defendant got to this point in their lives. Mr. Bosler stated that the district attorneys were cognizant of the client's background, and Mr. Kohn agreed that clients did not always have the same choices as other people because of their backgrounds.

Following a brief recess, Chairman Hardesty reconvened the meeting and requested that John Allan Gonska, Chief, Division of Parole and Probation, address the Commission regarding the P&P issues.

Accompanying Chief Gonska was Captain Mark Woods, Executive Officer, Division of Parole and Probation, and Captain Charles Combs, Court Services Unit, Division of Parole and Probation.

Cpt. Woods spoke to the Commission regarding the consequences of A.B. 510 beginning with the parole releases. Cpt. Woods pointed out that a major issue for P&P with the Department of Corrections (DOC) was to calculate the retroactive time given individuals on parole. As mentioned by Mr. Skolnik the new computer system was in place and P&P now received current data from DOC. The Division was able to discharge over 700 individuals during the past three months. As far as parolees were concerned, Cpt. Woods believed that P&P had sufficient staffing to deal with the consequences of A.B. 510. As mentioned in earlier testimony, the inmates eligible for parole were not released immediately because their plans had not been approved for various reasons. The "bubble" of parolees that P&P would be receiving could be dealt with by using overtime.

Chief Gonska stated that the implementation of A.B. 510 had initially presented a challenge for P&P. The two issues that did trouble the Division were:

1. The definition of "serious infraction." The Division had determined the definition would be that "when P&P submitted a violation or incident report, it would constitute a serious infraction."
2. Drug court was also a troublesome issue. It appeared that the language of law stated that probationers in Drug Court would receive the 20-day sentence reduction if they did not have a serious infraction. The Division reviewed the law and decided to give the reduction. Drug Court judges notified P&P that it could not give the reduction.

Referring to Exhibit J, a letter of opinion from the Attorney General's Office regarding A.B. 510 dated September 24, 2007, Chief Gonska indicated the opinion was requested to resolve the two issues indicated above. As a result of the opinion, the Division had refined the "serious infraction" as "any violation of the terms and conditions of probation committed by a felon on probation that would have important or serious consequences. This does not include any violation caused by circumstances over which the offender has no control."

Dorla Salling, Chairman, Board of Parole Commissioners, inquired how P&P ensured that the rules were applied equally to every parolee.

Chief Gonska stated that P&P was a large division and by instituting internal controls, training, and regular staff meetings, the division had been able to work with the officers to make sure they followed the guidelines.

Cpt. Woods explained that the Offender Tracking Information System (OTIS) was in place. If an offender received the 20-day sentence reduction, it was noted in their record on the first day of the month. If the 20-day sentence reduction was removed, supervisors could run a report to review what had occurred to cause the loss of the reduction. Weekly meetings were held with the teams to discuss issues and to monitor the consistency throughout the State.

In response to a question from Mr. Kohn, Chief Gonska explained that the ability for the offender to pay restitution and probation fees was important to the Division but an offender without the ability to pay could not be penalized.

Cpt. Woods pointed out that the law stated that the offender must pay probation fees. If the person was indigent, the fees could be exempted or reduced depending on their situation. It was mentioned in the violation report because it was a part of the law.

Cpt. Woods responded to Mr. Digesti's comments regarding the finalizing of the serious infraction definition and when it would go into effect. According to Cpt. Woods, the directive was developed and would be given to the Division captains for them to present to their staff. It



would be implemented on November 1, 2007. Cpt. Woods would be distributing a copy of the directive to the Commission.

Mr. Digesti asked whether there were internal procedures in place if a probationer disagreed with an officer's subjective interpretation of a serious infraction.

Cpt. Woods explained that if a probationer believed they were not fairly treated, they would follow the chain-of-command for review. History had shown that the probationers were willing to address any situation which they believed to be unfair.

Mr. Mallory inquired whether two signatures were required for all Division documents to ensure no arbitrary decisions were made.

Chief Gonska was concerned with documenting all procedures. The courts asked for a reduction in the paperwork that P&P was producing. The procedures were changed to require internal audit procedures.

Cpt. Woods believed the check and balance system was working well. The offenders were willing to speak up if they felt they were treated unfairly. The system was working well for P&P at this time.

Assemblyman Parks asked for an explanation of the maintenance bank program and the administrative caseload program, and the difference between offenders placed in one versus the other.

Cpt. Woods explained that throughout the history of the Division the budget had been adequately appropriated for sufficient staffing. Although budgeted for adequate staff, it was sometimes difficult to fill the positions allocated. Chief Gonska had mandated that the high-risk offenders would be supervised at the levels required; a ratio of 30 and 45 to 1 as recommended by Mr. Combs. When a lack of staff did not allow adequate people to supervise everyone, the overflow went into a minimum bank. The offender could not be a risk to the community, could not be sex offenders, or not property damage offenders. Only the lowest risk offender could go into the minimum bank. Under the new supervision model which would be enacted on January 1, 2008, the administrative caseload (minimum bank) would be instituted. There were also a small percentage of offenders who required little or no supervision to be successful. Following a risk and needs assessment, this group would be assigned as administrative caseload. This would allow the officer to work with offenders who truly needed them. When all of the officer positions were filled, there would not be a need for a minimum bank.

Chairman Hardesty clarified that up to this point the Division had been using minimum banks driven by the number of staff available to supervise high-risk offenders. However, beginning January 1, 2008, the Division would convert to the administrative caseload program.

Chief Gonska explained that when the Division moved to the new supervision model, the Division would focus more attention on the risk and needs evaluation for offenders during a 90-day intake process. The high-risk offenders would be strictly enforcement-based supervision. At the request of the Legislature, the Division would be working harder with the offenders requiring general supervision needs to keep them from reoffending and returning to prison. The administrative caseload offenders were low-risk and did not require intense supervision or monitoring.

Cpt. Woods and Chief Gonska described the administrative caseload supervision as minimum. If an offender had contact with law enforcement personnel, the Division would be notified immediately. The offender would be allowed to mail fees and restitution payments monthly. If the offender was required to have counseling, the counselor would report to the Division. Any negative notification would automatically alert the Division to make contact with the offender.

Chief Gonska requested that Mr. Combs present the Presentence Report at an upcoming meeting because of time constraints. The Presentence Report was extremely important and time was needed to thoroughly explain the process for the Commission.

Chairman Hardesty agreed the Report was an important component to the sentencing scheme and time needed to be allowed for adequate questions. He also requested that Ms. Salling present her report following the next IFC hearing. Chairman Hardesty opened the floor for public comments.

Donald Hinton, Spartacus Project of Las Vegas, posed a question regarding whether an offender given one year prison time could be given parole early with the application of good time credits.

David Smith, Management Analyst, Parole Board, responded that certain offenders could receive good time credits off the minimum sentence. Based on the amount of credits earned, the release date could fluctuate. Minimum served could be less than one year. The credits could not be applied to all offenders.

Mr. Hinton expressed concern that when writing to the prison system or the Parole Board, responses were seldom received.

Ms. Salling noted that the Board was inundated with correspondence from inmates, family members, victims, and other members of the public. Often the correspondence requested confidential information which could not be given out. It was difficult for the Board to prepare timely responses to every piece of correspondence but an effort was made to respond. Typically one response did not satisfy the request of the author and the seven Board members could not carry on lengthy correspondence for 13,000 inmates.

Responding to Mr. Hinton's question regarding the prison system withholding money from prisoners for administrative infractions, Chairman Hardesty stated that the Commission would look into the issue.

Assemblywoman RoseMary Womack provided the Commission with an update on the Ron Wood Family Resource Center Proposal given at the September 12, 2007, Commission meeting ([Exhibit K](#)). Following the previous meeting, Ms. Womack met with P&P to discuss the proposal and the feasibility of the program. As a result of that meeting, the program was slightly changed. The main issue was the community acceptance of a residential program. In order to expand the program to fit the needs, the program had to be moved out of the Ron Wood Family Resource Center and into its own facility. The exhibit outlined the projected costs for the Center. Ms. Womack noted that they were awaiting word on two grant awards for the project.

Cpt. Woods stated that P&P was supportive of the Resource Center. The counseling and job development resources offered by the Center were essential for probationers. If the Center was successful in Carson City, it was hoped that it could expand and provide assistance for the rural communities.

Tonja Brown, advocate for the innocent and inmates on appeal, provided [Exhibit L](#) for the Commission. Ms. Brown requested the Commission consider a motion to have Dorla Salling, Chairman, Board of Parole Commissioners, brought before the Ethics Commission for commission of perjury. Additionally, Ms. Brown requested the Advisory Commission remove Ms. Salling as a member.

Chairman Hardesty explained that the membership of the Commission was established under [A.B. 508](#). The Advisory Commission had no jurisdiction in the removal of a Commission member. Therefore, the request was declined.

Chairman Hardesty requested a motion from the members of the Advisory Commission for submission of a complaint to the Ethics Commission on the subject of Dorla Salling. There being no motion, Chairman Hardesty declined Ms. Brown's request.

Pam McCoy representing a victim, Brian Pierce, requested that the Commission consider that victims be involved in the sentencing recommendations. Ms. McCoy also expressed her opinions to the public defenders regarding the backgrounds of offenders. She believed that the children of inmates should be involved in a program to break the cycle of criminal behavior in the family circle.

Chairman Hardesty pointed out that Ms. Farley had requested that the next agenda include a presentation by the advocates of crime victims. He suggested that Ms. McCoy might be interested in attending the meeting and presenting her ideas.

Vicky Brubaker, mother of an inmate, had issues with the Division of Parole and Probation. Ms. Brubaker read two letters from inmates who believed that [A.B. 510](#) guidelines had not been followed with regard to credits given for educational classes taken. Ms. Brubaker believed that inmates with mental health issues were not receiving the care they needed. In her opinion, there

should be an oversight committee with checks and balances to keep the prison system and P&P operating correctly.

Chairman Hardesty welcomed Ms. Brubakers' comments and suggested she prepare written recommendations to submit to the Commission for consideration.

Teresa Werner, wife of inmate and domestic violence victim, was disturbed that the statistics showed 98 percent of charges were pled. She was pleased that P&P would be giving more attention to high-risk probationers. She agreed that individuals were receiving prison sentences instead of the help they required.

As an addendum to comments from Ms. Salling regarding responses to correspondence, Mr. Reed pointed out that if a presentence investigation report was the only source of information requested, the DOC was required by law to keep the information confidential.

There being no further business before the Commission, Chairman Hardesty adjourned the meeting at 5:16 p.m. Commission members would be advised of the next meeting date, time, location and agenda items.

Submitted by:

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Linda Blevins, Interim Secretary

APPROVED:

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Justice James W. Hardesty, Chairman  
Advisory Commission on the Administration of Justice

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

**EXHIBITS**

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

**Date: October 30, 2007**

**Time of Meeting: 9:03 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/The Institute	PowerPoint Presentation
	D	Arthur Mallory, Churchill Co. District Attorney	Matrix NRS relating to felonies
	E	H. Skolnik, Director, NDOC	NDOC Programs
	F	T. Raxter, LCB Program Analyst	Corrections Budget Overview
	G	R. Combs, LCB Program Analyst	P&P Budget Overview
	H	M. Krmpotic, LCB Program Analyst	Parole Board Budget Overview
	I	J. Hardesty, Chairman	Letter to H. Skolnik
	J	J. Gonska, P&P	AG opinion letter
	K	Assemblywoman Womack	DOP Transitional Services Proposal
	L	Tonja Brown, citizen	Correspondence