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## NEVADA BOARD OF PAROLE COMMISSIONERS

May 10, 2008

To: Advisory Commission on the Administration of Justice  
From: David M. Smith, Hearing Examiner II   
Subject: Impact of Budget Cuts on the Board & Status of Parole Hearings as Impacted  
by Assembly Bill No. 510 (2007) and Senate Bill No. 471 (2007).

The following information is provided in response to the request for a status update on the operation of the Board of Parole Commissioners.

### 1) Impact of Budget Cuts on the Board

As a result of the impact of Senate Bill 471, the Board has been required to revert less than \$500 of original funding for FY 2007. Since the Parole Board operation is administratively organized within the Department of Public Safety, the share of cuts that would have normally been assigned to the Board have been absorbed by other Public Safety Divisions.

At this time, the Board is projected to revert approximately \$1,000 of funds for FY 2008, with the other Public Safety Divisions absorbing the remainder of the Board's share.

Being cognizant of the budget shortfall, the administrative staff of the Board is exercising care in making purchases, in an effort to allow for the reversion of additional funds at the end of the fiscal year. We are unable to estimate at this time, how much additional funding may be reverted at the end of the fiscal year.

### 2) Status of Parole Hearings as Impacted by Assembly Bill No. 510 (2007) and Senate Bill 471 (2007), including, without limitation:

- A) The number of Inmates Impacted by A. B. 510 Who Have Had Parole Hearings to Date;
- B) The Number of Inmates Impacted by A.B. 510 Who Have Been Granted Parole and the Nature of Their Charges; and
- C) Number of A.B. 510 Inmates Awaiting Parole Hearings:

As of this date, we are still unable to extract statistical information related to parole hearings from the new NOTIS system. The NDOC report developer indicated this week that, barring any changes

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Submitted by: David M. Smith

in priorities, we may be able to start testing a new report next week (May 12-16, 2008). If the testing produces valid results, we will be able to provide statistical information related to discretionary (PAR) and mandatory (MPR) parole decisions shortly thereafter.

The following reflects the information related to the parole backlog and projected caseload reported to the Commission at the April meeting:

- MPR:** 652 inmates were eligible for release under MPR through June 30, 2008.  
240 were past eligible as of 4/14/2008.  
42% of the 652 offenders are serving sentences for violence/sex offenses.  
58% of the 652 offenders are serving sentences for non-violent crimes.
- PAR:** 1744 inmates were eligible for discretionary release through June 30, 2008.  
878 inmates were past eligible as of 4/14/2008, but this included 208 inmates who were previously seen and denied parole.  
36% of the 1744 offenders are serving sentences for violence/sex offenses.  
64% of the 1744 offenders are serving sentences for non-violent crimes.

As a result of the approval of the Board's regulations and additional funding to contract case hearing representatives, the Board expects to make decisions on most or all of the 652 MPR cases identified above by the first week of June 2008. A number of the above referenced inmates eligible for discretionary release are also scheduled for consideration during the month of May.

There are approximately 1,800 inmates who are on the June parole eligibility list. Inmates on this list include many of the 1,744 inmates eligible for discretionary parole through June 30, 2008. This list also includes inmates eligible for Discretionary and Mandatory Parole Release through August 30, 2008.

In an effort to further reduce the backlog, inmates appearing on this list will be scheduled for hearings during the month of June and July 2008.

### **3) Additional Information Related to Parole Hearings**

The Parole Board is exercising a provision in NRS 213 that allows the Board to delegate its authority to act upon the parole of a prisoner to a non-quorum of one Case Hearing Representative assisting a Parole Commissioner. Since, per statute, this delegation is not considered a 'quorum,' it has been interpreted that no meeting is required under certain circumstances, as follows:

- 1) The recommendation of the panel does not result in a denial of parole.
- 2) A victim has not requested notification.



- 3) The case is not one that requires three commissioners.
- 4) The case is not a sex or violent offense.

As a result of exercising this provision, approximately 225 of the above referenced MPR eligible cases were reviewed during the last week of April 2008. Inmates housed in residential confinement, Casa Grande Transitional Center, and Northern Nevada Restitution Center were also reviewed under this provision. The cases determined to be severe in nature, included a victim, or may result in a denial of parole are being scheduled for personal hearings during the last week of May and the first week of June 2008.

The Month of June will present numerous challenges. Over the past few months, the Board has concentrated on conducting as many hearings as possible, primarily on less severe sentences that do not require the presence of three commissioners at the hearing. A large number of cases involving the most severe violent and sexual offenses will be held in June. As a result, fewer hearings may be scheduled because of the requirement that three commissioners participate on each of these panels.

Most of the backlog cases currently appear on the June eligibility list. By spreading these cases over into the month of July, cases that would have normally been scheduled for the month of July (inmates eligible for release in September 2008) will be delayed by one month. Inmates who are eligible for release in September will be scheduled for hearings in August 2008.

We anticipate that the majority of the backlog will be significantly reduced during the spreading over of cases into July, however, in doing so, the current procedure to conduct hearings at least two months in advance of eligibility will be reduced to one month in advance of eligibility.

Beginning in August, parole hearings should, in most cases, be conducted on or before the parole eligibility date. However, the pre-release unit of Parole and Probation will have little time to review and investigate parole release plans because of the reduction in time between the hearing date and the release date.

In order to re-establish a lead time of at least two months, there will need to be another surge of hearings conducted by case hearing representatives, parole hearing examiners and the Board during the months of September, October and November 2008. We expect to request additional funding for contracted case hearing representatives during the September IFC meeting.

A preliminary review of the number of inmates eligible during the month of September is approximately 1,050 inmates.

#### **4) Information Related to Credit Earnings and Parole Eligibility**

As a result of A. B. 510, inmates who are serving sentences for non-violent Category C, D and E felonies are entitled to have their minimum sentence reduced by good time credits. Many inmates are becoming eligible for a parole hearing shortly after arriving at intake, giving them little time to address the behaviors that led to their incarceration.

Inmates who are housed in medium custody roughly earn 30 days credit per month, in addition to the approximately 30 days of 'flat' time (day for day time) they serve. This essentially cuts the maximum sentence in half for these inmates. Provided the inmate does not receive other meritorious achievement credits, inmates serving their sentence in medium custody generally expire their sentence in half the time. This includes violent and sex offenders not serving life sentences.

Inmates who are housed in minimum custody camps receive 40 days credit per month, in addition to the approximately 30 days of 'flat' time they serve each month. As a result of this credit earning structure, an inmate can expect to serve approximately 5 months and 4 days for each year of their sentence. This can be reduced even further by the awarding of meritorious or other achievement credits.

If an inmate is identified as being eligible for parole on a certain date while he is housed in medium custody, and then he is transferred to minimum custody, the MPR date will change. This results in a situation where an inmate is scheduled to receive a timely hearing, but as a result of the higher rate of earning credits when the inmate is moved, the inmate is suddenly past eligible for parole.

This type of scenario is becoming more and more common, and is expected to increase as inmates who are assigned to minimum custody fire crews receive additional merit credits for their participation in fighting fires.

#### **5. Impact of additional Credit Earnings on Victims of Crime**

The Board has received numerous complaints from victims who are outraged at the reduction of sentences as a result of A. B. 510. While this bill intended to reduce the minimum sentences of inmates serving sentences for non-violent crimes, there are some crimes that are not considered "violent" by the name of the conviction alone.

An example of one of these crimes is "Accessory to a Felony." A recent parole hearing concerned an inmate convicted of this crime for the role he played in the murder of a young man. This inmate's minimum and maximum sentence was reduced significantly as a result of the doubling of credit earnings under A. B. 510. The inmate was sentenced prior to the passage of this law, and the family of the murder victim expected the inmate to serve more time before being eligible for parole.



A. B. 510 also accelerated the expiration dates of sex offenders and violent offenders, and also reduces the amount of time offenders will serve on parole.

Parolees earn additional credits at the same rates an inmate housed in a in a conservation camp may earn (40 additional days credit each month). As a result, an inmate who is released on Mandatory Parole (12 months before the expiration of the sentence, not including credits) will complete his 1 year on parole in approximately 5 months. The 40 days additional monthly credits are also earned by violent and sex offenders who are on parole.

#### **6. Conflicts with New Provisions in S. B. 471 and Possible Recommended Future Changes**

Senate Bill 471 prohibits the Parole Board from denying parole to a prisoner unless the prisoner is given reasonable notice of the meeting, be given the opportunity to be present and testify, and be allowed to have representation at his own expense (subsections 9 and 10 of NRS. 213.130).

NRS 213.1214 prohibits the Parole Board from granting parole to high risk sex offenders.

Prior to S. B. 471, when a sex offender was determined to be a high risk to re-offend, the Board would not conduct a full hearing with the inmate. Instead, the focus of the hearing was on the length of denial. Hearings on these high-risk sex offenders were normally conducted in absentia.

As a result of S. B. 471, even though the result of the hearing **MUST** result in a denial of parole by statute, the Board is required to provide the rights now afforded to all inmates at parole hearings.

Parole Hearings on sex offenders require the presence of three commissioners and generally take more time to conduct. These types of hearings, when the action to deny has already been determined by statute, take away from the time the Board could spend conducting release hearings on inmates more suitable for release on parole.

This is an area that may be beneficial for the Advisory Commission to consider a Bill Draft to allow the Board to take action to deny parole on certain prisoners without a hearing.

#### **CONCLUSION**

Over the past several months, the Board has worked diligently to implement the numerous changes that were imposed on the Board and parole hearing process. In addition to performing thousands of personal parole release hearings, the Parole Board Commissioners and support staff also:

- Validated and implemented new parole guidelines.
- Adopted emergency and permanent regulations.

- Developed new parole hearing processes to comply with S. B. 471.
- Implemented a new parole module in conjunction with the NDOC's database.
- Worked with programmers to re-design the parole module to comply with A. B. 510 and S. B. 471.
- Worked with the Department of Personnel to develop new positions for the Board.
- Established new lease contracts for space to allow for additional video conferencing capabilities.
- Worked with numerous vendors to procure equipment, supplies and furnishings for the new personnel.
- Worked countless hours of overtime, without additional compensation, in an effort to allow for the consideration of release of as many prisoners as possible, with the resources that were available.

Our efforts to create an operational structure that will allow the Parole Board to fulfill its new statutory responsibilities is beginning to come together. While there is still a significant amount of work to be done before the parole hearing process is on a track that may be reasonably managed without disruption, it appears our efforts are beginning to have an effect on taming the 'perfect storm.'

The Parole Board appreciates the efforts of the personnel of the NDOC and the Division of Parole and Probation in working with us through the difficulties we have experienced over the past several months. We look forward to a continued positive relationship with them, as we implement new processes and procedures aimed at complying with the new statutory requirements, and improving Nevada's system of Parole.