

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

SEPTEMBER 24, 2010

The meeting of the Advisory Commission on the Administration of Justice was called to order by Assemblyman William C. Horne, Chair, on September 24, 2010, at 9:40 a.m., at the Legislative Building, Room 3137, 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):

Assemblyman William C. Horne, Chair, Assembly District No. 34
Jeremy Bosler, Washoe County Public Defender
Assemblyman John C. Carpenter, Assembly District No. 33
Bernard W. Curtis, Chief, Division of Parole and Probation, Department of Public Safety
Larry Digesti, Representative, State Bar of Nevada
Gayle W. Farley, Victims' Rights Advocate
Richard Siegel, President, American Civil Liberties Union of Nevada

COMMISSION MEMBERS PRESENT (LAS VEGAS):

Catherine Cortez Masto, Attorney General
Senator Dennis Nolan, Clark County Senatorial District No. 9
Senator David R. Parks, Clark County Senatorial District No. 7
Howard Skolnik, Director, Nevada Department of Corrections

COMMISSION MEMBERS ABSENT:

Connie Bisbee, Chair, State Board of Parole Commissioners,
Thomas W. Finn, Chief, Boulder City Police Department
Raymond Flynn, Assistant Sheriff, Las Vegas Metropolitan Police
Department
Honorable James W. Hardesty, Justice, Nevada Supreme Court
Judge Douglas W. Herndon, Eighth Judicial District Court
Phil Kohn, Clark County Public Defender
David Roger, Clark County District Attorney

STAFF MEMBERS PRESENT:

Nicolas Anthony, Senior Principal Deputy Legislative Counsel
Angela Clark, Deputy Administrator, Legal Division, Legislative Counsel
Bureau
Olivia Lodato, Interim Secretary, Legal Division, Legislative Counsel
Bureau

OTHERS PRESENT

Nellie Bean
Tonja Brown, Advocate for the Innocent
Pat Hines

Chair Horne called the meeting to order at 9:40 a.m. He requested a roll call of the members present.

Ms. Angela Clark called the roll. A quorum was present.

Chair Horne said the Work Session today was the final meeting of the Commission. It was his intent that today would be the last meeting because they did not have the budget to continue further during this interim. Each Commission member received a document entitled "Summary of Recommendations." He said six recommendations had been approved for bill draft legislation. The recommendation for aggregating sentences was submitted as Bill Draft Request (BDR) 311 by Senator Parks. Chair Horne said he intended to find sponsors for the remaining five BDRs.

Chair Horne said he would also find sponsors for any further requests for BDRs from today's meeting. He said staff was compiling a written report for submittal to the 2011 Legislature and was continuing to draft correspondence with the Pew Charitable Trust.

Chair Horne reported on the status of the Pew report. He said Recommendations No. 3, No. 4 and No. 7 were carried over from the last Work Session. Jake Horowitz was the primary point of contact at the Pew. Mr. Horowitz said the Pew was finishing the contract with Dr. Jim Austin for the Class B analysis. He said Pew was also attempting to finalize the Nevada study into a regional contract with Dr. Austin. Chair Horne said staff was also working the Pew on three items requested by Pew before it moved forward. The items were a list of legislation recommended and passed by the 2009 Legislature by the last Advisory Commission; the names of persons assisting in the study in Nevada; and any potential for legislative reform. He said the contract was not signed, but the Commission may have the information before the end of the calendar year. The study may continue in 2011 along with items held over for the next Advisory Commission. He said things not recommended by the Commission did not mean it was the end of the discussion or issue. The ideas could be introduced with a sponsor for a BDR or as amendments to existing pieces of legislation at the 2011 Legislative Session. He said the report may be completed at a later date, but it could be utilized to supplement recommendations to the legislative body next session adding that the report would be meaningful.

Mr. Skolnik said he had no further comments or suggestions from Pew.

Chair Horne asked for approval of the minutes from June 8, 2010 and June 23, 2010.

MR. CARPENTER MOVED TO APPROVE THE MINUTES OF
JUNE 8, 2010, AND JUNE 23, 2010.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED.

Chair Horne allowed some public comment before the regular agenda items were addressed. He asked Ms. Bean to come forward.

Nellie Bean said she was present because her rights had been denied. She said she was denied the right to take care of her daughter's children. She said she went through the system with the children for five years. Her daughter was a disabled person who was denied the care of her children. Ms. Bean said with her assistance, her daughter would have been all right adding that she went through hell being denied her grandchildren. Ms. Bean submitted written points on her testimony, [Exhibit C](#). She asked the Commission for help.

Chair Horne asked Ms. Bean to tell the Commission the process and steps she went through in her attempts to obtain custody of her grandchildren. He asked her for details concerning the errors that occurred which prevented her from receiving custody of her grandchildren.

Ms. Bean said there were no errors. She said she was a good parent and good mother. She did all the things the Court required her to do and it was a total injustice.

Chair Horne asked if the alleged crimes on her grandson were ever reported to law enforcement or the district attorney's office.

Ms. Bean said she did know if the crimes were reported. She said he was almost an adult when she found him. The police came to her door and beat her up and took the second child from her. Her grandchild was born at home and she did not have a birth certificate. She applied for a birth certificate for him when he was almost two years old. She said she was bruised and hurt by the police and she was afraid of them.

Chair Horne asked if there were any questions for Ms. Bean.

Senator Nolan said it was obvious Ms. Bean was distraught and concerned. He said they could ask a staff person to assist Ms. Bean in her testimony.

Chair Horne opened discussion of the Work Session documents. He said the Work Session did not accept new testimony. The first consideration was Recommendation No. 1; draft legislation to provide for the centralized

collection of fines, fees, and restitution from convicted persons. Justice Hardesty proposed the recommendation.

Mr. Nicolas Anthony said there was a recap in the Work Session Document II, [Exhibit D](#). He said Justice Hardesty had requested A.B. 271 be introduced in the 2009 Legislation but the bill did not pass. In this interim, the recommendation was refined and was similar in that it provided for a centralized collection of fines, fees and restitution and the administrative assessments. He said it could be housed in the office of the State Controller and the bill would not contain any provisions relating to administrative probation, [Exhibit D](#). Mr. Anthony said the recommendation was offered as conceptual language for a BDR.

Chair Horne said he remembered Attorney General Masto had concerns about whether the State Controller had approved the suggested BDR. He said one issue was enforcement of the requirement. The collections would be centralized, but Ms. Masto's concern was that enforcement might be relegated to the Attorney General's office. Chair Horne suggested holding further discussions on the proposed recommendation until Ms. Masto was present. Chair Horne said Recommendation No. 2 should also be held until the Attorney General was able to attend.

Chair Horne opened discussion on Recommendation No. 3; draft legislation to reclassify certain Category B felonies, all B felonies with a penalty of 1-6 years, or certain non-violent Category B felonies to be lowered to Category C felonies. Mr. Kohn made the recommendation. He said it was tied to Recommendation No. 4. It did not re-categorize the felony, but rather allowed certain felonies to obtain good-time credits off the front end as provided in A.B. 510.

Mr. Anthony mentioned that Chair Horne had pointed out the differences between Recommendations No. 3 and No. 4. He added that the bull draft proposal for Recommendation No. 4 excluded any Category B felonies involving the use, or threat of the use of forced violence against a victim, a sexual offense or a DUI offense. Those three types of offenses were not eligible for A.B. 510 credits, [Exhibit D](#). Mr. Anthony said the actual language of the statute, as it currently read, stated Category A and B offenses were not eligible as well as any offense relating to the use of threat of force or violence, sexual offenses, or DUI offenses.

Chair Horne continued the discussion on Recommendation No. 3.

Mr. Carpenter had concerns with the reclassification of the felonies. He said they should remain as they were and let the court system do its job.

MR. BOSLER MOVED TO APPROVE RECOMMENDATION NO. 3.

MR. DIGESTI SECONDED THE MOTION.

Mr. Siegel said the issue raised was the timing of the Pew study. He said the majorities were in favor of some kind of review of the re-categorization of B felonies but everybody wanted to wait for the results of the Pew analysis. He wanted to move the idea forward using the Pew analysis as the basis for the Legislature. He recommended the Pew make a presentation by February. Mr. Siegel said there may be a majority for 1-6 included in the recommendation. He was confident the Pew analysis was consistent and recommended some movement from B to C felonies.

Chair Horne said clarification was required on the motion. He asked if it was a motion to have all the B felonies with 1-6 lowered to C felonies, or was it reclassifying all B felonies not involving violence.

Mr. Bosler said his motion was to have 1-6 felonies that were non-violent be classified as Category C felonies.

Chair Horne reiterated that the motion was to have B felonies, 1-6 non-violent, reclassified.

Mr. Carpenter said he did not understand how the Commission could reclassify the existing sentences. He said it could open the State up to a huge number of lawsuits in the future.

Chair Horne said it was a legal question about reclassifying crimes for already convicted persons from one category to another category.

Mr. Anthony said it appeared the Legislature could amend the law while going forward so that these offenses would now be Category C offenses. Anyone convicted after the effective date of the legislation would then be charged with the Category C offense. He said as to it being retroactive, they

were not imposing a new punishment, but in fact were lessening the punishment. He said it was something they would take under advisement. He did not know if it would be retroactive because they were not imposing a new punishment.

Mr. Carpenter said if the punishment was lessened, there were some people who did not want that to occur. There were victims who did not want to have the punishment lessened.

Chair Horne said he had some of the same concerns Mr. Carpenter had in reclassification of such a broad area. He was uncomfortable going forward without the Pew report. He preferred identifying those eligible for good time credits off the front end. It did not mean he would not support reclassification at a future date after seeing the Pew report.

Senator Nolan agreed with the comments made by Mr. Carpenter. He said there was enough concern and discussion by the Commission that the discussion needed to be brought forward during the legislative session. He said they could draft an amendment to the BDR. Reclassification should only go forward and not be retroactive.

Mr. Skolnik reminded the Commission about the issue that arose out of A.B.510 when the bill was passed in June and had a July first effective date.

He said it caused tremendous problems for them to adequately and accurately calculate sentences because of the software changes required.

Mr. Curtis said Parole and Probation had the same problems Mr. Skolnik mentioned, a “bubble” was possible again. He said if the bill was retroactive, it created enormous problems and unwelcomed expectations from victims.

Chair Horne said the Pew study could provide a clear picture of how large the anticipated bubble might become.

Mr. Bosler said the motion was to make a 1-6 B felony a 1-6 C felony. He said the punishment was not lessened, and the same term of years applied. He said people were comfortable making the change as long as it excluded sex offenses, crimes of violence, and DUI offenses. He said he was willing to withdraw the motion and proceed to Recommendation No.4.

Mr. Siegel said he wanted to make a motion on Recommendation No. 3. He said sentences were enhanced or increased all the time. He recommended a letter be written to the appropriate committees of the Legislature stating some Category B felonies be reclassified to Category C felonies. He said the letter should ask the committees to review the reclassification of B felonies, especially those with 1-6 year sentences. He also asked the letter request the committees take into full consideration the analysis of the Pew Foundation, together with any work done by the Nevada Research Organization.

Chair Horne said Mr. Bosler had withdrawn his motion and Mr. Siegel offered a new motion.

MR. SIEGEL MOVED TO DRAFT A LETTER TO THE 2011
LEGISLATURE AND THE APPROPRIATE COMMITTEES
IN THE ASSEMBLY AND THE SENATE STATING RESEARCH
SHOULD OCCUR IN RECATEGORIZING B FELONIES
AS SUPPORTED BY THE PEW RESEARCH STUDY.

MR. BOSLER SECONDED THE MOTION.

Mr. Carpenter said he did not want to support the suggestion without all of the testimony and the Pew reports. He said he would vote no on the motion.

THE MOTION CARRIED. (MR. CARPENTER AND MR. CURTIS
VOTED NO ON THE MOTION.)

Chair Horne said they would draft a letter from the Commission, and they would note the signatures were from those who supported the motion. He said Recommendation No. 4 made certain Category B felonies eligible for credits to reduce the minimum term of imprisonment. They would remain Category B felonies, but certain ones would be identified for good time credits off the front end to make them eligible for A.B. 510 credits.

Mr. Carpenter asked if it would affect those who had a sentencing term of 1-6 years.

Mr. Anthony said the motion was under Recommendation No. 4 and it would amend NRS 209.4465 to allow anybody convicted of a Category B felony, except for a felony of violence, sexual offense, or DUI to be eligible for A.B. 510 credits. He said it would be all B felonies with the exception of those three categories.

Mr. Carpenter said he could support it if they had a sentence of 1-6 and with the exceptions Mr. Anthony mentioned. He did not think the higher or greater crimes should be modified.

Chair Horne said he supported Recommendation No. 4 for all B felonies with the exception of violence, DUI, and sexual assault.

Mr. Carpenter said battery with a deadly weapon, substantial bodily harm, or strangulation were 2 to 15 year sentences. He did not want those included in Recommendation No. 4.

Chair Horne said those were not included because they were crimes of violence. He said the included crimes would be theft, drug crimes, and property crimes. He said crimes of violence were excluded.

Mr. Skolnik suggested changing the language in the recommendation from sexual assault to sexual offenses.

Mr. Anthony said the suggested proposal contained language under Tab E of [Exhibit D](#) that had the existing language of NRS 209.4465, and the change would be in subsection 8. He said the existing language said sexual offenses.

MR. BOSLER MOVED TO APPROVE RECOMMENDATION
NO. 4.

MS. FARLEY SECONDED THE MOTION.

THE MOTION CARRIED. (MR. DIGESTI ABSTAINED FROM
THE VOTE. MR. CARPENTER VOTED NO.)

Chair Horne said he would seek a bill sponsor for Recommendation No. 4. He opened discussion on Recommendation No. 6, concerning compassionate release for seriously ill offenders.

Mr. Anthony said staff was directed to study Washington's newly passed law relating to compassionate release and compare it to current law under NRS 209.33925. He said both laws were attached in [Exhibit D](#), behind Tab G. Staff decided the Washington law was more burdensome to somebody seeking compassionate release because they had to meet three requirements, including granting extraordinary medical placement which would result in a cost saving for the State. The person must show three things before they were granted compassionate release. The Nevada law allowed the Director some discretion in granting compassionate release. He said the Washington law granted release upon electronic surveillance, whereas Nevada's law said they must be release to residential confinement.

Mr. Siegel said he raised the issue originally. He said he did not know whether one or the other law was better. He wanted a brief conversation on the issue. He understood Director Skolnik testified there had been no use of compassionate release during the time he has been director. He said there was a movement to identify cost for medical treatment for inmates who were severely ill. Mr. Siegel offered the proposal because he believed it was an increasingly important way to deal with the cost of the correction system. He said medical care was the easiest area to receive federal relief. He asked if Mr. Skolnik had suggestions for the group. Mr. Siegel was concerned about earlier testimony concerning a 93 year old man who was not given compassionate release.

Mr. Skolnik said the 93 year old man came to the Department of Corrections (DOC) as a child abuser at the age of 92. He was denied compassionate release. He had served less than a year when advocates for compassionate release suggested the DOC release him. Since he was capable of committing the crime in his 90's, the decision was made that it was not advisable to release him. Mr. Skolnik said six inmates in the system were identified as seriously ill. Two of them were recommended for compassionate release, but they were unable to find any medical care for them upon their release because their family had no insurance. He said there were others suggested for compassionate release, but there was opposition from the victims and the district attorneys. The existing laws provided the ability for compassionate

release to those individuals who had resources in the community to survive and were incapacitated enough to not be a threat to the community.

Chair Horne said the Washington statute was more onerous than the Nevada statute. He said there was no need for a change at this time.

Mr. Siegel said he accepted dropping the issue.

Chair Horne opened discussion on Recommendation No. 7.

Mr. Anthony said Recommendation No. 7 was a statement of support recognizing the need for future study of Nevada's criminal justice system, including work with the Pew Foundation and Dr. Austin.

Chair Horne said there was a suggestion that this would not be the last Advisory Commission. He said there would be another one after the 2011 Session. He and Justice Hardesty felt it was an important commission that merited funding.

MR. CARPENTER MOVED TO SUPPORT RECOMMENDATION
No. 7.

MR. BOSLER SECONDED THE MOTION.

Mr. Siegel asked if there was further elaboration on the recommendation in the documents provided to the Commission.

Mr. Anthony replied there was no further documentation. He said staff was preparing a substantive report for the end of the calendar year for submittal to 2011 Legislature. He said Recommendation No. 7 would be a formal, highlighted recommendation in the final report.

Mr. Siegel said he wanted to be sure the recommendation had an explicit reference to the Advisory Commission. He said they should consider a minimal financial request for the Commission.

Chair Horne asked if there were any objections to having the Advisory Commission specifically called out. He asked for a vote on the motion.

THE MOTION PASSED.

Chair Horne requested Director Skolnik provide a quick report on the current population in the DOC.

Mr. Skolnik informed the group the prison population continued to remain flat. He said the population was approximately 500 inmates below budgeted projections and the majority was medium custody inmates. Mr. Skolnik said the DOC was reasonably full in the open beds, medium, and closed custody institutions.

Chair Horne thanked Mr. Skolnik for the information. He asked if there were actual numbers of inmates.

Mr. Skolnik replied the number of inmates was approximately 12,570, as of this morning.

Chair Horne reopened discussion on Recommendation No. 2, a recommendation to draft legislation to amend the NRS to impose limitations on the use of psychological or psychiatric examinations of victims and witnesses in sexual offense prosecutions.

Mr. Anthony said the recommendation was carried over from the last Work Session. It was a proposed BDR from the Subcommittee on the Victims of Crime and was attached at Tab C in [Exhibit D](#). He said the proposal would prohibit a court from ordering a victim or witness to submit to certain exams in a criminal prosecution of a sexual offense.

Mr. Siegel said people in the audience claimed there were proposed changes in the process of the psychiatric panel. He said the change was in the direction of less openness of the process. He asked the Commission if that statement was correct.

Mr. Anthony replied nothing had been changed. He said this proposal related to the examination of victims or witnesses and not to the psychological evaluation panel that may be required of some offenders. This was a proposed procedural process.

Chair Horne stated he had concerns with a prohibition on psychiatric examinations of victims and witnesses. He said a defendant was entitled to an appropriate defense and sometimes a psychological examination was warranted. The examination should never be used as a weapon. It was the role of the judge to determine the relevancy of the request as to whether the alleged victim or witness psychological evaluation was necessary. He did not want a statute barring the procedure.

Mr. Bosler had concerns about the legislation. He said in 2006, the Nevada Supreme Court looked at this type of framework and decided it did not provide the right balance between a fair trial for the defendant and the interests of the State's witness. The framework had already been rejected by the Nevada Supreme Court. He said the statute did not create a mechanism where the prosecutor's witness had the ability to have an independent psychological test of a witness. He did not think it was fair. He said previous testimony expressed concern about allowing an independent psychological test. They were concerned it subjected a witness to an unfair indignity. He appreciated the concerns, however in a sexual offense case, the witness would already have been interviewed by a complete stranger regarding the facts. He said there were probably nude photographs taken by a complete stranger. When most of the motions were decided, the witness would have already testified before the Grand Jury. The request to appear before another doctor to answer questions was not so great an indignity that it should undermine the criminal justice system. When the examinations were performed, they were discoverable and helped both parties decide whether the case would be negotiated, or go to trial. He said there was a multitude of reasons why it was not a good recommendation for the Commission. and the statutory change was premature.

Ms. Farley said the examinations were a re-victimization of the victim. She said to go through the whole thing again with an unknown person was difficult to do.

Mr. Carpenter said the recommendation would have to be decided by the Legislature. He said the Attorney General could offer a BDR. If she did not have any BDRs left, Mr. Carpenter would offer her one of his BDRs.

Attorney General Masto said she knew the issue was controversial. When the Subcommittee on Victims of Crime heard both sides, they decided to bring the issue forward to the full Commission for further debate and discussion. She said it would have a full hearing before the Legislature if they moved it forward.

Chair Horne said Ms. Masto was correct, and these were just recommendations. He said if the Commission decided to find a bill draft, the recommendation would be heard in the 2011 Session.

MR. CURTIS MOVED TO APPROVE RECOMMENDATION
NO. 2.

MR. CARPENTER SECONDED THE MOTION.

THE MOTION PASSED. (MR. SIEGEL, MR. DIGESTI AND
MR. BOSLER VOTED NO.)

Chair Horne next opened discussion on Recommendation No. 5, draft legislation to require DNA testing for all persons arrested for a felony. He said it was brought forward by the Bring Bri Justice Foundation.

Mr. Anthony said the recommendation was for all felony arrests. He said in [Exhibit D](#) behind Tab F was a copy with the information from the Bring Bri Justice Foundation as well as a copy of Assembly Bill 234 from the 2009 Legislature. The bill required DNA testing upon a felony arrest, but it did not pass. He added the legislation was an example of what could be proposed and brought forward. He said it was a conceptual amendment.

Chair Horne said of the currently released BDRs, there was one by Assemblyman Aizley calling for DNA collection for certain felony arrests. He said there could be dueling bills. Chair Horne said he would help during the regular session with any legislation that came forward concerning this

matter. He recognized there were concerns, including money, and the expunging of the DNA evidence for persons acquitted or when charges were dropped.

Ms. Masto said her only question was whether the bill could be approved. She said the Bring Bri Justice Foundation was addressing the issue of the cost associated to the labs as well as the issue of an expunging component for the issues Chair Horne addressed.

Mr. Digesti said he did not disagree, in concept, with the purpose behind the proposed legislation. He was concerned an arrest for a felony triggered the implementation of the proposed legislation. He said individuals were often arrested and booked for a felony, but after a review, the formal charges were issued for something less than a felony. Mr. Digesti said if the recommendation was passed as written, it would have a significant financial impact on local governments. The cost of the DNA tests would be borne by the county. There would be cost factors for the test, for storing the material, and for expunging the DNA if the charges were dismissed or not filed. He did not oppose the concept, but he was seriously concerned about the financial impact. He said it could be solved by changing one word, change "arrest" to "charged". He said if the person was charged for a felony, the DNA sample could still be obtained because the person was on some type of custody status pending further prosecution. Mr. Digest was against the recommendation as it was currently written.

Chair Horne stated he was the new chairman of the National Conference of State Legislatures, Criminal Law and Justice Committee. He said the issue of DNA testing was being addressed at the federal level as well as by the states. He said there may be incentives in the legislation for states who complied with the federal regulation. He added there may be penalties for the states who did not comply. It could affect the type of funding Nevada received from the federal government for public safety. He said as there was already a BDR introduced by Assemblyman Aizley, the Commission might allow that bill to go through the process and send a letter from the Commission in support of the concept.

Mr. Siegel said there was no testimony on this issue. He spoke in opposition to the legislation. He said there were real concerns at the charge level. One of the ACLU concerns was once entered into the DNA data base, a person

remained in the data base even if acquitted or the charges were dropped. The ACLU was also concerned about the racial discrimination aspect of the legislation. He said there had been testimony about targeting neighborhoods in cities and police were increasing the degree to which they targeted certain neighborhoods. He said Europe decided the collection of DNA data was hopelessly racially skewed. The British law was ruled unconstitutional on that basis. He the 9th Circuit Court would be ruling on the issue this year. Mr. Siegel said he believed it was a judicial issue which would be decided by the judgment of the courts. The Nevada Legislature did not always worry about the federal courts and their reaction. He said it was a mistake to encourage the legislature to move forward.

Ms. Farley agreed with Mr. Digesti's proposal to change the word from "arrested" to "charged".

Mr. Skolnik said the Sheriffs and Chiefs Meeting had discussed the topic. He said the fiscal impact of the proposal was too significant for the department to support the proposal.

Ms. Masto said they were aware of the fiscal impact from earlier discussions. She said the Bring Bri Justice Foundation was trying to work through the issues and address everybody's concerns but some type of bill needed to be presented for discussion. She added the bill may not be passed due to the concerns everybody had addressed, but it was important to have a discussion on the topic.

Chair Horne reiterated he would have a hearing on this bill in the Judiciary Committee. He said Mr. Aizley's bill was already in place dealing with the topic and the bill would be vetted during the Legislative session.

Mr. Carpenter said a separate bill was not needed because of Mr. Aizley's bill. He said the Bring Bri Justice Foundation needed to meet with Assemblyman Aizley and arrive at the drafting language. He supported the bill draft.

MR. CURTIS MOVED TO UTILIZE THE BDR WRITTEN BY
MR. AIZLEY.

MR. BOSLER SECONDED THE MOTION.

THE MOTION CARRIED.

Chair Horne opened the discussion on Recommendation No. 1; draft legislation to provide for the centralized collection of fines, fees, and restitution. He said there were concerns about enforcement being done by the Attorney General's office.

Ms. Masto said she met with Justice Hardesty and Kim Wallin, State Controller, and Ms. Wallin was supportive of assuming the responsibility for collections. Ms. Masto said they agreed they needed to identify the judicial fines, fees, and restitution. She said they were putting a matrix together to identify those which the Controller already had the authority to collect, and the ones needing to be put under her authority. She said they did not have a final draft of the BDR as of yet.

Chair Horne said Mr. Carpenter offered another BDR for this purpose. He said the Commission could move the idea forward in concept.

Mr. Skolnik said the NDOC recently modified their policy on the rent they collected from inmates in the Northern Nevada Restitution Center in Casa Grande. He said most of the inmates did not make enough money to pay their daily rent and they left the facility owing money. The debt was then referred for collections, so a non-violent offender was given support to get into the community, but left the facility as an ex-offender with a collection. He said it had a significant negative impact on their ability to find work and housing. The NDOC no longer sent the individuals to collection for rent owed to them.

Mr. Curtis said they collected restitution from offenders on case load as well as monthly supervision fees for the State. He said it supplemented the General Fund budget of Parole and Probation. Nonpayment of fees was generally not a premise for revocation. Mr. Curtis wanted his division included in talks with the Attorney General's office.

Ms. Masto welcomed the presence of Parole and Probation at their meetings.

MR. CURTIS MOVED TO SUPPORT THE CONCEPT OF COLLECTION OF FINES, FEES, AND RESTITUTION IN RECOMMENDATION NO. 1.

MR. CARPENTER SECONDED THE MOTION.

THE MOTION CARRIED.

Chair Horne opened the meeting for public comment.

Tonja Brown said there was a new case filed in the Supreme Court recently dealing with the Psych Panel. She said Ms. Bean said an FBI investigation was happening. Ms. Brown asked if Mr. Carpenter would provide a BDR for Nolan's Law, [Exhibit E](#). She read her definition of the proposed Nolan's Law. Ms. Brown said if Nolan's Law had existed, he would not have been incarcerated for a crime he did not commit. She read an affidavit from Treva J. Hearne, [Exhibit E](#). She reiterated her request for the Commission's support for Nolan's Law.

Written comments entered into the record by Laurel Stadler, [Exhibit F](#).

Pat Hines said she had not had time to review all the paperwork today. She spoke to Recommendation No. 5 concerning changes to the Psych Panel.

Chair Horne said the Recommendation was from the meeting and it had been passed. He said it was a recommendation for a BDR.

Ms. Hines said she had a recommendation for the BDR. She said there were things that were damaging. She was in favor of the Psych Panel not having the final say on sex offenders receiving parole. She had worked on the issue for over eight years. She said people did not understand. She did not want the Parole Board to request a panel; she wanted them to request an evaluation of an individual to determine if they merited getting a parole board. Ms. Hines said definitions for violence and violent crime were needed. She said the BDR was not ready to be presented to the Legislature. She said the Psych Panel should have to follow the open meeting law and she requested a definition for the term quasi-judicial.

Chair Horne asked if there were any further questions. He thanked all the members of the Advisory Commission for their work. He said he wanted the group to go forward in the future. He thanked the participants who came to the meeting and assisted in providing information. Chair Horned adjourned the meeting at 12:03 p.m.

Submitted by:

Olivia Lodato, Secretary

APPROVED:

William C. Horne, Chair

DATE: _____

EXHIBITS

Committee Name: Advisory Commission on the Administration of Justice

Date: September 24, 2010

Time of Meeting: 9:30 a.m.

	Exhibit	Witness/Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Nellie Bean	Testimony
	D	Documents	Work Session Documents
	E	Tonja Brown	Nolan's Law
	F	Laurel Stadler	Comments