

BOARD OF COMMISSIONERS
JIM GIBBONS
GOVERNOR
CATHERINE CORTEZ MASTO
ATTORNEY GENERAL
ROSS MILLER
SECRETARY OF STATE

STATE OF NEVADA

HOWARD SKOLNIK
DIRECTOR



DEPARTMENT OF CORRECTIONS

A Nevada with no more victims
P.O. Box 7011
Carson City, NV 89702
(775) 887-3216
Fax: (775) 887-3138

MINUTES OF THE
BOARD OF PRISON COMMISSIONERS MEETING
NOVEMBER 15, 2007

The Board of Prisons Commissioner's Meeting was called to order by Governor Jim Gibbons at 10:30 a.m. on November 15, 2007 at the State Capitol Building Annex, 2nd floor, 101 N. Carson Street, Carson City, Nevada.

PRESENT: PRISON BOARD MEMBERS

Jim Gibbons, Governor
Catherine Cortez Masto, Attorney General
Ross Miller, Secretary of State

ATTORNEY GENERAL'S OFFICE

Janet E. Traut, Senior Deputy Attorney General

CORRECTIONS' STAFF

Howard Skolnik, Director

DEPARTMENT OF ADMINISTRATION

Deborah Reed, Budget Analyst

GOVERNOR'S OFFICE

Josh Hicks, Legal Counsel

NEVADA SUPREME COURT

Justice James Hardesty

PRESS

Geoff Dornan, Nevada Appeal
Cy Ryan, Associated Press

SECRETARY OF STATE'S OFFICE

Chris Lee, Deputy Secretary for Southern Nevada
Nicole Lamboley, Chief Deputy Secretary of State

INTERESTED PARTIES

Pat Hines, FFIP

Governor: Ladies and gentlemen, good morning. The meeting of the Board of State Prison Commissioners scheduled for today, Thursday, November 15th at 10:30 will come to order. We have present with us today the Secretary of State, the Governor and the Attorney General. We have a brief agenda to be heard today. I think first of all what I would like to do is turn, according to the agenda, to Agenda Item II which is the statement on the applicability of the Open Meeting Law to the Board of State Prison Commissioners by the Attorney General Catherine Cortez Masto. One thing I want to do before I turn to her is I've had the chance to pull up the constitution on the role of the Board as decided by the State of Nevada and its constitution Article 5, Section 21, and just because the three of us are brand new members on this Board and this is our very first meeting. I wanted to make sure that we all understand what the role of the Board is and it states in pertinent part "the Governor, Secretary of State, and Attorney General shall constitute the Board of State Prison Commissioners. This Board shall have such supervision as all matters connected with the state prisons as may be provided by law". So, with that sort of a prelude let me say that we are an oversight Board and we have oversight authority over the laws of the State of Nevada that apply to the prison systems itself and I know and I do want to reiterate that I have exceptional confidence in the leadership under Director Skolnik as the Department of Correction and their management, their day to day management, of the prison system itself. With that introduction to and welcome to all of us as new members of this Board. I want to turn it over to the Attorney General for her comments on the applicability of the Open Meeting Law and let me state that this has been noticed properly by the Secretary of State who is the Secretary of the Board for today's meeting and it is open to the public.

Attorney General: Thank you Mr. Chair. I think this is really just a clarification of the Open Meeting Law issue because there were some concerns by an individual who approached me as to whether this Board is subject to the Open Meeting Law and I think the clarification comes from the last meeting that was held and it's in our minutes so let me just reiterate, this Board is subject to the Open Meeting Law, there's no doubt about it. What I'd like to do, Janet Traut, my DAG, was at that last meeting and I'd like her to clarify maybe what kind of some of the discrepancy was regarding the issue, what applies to the meeting and what doesn't.

Janet Traut: Janet Traut, Senior Deputy Attorney General, for the record. Reviewing the minutes of the last meeting and the memo that I had written to the Board at the time, the Open Meeting Law NRS 241.010 does apply to the Board of Prison Commissioners. This statute requires that the meeting be open to the public and all persons must be permitted to attend. The issue that had been before the Board at the last meeting was the propriety of having a meeting which was not teleconferenced to the South to provide people the ability to participate there and that is not something that is addressed in the policy of the Meeting Law.

The doors must be open as they are here today and the members of the citizenship of the State of Nevada are allowed to participate. With that said, there is some impression that the State must facilitate for everyone to be able to do that. Another issue that clouded that was a discussion of the Administrative Procedures Act at that hearing because there were separate complaints about the regulatory process that the Board of Prison Commissioners uses which is set in statute for Nevada Department of Corrections and also the Board of Prison Commissioners is expressly exempted from the Administrative Procedures Act by statute and so in that situation the usual agency process of noticing a workshop on Administrative Procedures and then going through and having that notice appearing 30 days and then they are submitted to the Legislature and approved for the Department of Corrections the Director of the Department of Corrections is the one who actually promulgates the rules, drafts them, they are reviewed by the Attorney General's Office to make sure that they comply with all applicable statutes and codes and Constitution of the United States and then the Board at the meeting approves those after they've had a chance to review them. The way the statutory scheme is set out to state there is no provision for public comment on them other than the public comment section that comes along with Open Meeting Law. So, those were the two competing issues. Open Meeting Law does apply but the Department of Corrections need not present its regulations for public comment.

Attorney General: Thank you. I think that's just the clarification we were looking for, like I said there were a number of individuals who had concerns about that.

Governor: Thank you. Very well understood by all of us here who are the Commissioners on this Board that the meetings are open to the public. That the Administrative Procedures Act does not apply to Administrative Regulations that we decide upon here that are brought before us. Is that correct?

Janet Traut: Yes sir.

Governor: Okay. Are there any questions with regard to Agenda Item II? Any comments? Very good. Let's move to our very first action item which is the Acceptance and Approval of the Minutes of the last Board of Prison Commissioners held July 11, 2006. Those minutes have been in your packet and have been there for your review. Are there any questions with regard to the acceptance for approval of the minutes of the July 11th meeting?

Secretary of State: No

Janet Traut: Mr. Chairman, I do have a couple of corrections here I made of people in attendance. My name actually is misspelled, it's Traut and it's different in some places and also under the Legislative Counsel Bureau the Senior Research Analyst is Fred Hoffecker and I think that name is spelled h-o-f-f-e-c-k-e-r. Substantively, it appears to me the minutes are a correct characterization of the last meeting.

Governor: Okay, I believe that we can make those changes as a part of the motion if there is a motion to approve these minutes and let me ask one question before we make that motion. If we approve the minutes of the previous meeting, there are some conclusions of law that are stated in there by the previous Attorney General. Are those conclusion binding on this group if approve of the minutes of that meeting?

Janet Traut: Mr. Chairman, I don't believe so that the statutes of Nevada would govern and how they were promulgated through the Legislature whether that...

Governor: So there's no binding affect on this?

Janet Traut: Correct. If there is a statement of law by the members of the Commission, it's not binding.

Governor: Thank you. Is there a motion to accept and approve the minutes of the July 11, 2006 minutes?

Geoff Dornan: Does the media count? Cy Ryan is with a C instead of an S and Vogel with a el instead of an al.

Governor: Okay, as long as we are making corrections we might as well make all the corrections on there. Alright, so the correct spelling of Cy Ryan is Cy Ryan and Ed Vogel as Vogel, those changes in additions to the other changes of misspelling and Mr. Hoffecker, with those changes is there a motion to approve the minutes.

Attorney General: I'll second it.

Governor: Approved and seconded. Are there any questions or comments on the motion hearing, hearing none, all those in favor signify by saying Aye.

Attorney General: Aye.

Secretary of State: Aye.

Governor: The motion is approved unanimously. We move to Agenda Item IV which is remarks from the Department of Corrections, Director Howard Skolnik. Welcome. Director, this is your first time before the Board as Director, this is our first time as Board members. We look forward to your testimony.

Director: Thank you Mr. Chairman. The Department is crowded. We are more than likely going to be putting inmates into the gym at Lovelock prior to the completion of the pre-engineer buildings in February. We probably will be doing that within the next couple of weeks.

Governor: How many prisoners will that be, do you know?

Director: We can put I think 130 into the gym so that should carry us until the new units are opened. We had our first class, the current pre-service training class includes officers for those units as soon as they are completed and a couple of them are ahead of schedule. The pressure will start to be relieved on the Department. As of yesterday, we were 249 inmates over the revised budgeted numbers.

Attorney General: Statewide?

Director: Statewide. If you recall during the end of the Legislative session, the Legislature put 6.3 million dollars into a contingency fund based on a population reduction that was anticipated from AB 510. We are overall, probably today, we are 250 inmates over that reduced budgeted number. So, we are going to be required to request more funding from that contingency fund during the course of the session. We are also incurring a substantial amount of overtime right now. Our Ely facility is shy of approximately 70 correctional officers. It's a combination of factors but the most significant factor is a lack of housing. There is no place for anybody to live up there. I have been working with an individual in Las Vegas, actually a couple of them, and we think we might be able to get low cost housing constructed in the Ely area, three bedroom, two bath, two car garage, utilities and filtered landscaping for under \$200,000 selling price which would allow our staff to start to own and would also increase the current into the community. But, because of that shortage, we have been asking for and seeking volunteers from our other institutions to go up there to work because you can't run the place 70 short, it's just not safe. That's costing us travel and overtime at this point. I feel that we could probably accommodate that within our existing budget. That's what our goal is, is to not require any additional funds to do that. I'm concerned. When the new units open my current goal is to convert High Desert with new central vacant positions in Ely down to High Desert to allow us to convert some of the units at High Desert to maximum security which would allow us to eliminate all of the double celling which is very staff intensive and difficult and dangerous and if need be, then shut down one or two of the units until we can get adequate staff up there. That's currently in the planning stages. We plan on going to the next IFC with those positions. I will also be going to be requesting the movement of three positions to Casa Grande as part of the population crisis I think is an appropriate word. It's hit us hardest in our women's population so I have taken one of the modules at Casa Grande and converted it to female. We currently have 23 women I believe in that facility and we intend to modify the requirements slightly for women and go to 50 women at Casa Grande. But, that requires additional staff because now we're running two totally separate populations which have to be kept apart and so we have been running a lot of overtime out of our Southern Nevada Correctional Center budget in order to move that extra demand. That will be resolved in the filling of those three positions down there.

The concern that I have that I thought briefly during IFC yesterday about it is the backup that we're going to get from AB 471. AB 471 changed the requirements for the Parole Board. It changed those requirements I believe in the last day or the second last day of the session without a fiscal note or any kind of impact testimony specific to it. What it's done, is it's expanded the time requirements for parole hearing from 12 minutes to 45 minutes. Now, the Board was hearing four months in advance so we have not yet seen a real impact in terms of that backup because the four months is just wrapping up. We expect that we're going to see a backup of about 800 inmates that is seen by the Board by the end of this calendar year. The Board received additional staffing though IFC yesterday and hopefully that will, if not resolve in reducing that in 471. I think that was a unforeseen consequence of 471 that's going to impact that population.

Secretary of State: Let me ask a question if I may interrupt you Director, under AB 471, the impact therefore is that there will a delay in a parole hearing for an individual?

Director: What's happened is that the time requirements, the Board did not require that testimony during their hearing. They are now and what's happened is that the hearing time length is substantially increased so they're not getting through all the hearings. They're hearing eight hours a day for five days a week and they've lost about 70 to 75 percent, maybe even 80 percent, of the hearings they could have conducted because of the additional time requirements.

Secretary of State: Okay.

Director: One of the things that we're working with the Board on is to try and prioritize those hearings. I'm not sure how the schedule is set but we're looking at that to see if we can fit the inmates who are most likely to be granted parole at the beginning of the schedule so that they are most likely to be seen. The video conferencing that was funded is not yet in place. We anticipate that about 80 percent of it will be in by January and that should help with out camp hearings and additionally speed things up. Again, it's not done yet.

Attorney General: Is it part of that 471 where notice to the inmate had the opportunity to be present?

Director: Right, whether or not they were going.

Attorney General: Exactly, so that has impacted the process.

Secretary of State: So without the video processing where they already name the requirement that they also be allowed to have a personal representative at the time to attend.

Director: They can bring a personal representative to the video conference. That's the Boards, that's not the Departments and I think that's something else that perhaps needs to be brought on the table. Throughout the Legislative session and beyond there seems to be this perception that the Department of Corrections is the Criminal Justice System and we are not the Criminal Justice System. We may be the engine of the State's part of the Criminal Justice System but the Legislature provides the fuel. We do exactly what we're expected to do as prescribed by the statutes. For example, as you are all aware we had an execution scheduled. That execution was stayed by the Supreme Court and briefs were filed. It is my understanding that the brief filed by the ACLU criticized my lack of discretionary action to stop that execution. I didn't have any discretionary action. We had a lawful writ from the court to execute and that's what we have to do until otherwise told. Again, there's a perception and I'm not sure where it's coming from that we have control over who comes in, how long they stay and when they get out. All we have control over is what happens to them while they're in our custody. I feel very strongly that that needs to be out there. Everybody needs to understand that, that we don't control the population at all. We have asked that the reentry center for women be looked at as possibly deferring construction of that. We can't fill Casa Grande without changing the criteria. We can't fill 50 beds for women at Casa Grande. To build another 100 beds to solve the crisis just doesn't make any sense to us so we've requested that be looked at. That was to be 100 bed facility and as I indicated earlier, we've identified 50 beds at Casa Grande for females.

We will, when Eagles Nest is constructed, identify 25 beds that will be constructed specifically for females at that facility. I'm not even sure we can fill 75 of those beds today but eventually we will so we might as well go with that analysis. Eagles Nest is being built for us and not by State funds. Another major change that's made in the Department as of January 1st, we will be eliminating 12-hour shifts at all of our locations except for Lovelock and Ely. We were funded, but we're budgeted for 8-hour shifts. I was not involved in the conversion of 12-hour shifts so I'm not sure exactly what the rationale behind all of that was. I've been working with our employees. I've been holding town hall meetings with staff to explain why. We feel that if we report as much as 20 percent more staff in the institution when we need them it should clearly reduce overtime. I've asked the National Institute of Corrections to come in and do an evaluation of that change to make sure that in fact it does what we think it's going to do. If it doesn't, we would consider going back to the 12 hours because a lot of staff like 12 hours. Candidly, and I don't make good decisions after 12 hours and I'm not in the kind of stress that somebody in an institution is on an hourly basis so I made the decision to do that realistically not for money and not for overtime and not for the people but strictly for safety. I think that staff will see this as a risk when they are tired and I don't want staff doing this. I've done that in previous jobs and it's not fun. That's basically it. I think we're doing well. I'm very, very pleased with our executive staff. They not only seem to work together well but they actually seem to have fun with each other and that's a good sign. Any questions?

Governor: Well no, not from you Director. I just want to give you a high mark of approval for some of your wardens which when I visited the majority of facilities that we have out there recently it looked like the operations were being conducted in a very professional, very fair, very positive environment.

Director: I will pass that on.

Governor: and especially at your Ely facility. I know they're understaffed but I think they were doing a marvelous job and I'm very pleased with the warden out there and his ability to manage the situations under some pretty challenging situations with being 70 under staffed

Director: We have a truly amazing staff that is very dedicated and I could not be prouder to work anywhere else.

Governor: I think that shows and it was very evident on my visits so please relay to them my appreciation for what they are doing right now.

Governor: Any other comments?

Attorney General: Howard, it seems to me you've talked about this about the possible increase in the female prison population over the years. Do you have statistics that we can look at to compare to show that there is an increase and having looked at it in the future to make a determination in what our needs are going to be for that female population that's increasing?

Director: Yes, it's a national phenomena, it's not local to Nevada. We built the women's prison in North Las Vegas. It was opened in '95. It was built with 500 beds but it was opened as a 400 bed facility. When I joined the Department in 1987 we had 80 women in the system. Today we have over a thousand. That includes our two camps but the female population is really exploding on us. I started to bid on the construction, future construction. We've got four 240 bed pre-engineer buildings that should all be coming on line somewhere around February. Some may even be in January. I am extremely pleased with both the Public Works Board and with the contractors. They've just done an enormous job of getting these things done not on schedule but ahead of schedule. We have 300 beds that are being constructed at the prison in North Las Vegas. We have approximately 1,400 new beds that are under construction at High Desert State Prison. We have Prison 8 which has been designated and the planning on it is being designed now. We've relocated that, it was suppose to be up the hill from High Desert but we moved it to the low High Desert for a couple of reasons which I'll get into. I have asked that prison and all future construction be held to 1,500 beds. One of things that we've done that has not been smart has been that we've shoved beds into our existing infrastructure. Southern Desert Correctional Center was originally built to potentially top to 650 or 750 inmates. We had 1,699 inmates when I was there earlier this week. The school, the laundry, the kitchen, the culinary, all of the physical, the infirmary, were all still built for 650 inmates. It's taking a toll physically on the infrastructure. We just blew up a \$90,000 dishwasher. We're not washing dishes for 650; we were really washing for 1,700. So, future planning needs to look at not just bed space but program space and infrastructure and everything else. The other thing is that historically, for whatever reason, we have staffed the administration for all of our prisons the same. It doesn't work, it really doesn't. So I've asked that all prisons be limited to 1,500 beds. So Prison 8 would be a 1,500 bed facility with half of the addition a Regional Medical Center and I've also have asked for an execution chambers as part of the construction of that prison. The old part of NSP is rapidly deteriorating and it's becoming very costly effective to keep it running. I suspect that within the next few years it's going to have to be closed, it's too old. I have to have some place for executions because I'm confident that the Supreme Court is not going to rule executions are cruel and unusual since they've already done the opposite in the past. So that part of the prison could be moved. I did ask that Prison 9 be built up and above and the reason is that I would like that I would like that to be built at the women's prison. So we would have 1,500 beds for female prisoners which would allow us to convert the current women's prison to intake and geriatrics. If you tour that prison you know that basically it's on flood hill so it's flat. We have no place for our geriatric population and in our State Life Without Parole means that you ill die in prison of old age so we need to start planning for that group to get older and older and it is. We're already seeing an increase in 50 and above. We will continue to see them in prison which is going to also impact the State's intensive medical expenses down the road. We're looking at getting that population in town, closer to hospitals and medical caregivers to reduce the process of the (inaudible). We asked basically for a long term over the next ten year plan for us.

Secretary of State: After reviewing the minutes from the Advisory Commission it looks like there was a discussion over beds involving the 276 million dollars that was appropriated during the biennium for construction projects and a discussion as to the cost of housing and the boot camps and the other associated camps that obviously are being looked at a lower cost of housing for each individual offender. With what thought or what plans have been put in place to try to bolster the construction of those types of projects?

Director: We have empty beds and I have met with security facilities right now because the population is very minimal who qualifies for those beds. The Legislature expanded the statutory ability to put into those facilities. I have chosen to not go in good line staff simply because I don't want sex offenders and violent offenders in the community. All we need is one incident and we will lose all of the programming. So, we've been very, very selective about who we want who we want to consider from those two groups that would go into a lower security setting. We have approximately 100 empty beds right now at Warm Springs which we're looking at possibly splitting into two facilities and putting some medium inmates and we will extend our medium beds. But, our growth and the population that we're getting today is a more violent population than we've had in the past and we do have expansion scheduled for the Indian Springs Conservation Camp. We've got another camp that is scheduled to duplicate the Jean Conservation Camp which I think we'll move to Indian Springs. It's conceivable that somewhere in the next 15 years some other Director would chose to close the Southern Nevada Correctional Center then land will become incredibly valuable and I'd advise them to do it and we could probably sell that land to both prisons at Indian Springs, that could be looked at actually. We're revisiting the entire planning process through the Indian Springs (inaudible). Any further expansion beyond what is currently on the table for a minimum security population, a fact that I think is not a wise thing to do. I think that's how we got into this trouble in the first place. To be perfectly honest, the previous administration chose to go soft beds to change the general class here at the Department and as result we are seriously lacking the beds we need today.

Secretary of State: How much space is there in the boot camp?

Director: We've got 105 inmates in there and if the Fire Marshall comes in we would be back down to 80.

Governor: That just made the press.

Director: I know that. I none less thought it would be better to tell the truth. We have actually sent a good amount to the jurisdictions around the State as we would be announcing they are boot campers that we can't take them right now. We're at capacity. This might be the first time since I've been in Nevada that we've been at capacity. I think that the Advisory Commission on the Administration of Justice raised an issue and we gathered the reports and we saw a substantial increase in the utilization of boot camps. But, remember that maybe if we were Probation, whether we're getting people that might otherwise had been placed on probation are now being sent to boot camp as opposed to people who were going to go to prison.

Secretary of State: Does that mean in lieu revocation in some cases. Right? It could be in lieu of probation in other cases?

Director: It should not be. In my understanding it should not be in lieu of probation revocations.

Secretary of State: Statutorily, that was one of the areas that they wanted to explore comprising the Advisory Commission and I guess we'll hear it.

Director: Right. We are expanding. The expanding of the boot camp is part of the expansion of the Indian Springs Conservation Camp. We will be seeing more beds there when that construction is completed.

Secretary of State: Is that the lower cost construction?

Director: It's lower cost than a medium and maximum security bed but unfortunately today there is really no lower cost construction in business. I think we're paying \$250 a square footing.

Secretary of State: But it's still \$250,000 an inmate. Is that about right, a bed?

Director: I think we're close to that.

Governor: Any other comments or questions? Thank you very much Director, I appreciate that. I move now to Agenda Item V, Report on the Advisory Commission on the Administration of Justice, the Honorable James Hardesty, Chief Justice, comment on the Advisory Commission.

Justice Hardesty: Governor and members of the Commissioners, how are you today? In the interest of time, I want to skip through some of this material because I believe you are familiar with it. I am sure you have the minutes of the July 24th and the September 12th meetings distributed to you already and that's part of this packet so let me just highlight a couple of things in this Power Point. First of all as you know the Advisory Sentencing Commission was created in AB 508. It modified the original Advisory Sentencing Commission that was created back in the mid-90's when the Truth in Sentencing legislation was adopted. Unfortunately, that Advisory Sentencing Commission had been and only met on three occasions for its nominal recommendations which was inconsistent with the plans of Truth in Sentencing with the development in the mid-90's. The purpose of the Commission at that time was to evaluate the effectiveness of the Truth in Sentencing scope of legislation that the Legislature passed. In the mid-90's when unfortunately, no evaluation occurred and as a consequence a perfect storm developed to the Nevada Department of Corrections. I think the specific downfall of the Commission has been re-tooled and modified in the 2007 session. I've given you the list is the membership of the Commission and the next two pages should you wish to have access to it and you should be welcomed and encouraged to call any Commissioner member with any comments or thoughts or suggestions. The next page it shows the scope of the work that we are doing to this Board as it relates to what the Commission is doing. In NRS 176.0125, subparagraph 1 requires that the Commission study our State's system of Criminal Justice for sentences imposed for felonies and gross misdemeanors, and on the next page, subparagraph 4 was added that requires the Commission to study the effectiveness and efficiency of the Department of Corrections' policies for the operation, budget and related matters. We've had three meeting thus far one on July 24th, one on September 12th, one on October 30th. You have the minutes for the 24th and the 12th. I did read the agenda for the 30th and highlighted the copy of the points from that meeting. We have also scheduled a follow up meetings for December 10th and January 3rd.

The 10th will be a half day session and the 3rd will be an all day session. I wanted to share with you some slides that were provided by the Director at the July 24th meeting. These were identified as critical issues facing the Nevada Department of Corrections. The first that they identified was staffing and of course the length of this was July 23rd but at that time, the Department was challenged with and I guess they're still challenged with hiring and training 439.5 new staff including 254 uniformed staff. There's insufficient support staff for maintenance, culinary, and clerical and one of things that we've learned during the course of the October 30th meeting that there was some confusion about the effect of the hiring freeze and that affected I.T. people but I think that since has straighten out through the Cabinet. The Executive Branch audit concluded that the current 1.6 relief factor for officers should be adjusted to 1.82. That would require 264 additional officers which are not in the budget at all. I think that the illustration of how that staff is over-stressed is a concern both from the work, safety, and overtime costs. The next page shows the issue containing the facility maintenance. The Director reviewed with an example today about the dishwasher that blew up. It's actually a much broader problem than that. The additional housing units with additional infrastructure are causing issues to facilities. There's wear and tear and there isn't sufficient funds in the budget to accommodate the immediate maintenance concerns throughout the entire prison system. Fiscal Year 06 funded 46 replacement vehicles, not the 96 that were required. Since Fiscal Year 06 an additional 20 vehicles should have been replaced but none have been funded and the Nevada Department of Corrections is running out of vehicles. The equipment in the last four years in the Nevada Department of Corrections has not received any significant equipment replacement. Their funding, their available replacement were worn out or broken and additional elements is putting stress on other equipment whether it be a dishwasher, there are lots of things that get impact from this.

The next page is a page from the presentation from July 24th as you all know NOTIS a bigger problem frankly throughout a portion of summer. Then on the first page, it gives you at the time the concern in having the staff trained and integrating the system. The fact of the matter is the system crashed for most of the summer and the old system did when they were trying to convert it. The consequence of this is that the Advisory Commission and the Council of the State Government and Dr. Austin had difficulty, not in providing cooperation, but in difficulty in obtaining the necessary data and then evaluating some these issues and effects of AB 510.

Governor: Justice let me state that the I.T. problem was generated by the requirements set forth by the Legislature and in many of these cases it was not necessarily a problem with the system but with the requirements in the software that wasn't geared to adjust the issues that the Legislature required. Director Skolnik I don't know if you have anything to add to that?

Director: No, I don't have anything to say.

Governor: So I want to make sure that what you're telling this Board is factually relevant to what we're seeing here in this chart.

Justice Hardesty: Well, the Advisory Commission hasn't attempted to determine who caused the problem, but rather to identify the problem and point out its consequences and my point is, is that what we're dealing with and I think what the State is dealing with and what I think what the Director is dealing with, is the consequences of that problem.

Governor: And that consequence was not due to poor maintenance of a system but the requirements that were established by the Legislature which changed the input data which was unable to be handled by the software system as a result so I understand that and the system crashing this summer was not due to poor maintenance, it was due to the requirements that were dictated by the Legislature.

Justice Hardesty: My comment isn't intended as critical to the Department or the effort they've made to make it to happen.

Governor: Okay.

Justice Hardesty: We're very clear, we don't doubt that. The Director and his staff have testified before the Commission about the extraordinary efforts they've made to bring it on line. We don't doubt that. It's just the consequence and it had a rather serious impact I think with being able to manage the system. As you know AB 510 was adopted. It has its goals for reduction in the State's parole population. We have less violators sent to prison but also it was sought to increase the parole eligibility of inmates with potential reduction in the prison population. The Council of State Government has developed a tracking mechanism through the affect of AB 510 which I've included in these packets. If you would take a look at the booklet that looks like this, it's called Justice Center, The Council of State Government with the intent that it supplies to the Advisory Commissioners' this last meeting on October 30th and this handout shows and identifies the tracking data that has been developed by the Council of State Government. Then it shows some tracking data for the prisons about the 4th page down in the handout. I think that it is worthwhile to look at that page because it shows that the year of 2007, January to October, the beginning and ending prison population as compared to the 2007 projections that we use for budgetary purposes. I would also direct your attention to the item that we made a request on which has to do with "What is the Category", the felony category of the inmate of the inmate driven improves. In fact, you might find this as information as the Commission certainly did and if it helps us in evaluating some other issues that the Commission is looking at which has to do with the sentencing structure of our State. As you can see about the end of October, 7,900 of the 13,400 inmates were Category B felons. The question, however, is how many of those Category B felons imposed with these sentences (inaudible) and this impacts by the way the length of stay. As the Commission has known our State has probably the highest in the length of stay than most states in the country by an average by at least a year and a half. This directly impacts the fiscal impact. So the question or one of the questions of the Commission is evaluating, is the sentencing structure and further punishment prescribed in the statute duly fits the crime? In some instances nobody can argue that, and in other instances it may not be. At the last meeting we could see the extensive presentation from the Public Defenders Association visiting some 18 changes that they suggest to the length of sentencing structure of the State. It had a direct impact on who had been sent to prison. I also wanted to mention one other brief problem in the topic of AB 510. The Director mentioned to you that I think is a serious problem, I actually think it is more serious problem than that. If you take a look at the handout two pages later in my Power Point there is a summary of the report provided by the Director to the Commission concerning the number of individuals who had already been granted parole.

We're not talking about the 800 people that are backed-up waiting for hearings under AB 471 to determine whether they were granted parole what we're talking about in this instance on this sheet over 500 inmates who've already been granted parole and I submit that since September 12th that number has grown. The concern then actually two fold. One, you have a number of inmates who've been granted parole eligibility, that is the right to seek parole eligibility, and you have that group, but you are also housing over 500 inmates yet higher inmates who've been manageable, have the right to walk out of the prison if they have a managing plan in place and the biggest defect that we're facing right now that the Commissioners noticed is a lack of transitioning those people out of the prison and into the community who've been granted parole. Now those people Commissioners are costing this State money. It costs to house them.

Secretary of State: How is that?

Justice Hardesty: What we're expecting to receive at the December 10th meeting of the Commission is a presentation by Mark Woods as to why this is so, what is the source of the problem. What we've asked him to do is to tell us, why is it that we have five, six, seven hundred inmates who've been granted parole and they're not out. There are some explanations. The inmate gave a false address at the time that they saw the Parole Board and the address doesn't exist where they are going to live. That is not the majority of cases. We suspect that the largest problem is the lack of facilities for treatment to meet the conditions of parole to the community. That is a broader problem that the Commission is trying to understand and the court is the access and availability of necessary treatment facilities to deal with those issues. There is a subpart to this that is very critical I think for the Commission to report on and that is that a number of inmates have had conditions of parole before them, for example inpatient treatment that they do not even need inpatient treatment and that gets to the quality control dealing with the risk assessment when parole is granted. That's a whole separate topic that the Commission discovered but it has to do with whether or not the risk assessments have adequate following control to determine what recommendations are going in front of the Parole Board. Now the Department of Corrections has worked very closely with the Parole Board on this issue and I'm pleased to tell you that the Parole Board has worked very hard in changing these guidelines that it's improved the risk assessment's approach to, but it is a very serious problem. I guess my fundamental point is that there are a combination of people in prison who have been granted parole and ought to be out and people who are parole eligible and can't be heard. The State is losing a very unique opportunity to substantially and significantly reduce its prison population and not by just a few hundred people, this is by more than thousand, probably approaching two thousand and by the way this occurs at a rather interesting time in the progression of our prison population. If you go back to the prison data that is presented, you'll note that in January our prison population is 13,186 and in October it was 13,406. That's only a growth of 120 inmates during that period of time most of the summer appeared pretty flat. I'm hoping that in someway we can as a State seize the moment and figure out, this isn't just a bubble, this is a real potential that needs to be addressed and we have by the way dramatic downstream impacts on the prison's ability to operate with the amount of funds available to which to deal with some of the funds and to preserve but I'm very concerned about to preserve the negotiated saving amount that could be used for alternate programs that would assist in providing treatment so that you can get these folks going. I know some of this is outside the scope of this Commission but I think that everybody has to understand the law and conditions of it.

The last handout I wanted to refer to is one that was given to the Commission on the 30th of October by the Director and this one is called NDOC Facilities, Programs and Enrollment. There again a request made by the Commission of the Director is to identify just how many programs there are within the institutions and how many folks are participating. In summary, Mr. Skolnik found that some 8,000 of the inmates are participating although there's some processing in these numerous programs that are being conducted within the prison system. Now that's the good news. The bad news is from my point of view, characterizing as such, is regimental discipline, is it being set up at the boot camp? Boot camp is an effective program. The inmates are slightly more impressive than its regular incarceration but very effective. But you only have 105 folks in there and the Director is always evaluating the (inaudible). The point is that are we legalizing the funds within our budget in the best way possible to expand these programs. We can make a dramatic impact on the prison population. If we direct our budget resources towards some of these programs we could have a downstream impact on the recidivism rate and to that extent the prison does have impact on the future population. I wholeheartedly endorse the Governor's comments about Mr. Skolnik. Talented, kind, occasionally funny and he is doing a really outstanding job. I think that he has been very forthright with the Commission, data to the Commission to make all of this work. The Commission has several topics it's weighting in on. We're not done with Mr. Skolnik yet. Hopefully, we will be able to produce a number of recommendations to deal with this. I would just say to this Commission if there is anyway, anyway that collective good minds come up with a way we could figure out how to get this bubble out of the prisons and impact upon that Department's budget and this State's budget that we have. Any questions Governor?

Governor: Justice Hardesty thank you very much for the presentation and the information. All of us are sort of standing here with our jaw hanging out looking at the numbers and the presentations that you've made and we certainly appreciate the time you've taken and to represent the advocacy's group for these issues. I know that we're going to be looking at our roles and how we can assist in that just as you're presenting it from your review and how we review this as well. We are certainly very grateful for your time here today.

Secretary of State: Obviously the Commission is not done with this work and will eventually come up with recommendations, is there timeline for that when you expect that to done?

Justice Hardesty: Yes, we are required to initiate a report by September 1, 2008. The Department of Corrections' issues I would think that the report would cover everything this Commission finds out but my purposes of what the topics for the December 10th meeting were prioritized which I would make a report on of course. I would think that the highest priority would begin with the effects of AB 510 but I also think that from my own personal point of view, I don't speak for the Commission who haven't acted yet, but the next highest priority would be dealing with certain prison operations and budget issues. I think that's a vital area. I also think that another topic which this Board and Mr. Skolnik has to directly deal with is the reentry statutes. Frankly, it had been suggested the failure of the reentry statutes be amended to improve the capability of the Department of Corrections to determine its back to the Drug Courts and specialty courts for programs.

Those statutes didn't get fully amended and I think that that makes the current problems so that the Director has as many (inaudible) preferably to deal with releasing people to go back to the specialty courts. Some of you know I show you the statistics where the reentry drug court in Clark County has (Inaudible) I think the other area and Mr. Skolnik has said this and Mr. Whorton before him, the idea of the Department and this sentencing component is a huge issue. I've met with the Attorney General's Association, the District Attorney's Association and Public Defenders across the State and all their differences of opinion on some aspects and I think everybody agrees that some major changes are appropriate in some of the sentencing legislation in the State which would directly impact the front board of the prisons and I would hope that would be a priority before the Commissioners.

Governor: Which may be beyond the scope of this Board.

Secretary of State: Did you mention that possibly we had what you called a "bubble" and we are in sort of a critical point being in addressing that problem? What recommendations do you have at this point from the operations of a budgetary side that you've seen and when you will report those issues and be able to address it?

Justice Hardesty: Well, the Interim Finance Committee there is no authorized addition in funding in the Parole Board to try to help the process for parole eligibility hearings but quite frankly, even if that helps and I don't think that that is the right approach but only from the standpoint that I think there is a quicker, less expensive approach and that would have been to change the configuration of the parole statutes. We have a structural problem with the parole statutes and the structural problem is that the Parole Commissioners, seven of them, the majority must vote for parole and so you could allow those Commissioners to move in panels with hearing officers you would not have the (inaudible) that requires them to do to that statute.

The second problem that I would mention is that none of this going to do the Department of Corrections any good at all yet if you don't address the Probation Department's releases and I have a genuine concern about the Probation Department's staffing ability to be able to handle this number of folks and put in place in the parole plan so that these folks can get a release. This is not a new process there. The staff person in the Parole & Probation Department looks at the conditions of probation and says okay you said that you're going to live at 214 Henderson Street in Reno. They have to go out, verify that and verify that the people living are willing to receive them. If it's an inpatient program that's a completely separate problem and if there no beds in the inpatient program, by the way, there are serious insufficiencies in the number of inpatient beds in the State. If there are mental health supervision problems, there are serious problems there as well. So, the inadequacy of those resources is backing all of this up. So, even though the Parole Board says okay we have a whole other group of folks that can be released on parole, all you have done is added to your inventory of the people we've got right now and not getting out and so I think that the Commission needs to talk to the Probation Department and by the way, Chief Gonska is doing a wonderful job and this is just a suggestion not criticism of his effort. He strikes me as the soldier who would say "I'll die on any field" and I think he means it and I guess believe him when he says it but there is just a practical problem.

You can't dump 4 or 5, 600 parole eligible people on a department who have to go locate residences, set up treatment plans and the like so they can get out. I am very concerned about the (inaudible). I think we're simply getting a better understanding of that and I hope that the Commission will have a better understanding when Mark Woods and Chief Gonska give us a detailed report on December 10th and I will share that with you that's when we will get the documents but the Board and that Director have a whole bunch of folks that they could get rid of. I think these we will put in place.

Secretary of State: I think given the situation as you've explained it and what the Director explains as a crisis and how would you access this Board's historical duties in meeting the statutory obligations as the Board of Prisoners?

Justice Hardesty: I'm sure glad to see the three of you and I know that if everybody from this Board know where the issues of the two other Boards should just stay in the light but I really think that this Board can do a lot even without banking the Legislature and you've got a great Director and you ought to let him give you some suggestions.

Secretary of State: I agree.

Governor: Any other questions? Comments? Justice Hardesty thanks very much. We move now to Agenda Item VI which is remarks from the members of the Board of State Prison Commission. Any Remarks?

Secretary of State: I just want to add briefly I know the Governor outlined our constitutional obligations¹, our statutory obligations are outlined in Chapter 209 and in there is a whole slue of statutes that dictate what the Board of Prison's responsibilities are and beginning with NRS 209.101 where it says "the Department of Corrections is hereby created; the head of the Department is the Board of State Prison Commissioners". It goes on to establish the Director so that it should be appointed to the Governor and responsible for the Board. In there is a whole slue of duties and obligations obviously that are set forth as part of the statutory requirements and I would just make a case that we have got to be as diligent as we can given the current situation in the prison system to make sure that we're following those obligations and I'll give you one as part of it as an example and that is NRS 209.382 mandates that the State Health Officer shall periodically examine and shall report to the Board semiannually upon the following operations of the Department. It goes on to explain that we are to get a semiannual report of medical and dental services and the nutrition adequacy of the diets of the prisoners and then it says that the Board shall take appropriate action to remedy any of these deficiencies reported pursuant to the subsection. You know I think obviously all of the obligations are important but you know you can't understate the importance of any particular obligation given the fact that in the minutes as from the Commission itself. At least one of the members that that issue in particular may be an issue for the litigation in the future. Dr. Siegel from the ACLU indicated that he thought the issue of adequate medical and mental health services mandates with an issue that they may litigate and then Director Skolnik I think gave an appropriate response that he was working cooperatively with the ACLU. I would just hate to see that type of situation arise where we get ourselves in a litigation physically named as a Board for not performing obligations. I know we can be named but I just want to make sure it was still in our statutory obligations. Okay?

Governor: Any other comments? Being none we move to public comment.

Pat Hines: I'm Pat Hines and I'm married and from Nevada. I am the mother of son who is has been incarcerated in the Department of Corrections for several years, in and out. Before I start on some of the issues that I would like to bring up today, I would like to say that it is very difficult for people like me to hear a meeting like this without a microphone in the room. I missed probably three-fourths of the meeting today. I moved from over here to here because it was a little bit better so I would really like to recommend that there be a microphone here that you won't have a lot of public people for public comment but even if people who were listening I think would prefer a microphone and the other thing is I could not find any posted notices of this meeting and I don't know if that's the part of the Open Meeting Law or not but I found out about it only yesterday. So there wasn't any opportunity for anyone else, probably besides me, who know that this meeting was listed so I felt a big weight on my shoulders today to bring out some of these things. One of the things that I know Director Skolnik was very concerned about security in his prisons and I'm not sure if it's too much to ask for schools and of other things like programs. If there is anything this Commission can do to help us get more programs in the units. I would certainly like to recommend that you do that and one of the places I think that really need to be worked on is programs besides the Anger Management and things like that but there is three large programs that could be built on and the basic tools and essentials are there. One is access to the Law Libraries by the inmates. Everybody needs to have access to the Law Libraries and they think "oh, that's just so they want to do all this frivolous litigation". I think the Law Library is tying in with education which we are not doing enough of work at the post high school level within our prisons here. Law Libraries are a great means of education. I've talked with some inmates who learn to read and better their reading abilities simply because they would go to the Law Library so that means that survival in their cell or on the yard. So, Law Libraries is interacting thing you can look at. The libraries are already there, the books are already there, there are computers in there. Our last Director thought that inmates should not have any access at all to computers. I'm here to tell you that my son gained improvement and he found his life's work in Jean because he worked for the school district. He learned computers very quickly and it's taught at Jean in the computers there and unfortunately when he was out on parole the Parole Board saw that he should not be using computers as it turns out so he had to change his whole entire career and occupation. Computers in the Law Library work very good but for people to be able to sign up to do their litigations or write reports but they need to have access to that Law Library. Now to get a certain book from the library you have to put in a request for it. Sometimes you get it within a couple of days; sometimes you don't get it within a couple of weeks. Same thing for copies of their paperwork, there's such a delay the way that it's working out. It was better when the inmates could go to the Law Library themselves. I just would like to see this Commission and this, with the support and recommendation of this Commission that the ACAJ look into Law Libraries that we have some research done by our LCB Research team. Find out what's happening here and other states. Other states, most of them have law libraries with their inmates having access to it more than we do. I won't elaborate any more on that but education as I said we need a full time school education in our prisons.

The other area that I'm really concerned about in programs, and plus the fact that the criminal criteria that my son has, is I think our sex offender education is because of lack of staff and I don't know what else reasons there are but the programs are deteriorating and that's an area that I think education and programs needs to improve upon. The last one that I have under programs is inmates put to work. Colorado has less than 3 percent of their inmates that do not work. If they can do it why can't you do it? I don't know if it's something that needs to be looked into and researched but I certainly think that those three things would help keep the inmates from being as idle as some of them are, by choice for some of them, but I would like to believe not by most. I'm very concerned about the Department having to do these credits by hand. I would like to ask this Commission to do anything in your power to help them get the manpower they need to get these credits taken care of and let these people out of there because there's another area that some of the advocates brought up in the last Legislative Session about credits from 1985 to 1997 that was suppose to be, in their words, "a lot of increase in the amount of credits they got for more meritorious credits and educational credits". I am getting a lot of letters from inmates saying "well it's great that they're helping out the C, D and E categories and getting them out but I have over 200 credits earned and I have not yet to get my first ones documented". So I don't know. I listen to the inmates but when you get anywhere from ten to fifteen telling you the same thing I think it's time for an investigation so anything you can do to get temporary help for these people to be able to get the credits and move forward, then there is no catch up with the tools that there are now. I didn't hear much from Mr. Skolnik on programs and I probably didn't really expect to hear but I really hope that he can do something in that area.

Mr. Hardesty spoke about the inadequacies of resources with P&P. I was under the impression in the Legislature that they were going to try to get social workers to work with the parolees when they got out. If they got out with a little bit more money that they could use to help themselves it would be helpful that's why I brought up the work issue. I think social workers could help them get out of the deep end, their social security cards and things, if they were back in the prisons. We use to have Street Readiness in the prisons for people about ready to get out that was run by P&P. Not only does P&P need to be in there to work with these inmates' potential literacy but they need to be in there to afford them lists where to get housing. They're going to go from there to here. This type of thing when they get out, they can't get out with \$25.00 and be expected to do this and particularly if they're in a drug or sexist program if they have to pay for it. It's no wonder our Drug Courts aren't full, I mean, you expect these inmates to get out and pay for all of this stuff. My son pays \$45.00 a week for a mandatory counseling, not of his choosing, on the outside in the community. \$45.00 a week is a lot when you have to get out and work at minimum wage, or a little above, so I think the social worker aspect for P&P is good. They need more manpower, they need better trained probation officers and they need these probation officers to be more assessable to the people that they're suppose to be supervising and I really think that maybe it's time for Commissions like yours or if everyone in the Criminal Justice State system if we could afford them to tour DOC. When I investigated in 2001, Nevada and Kansas were the only two states their P&P, Pardons Board, Parole Board and Correction's facilities were not all under one umbrella. I'm sure we could get better coordination and communication. If there were only two states there, I don't know if Kansas has changed now but we certainly haven't done anything to improve coordination or communications among our correctional facilities.

Another area that concerns me and probably the one as an advocate for inmates that I get the most on is the medical care. I know how I would enlist all over the country, not only in business in mental health agencies but in the community to get the right kind of people, but, if we can't get people in the prisons then prisons need to take some of these medical problems out to the community and the State needs to pay for it. One other area that I'd like your help on and I don't know if you're aware of the situation or not, is the phone system that's in the prison system. We're in caucus right now with an RFP out for the contract on the inmate initiated phone calls. I don't know if you're aware or not but our State gets a 52 percent commission from the service provider because they ask for it and they get it. I know of fourteen states right now that are in the process of eliminating this commission completely. If our State wants to make a revenue source making it off the backs of families of inmates is not the place to do it. The Parole Board is improving things by the State and yet clearly, and you can correct me if I'm wrong, but the money that comes here off of this commission from the phone contract is over three million dollars the last few years, a year, and I understand that money doesn't go directly to the prisons, I don't know where it goes. I think it goes into the Inmate Welfare Fund and the Offender Store fund and if some of out of there could cover up medical, library expenses, recreational expenses, if that's what it's used for and I don't know if the Director has some kind of an input on where it goes or not but in the budgets, you don't see these things. But, three million dollars made off the backs of these family members as a revenue, that's a double taxation for us. So, I would like you to consider that. I think I've said enough.

Governor: Any questions? Thank you, Mrs. Hines. Any other public comments? Hearing none we move to final action Item which is adjournment. Is there a motion to adjourn?

Attorney General: Motion to adjourn.

Secretary of State: Second.

Governor: Seconded. All those in favor signify by saying Aye.

Attorney General: Aye.

Secretary of State: Aye.

Governor: Passed unanimously. The first Board of State Prison Commissioners is adjourned. Thank you.

Meeting adjourned 11:55 a.m.

APPROVED THIS DAY 23rd, MONTH OF JANUARY 2008

BY:

GOVERNOR JIM GIBBONS

ATTORNEY GENERAL CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER

Recorded and Transcribed by Susan Cochran
Executive Assistant to the Director
Nevada Department of Corrections