

**MINUTES OF THE
JOINT MEETING OF THE ASSEMBLY COMMITTEE ON WAYS AND MEANS
AND THE
SENATE COMMITTEE ON FINANCE**

**Seventy-Fourth Session
April 17, 2007**

The Joint Assembly Committee on Ways and Means and the Senate Committee on Finance was called to order by Chair Morse Arberry Jr. at 7:38 a.m., on Tuesday, April 17, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblyman Morse Arberry Jr., Chair
Assemblywoman Sheila Leslie
Assemblywoman Barbara E. Buckley
Assemblyman Mo Denis
Assemblywoman Heidi S. Gansert
Assemblyman Tom Grady
Assemblyman Joseph P. (Joe) Hardy
Assemblyman Joseph Hogan
Assemblywoman Ellen Koivisto
Assemblyman John W. Marvel
Assemblywoman Kathy McClain
Assemblyman David R. Parks
Assemblywoman Debbie Smith
Assemblywoman Valerie E. Weber

SENATE COMMITTEE MEMBERS PRESENT:

Senator William J. Raggio, Chair
Senator Bob Beers
Senator Dean A. Rhoads
Senator Barbara K. Cegavske
Senator Bob Coffin
Senator Dina Titus
Senator Bernice Mathews

GUEST LEGISLATORS PRESENT:

Assemblyman Bernie Anderson, Washoe Assembly District No. 31



STAFF MEMBERS PRESENT:

Mark W. Stevens, Assembly Fiscal Analyst
Gary Ghiggeri, Senate Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst, Assembly
Larry Peri, Principal Deputy Fiscal Analyst, Senate
Tracy Raxter, Senior Program Analyst
Carol Thomsen, Committee Secretary
Patricia Adams, Committee Assistant

Chairman Arberry stated that the Committee would hear a presentation from representatives of the Justice Center of the Council on State Governments (CSG). Chairman Arberry asked representatives to come forward and address the Committee.

Michael Thompson, Director, Justice Center, CSG, explained that the Justice Center was asked to develop recommendations for policymakers in Nevada about ways to increase public safety and generate a savings in the cost of prisons in the State.

Mr. Thompson informed the Committee that the presentation included three sections. He would first provide an overview of the CSG, and the action other states were taking across the country to pursue justice reinvestment strategies. Mr. Thompson indicated that the following persons would also present information to the Committee: James Austin, Ph.D., President, JFA Institute, who was a nationally-known expert on corrections policies and management of prison populations; and Fred Osher, M.D., a psychiatrist and nationally known expert on people with co-occurring mental health and substance abuse disorders. Dr. Osher was the Director of Health Systems and Services Policy at the CSG and would present information about behavioral health care, its accessibility and effectiveness in Nevada and its relationship to the recommendations provided by Dr. Austin.

Mr. Thompson stated that it was an honor to appear before the Committee that would decide the future of Nevada's spending practices going forward in the corrections arena.

By way of background, Mr. Thompson explained that the CSG had enjoyed an excellent relationship with the state of Nevada over the years. Historically, the CSG was pleased to have had former Assemblyman Lynn Hettrick serve as its past president, and to have Assemblywoman Sheila Leslie currently serving as a member of the CSG's Health Capacity Task Force.

Mr. Thompson explained that the CSG was a membership association similar to the National Governors Association or the National Conference of State Legislatures. The CSG was a nonpartisan, nonprofit organization that collected dues from each state for membership.

Mr. Thompson stated that the Executive Director of the CSG's Western Region would be upset should he fail to mention that the annual meeting for the Western Region would be held during the summer of 2007 in Jackson Hole, Wyoming, and the director hoped that many of Nevada's legislators could attend.

According to Mr. Thompson, the Justice Center was the criminal justice policy hub for the CSG. The Justice Center was working on two projects: (1) prisoner reentry; and, (2) mental health and the record number of people with mental illness who had been incarcerated in prisons and jails. Mr. Thompson indicated that the Los Angeles, California, county jail was now the largest mental hospital in the country, because it held more people suffering from mental illness than any other facility.

Mr. Thompson explained that the prisoner reentry project was funded by the Department of Justice and private foundations. The Reentry Policy Council had been endorsed by former Attorney General John Ashcroft and Senator Ted Kennedy, which was an indication of the bipartisan spectrum that was often spanned by the CSG when working on projects.

Mr. Thompson indicated that the focus of the presentation before the Committee would be justice reinvestment. The Justice Reinvestment Project stemmed from a number of conversations legislative leaders had with people across the country. Mr. Thompson offered the following scenario:

One exchange occurred between the Chairman of the Appropriations Committee in Pennsylvania and a member of Congress. The Chairman of the Appropriations Committee was frustrated that he had to authorize the construction of a new prison in Pennsylvania every year. The Chairman wondered when the construction of prisons would cease and Pennsylvania would get a handle on the prison situation.

The Chairman talked to corrections directors across the country, and the corrections director from Michigan said that in his state one out of every three people who worked for the state worked for the Michigan Department of Corrections. In Ohio, one out of every four people who worked for the state worked for the Ohio Department of Corrections.

Legislators across the country believed that the situation was insane when the largest employer in many states was the department of corrections. There was immense frustration that outcomes were not getting any better, although spending on corrections increased from \$9 billion in the mid-1980s to \$40 billion in the early 2000s. Recidivism rates had not changed, which also created frustration, because states were spending a great deal more money and not realizing a better outcome for people released from prison and jails.

From that scenario, Mr. Thompson said, the Justice Reinvestment Project was born. The questions facing the Justice Center were whether information could be provided to policymakers that outlined reasons why their state's prison population continued to grow, whether a way to generate savings to the states could be determined, and whether the states would reinvest a portion of those savings into particular neighborhoods to increase public safety.

Mr. Thompson explained that the project was funded by the U.S. Department of Justice and by private foundations from across the country. The project included a number of states where bipartisan interest was shown by the legislatures, the chief justices of the supreme courts, and the governors of the states. The Justice Center worked with those states to provide technical assistance. Mr. Thompson indicated that the Justice Center selected a handful

of states that it would work with: Texas, Arizona, Kansas, Connecticut, and Rhode Island. Most recently, the Justice Center was interested in working with the state of Nevada, which was the subject of today's presentation.

Mr. Thompson stated that he would provide the Committee with a national overview of the project through a PowerPoint presentation ([Exhibit C](#)), which would show the Committee how other states, such as Texas and Kansas, were dealing with the same issues facing Nevada and the action those states had taken during recent legislative sessions to confront the problems.

The steps of Justice Reinvestment were:

1. Analyze the prison population and spending in the communities to which people released from prison often returned.
2. Provide policymakers with options to generate savings and increase public safety.
3. Quantify savings and reinvest in select high-stakes communities.
4. Measure the impact and enhance accountability.

Mr. Thompson indicated that [Exhibit C](#) depicted the incarceration rate in four large states: Texas, California, Florida, and New York. The prison population in Texas had increased significantly even though crime rates had decreased over the last several years. The proposal before the Texas Legislature was an increase of 10,000 prison beds over the next 6 years at a cost of \$1 billion, which supposedly would increase public safety.

Mr. Thompson stated that one graph in the exhibit depicted the incarceration rates in the four large states: Texas was at 4.6 percent of adults; California was at 2.8 percent of adults; Florida was at 3.2 percent of adults; and New York was at 1.8 percent of adults. Those percentages represented rates of people under supervision in prison, jail, probation, or parole.

As incarceration rates increased in the four large states, the question was what occurred to crime rates during that same timeframe. Mr. Thompson pointed out that Texas had increased its incarceration rate over the past 25 years by 206 percent. At the same time, the crime rate in Texas dropped by 20 percent. Mr. Thompson indicated that incarceration and crime rates also followed the same pattern for the other large states:

- California: Incarceration rate increased by 188 percent and the crime rate decreased by 19 percent.
- Florida: Incarceration rate increased by 106 percent and the crime rate decreased by 31 percent.
- New York: Incarceration rate increased by 74 percent and the crime rate decreased by 54 percent.

The crime rate declined in a manner that did not correlate to the increase in the number of people under supervision. Mr. Thompson explained that there were many different theories about why the rates did not correlate.

According to Mr. Thompson, the current prison population in the state of Connecticut was approximately 20,000. In 1980, that state's prison population was 3,000, and in 2003 the Connecticut Legislature was told that its prison population would grow significantly. At that time, the Governor asked for authorization to send an additional 2,000 inmates out-of-state over the upcoming two-year period. The state of Connecticut did not want to build additional prisons and the Governor was looking at alternative inmate placement

in out-of-state facilities at a cost of approximately \$50,000. Mr. Thompson noted that at that time Connecticut's budget was experiencing a shortfall of approximately \$1 billion.

Mr. Thompson explained that [Exhibit C](#) included a graph that the Justice Center had prepared for the Joint Appropriations Committee for the state of Connecticut, which depicted prison population growth from 2003 to 2006 should no action be taken by the state. The graph also showed the scenarios proposed by the Justice Center that would help Connecticut avert the prison population growth facing the state.

The exhibit included maps prepared by the Justice Center, and Mr. Thompson referenced the map of neighborhoods in New Haven, Connecticut. Prison admissions did not come from across the state, but rather came from a handful of neighborhoods within particular cities in the state. Mr. Thompson stated that in Connecticut, three city neighborhoods drove the prison population. New Haven was a city of approximately 170,000 and in the neighborhoods identified by the Justice Center the state was spending about \$20 million a year to incarcerate people, which included about \$6 million on probation violators alone.

Mr. Thompson explained that the Justice Center map ([Exhibit C](#)) depicted the number of people in New Haven neighborhoods that were on probation, were receiving unemployment benefits, and/or were recipients of Temporary Assistance to Needy Families (TANF) dollars. According to Mr. Thompson, what was extraordinary was that the three New Haven neighborhoods were nearly mirror images of each other, each being a neighborhood that contained high rates of people under probation supervision, receiving unemployment benefits, and receiving TANF payments.

The Connecticut Joint Appropriations Committee felt that because the State was spending such a significant amount on the three neighborhoods, the outcome should be better. Mr. Thompson indicated that the Joint Appropriations Committee looked at ways to actually manage the growth of the state's prison population. The Justice Center proposed a number of options, one of which was to reduce the length of incarceration for probation violators who were incarcerated an average of 12 months. The Justice Center suggested that if the incarceration length for some probation violators, such as violators with positive urine tests or those who failed to report, were decreased to 9 months, the state would save a great deal of money. The state could save as much as \$50 million by enacting a number of the options suggested by the Justice Center.

Mr. Thompson indicated that the Connecticut Legislature unanimously approved the options suggested by the Justice Center, and Connecticut went from the second fastest growing state in the country in prison population growth to the state with the second steepest decline in prison population growth. The crime rate in Connecticut declined at the same time, and inmates who were placed in out-of-state facilities were returned to facilities in Connecticut.

Continuing his presentation, Mr. Thompson referenced graphs included in [Exhibit C](#) that depicted the prison population increase anticipated in the state of Kansas, which was facing a shortfall of nearly 2,000 prison beds. If Kansas took no action and left current policies intact, the graph projected that the state's prison population would continue to escalate. Mr. Thompson indicated that the Justice Center provided scenarios to the Kansas Legislature for consideration, in an effort to avert prison population growth. Kansas was

facing the prospect of spending \$500 million over the next several years to build and operate new prisons.

Mr. Thompson stated that the Justice Center showed Kansas three options, which included the corresponding savings. The first option was to reduce the number of parole revocations to 90 per month. The second option was to reduce the number of probation revocations, and the third option was to make sure that incarcerated persons participated in drug treatment programs and certain types of job training programs.

Mr. Thompson pointed out that if the state of Kansas took action that included all three options, it would avert the projected increase in prison population and save approximately \$500 million. Mr. Thompson reported that the current Kansas Legislature overwhelmingly passed the options presented by the Justice Center, which was also supported by the governor. The state also took a portion of the projected savings and reinvested the money in neighborhood programs.

Mr. Thompson reported that the state of Texas was also facing very significant growth in its prison population, along with a 20,000 prison bed shortfall. He referred to the graph contained in [Exhibit C](#) that depicted how the state could reallocate resources. Basically, Mr. Thompson said, the state was assigning hundreds of probation officers to one zip code and the officers were managing a variety of caseloads in that area. One reason why the prison population in Texas was growing was because of the significant waiting list for placements in community treatment programs.

According to Mr. Thompson, because Texas was considering the increase in its prison system and the need for six new prisons, it significantly increased appropriations to the correctional system while cutting funding for community-based corrections programs, substance abuse programs, and mental health treatment programs. Mr. Thompson reported that such action created a backlog in the prison population because people ready for release could not be released based on the lack of community programs.

Mr. Thompson reported that the state of Texas held "historic hearings" cochaired by Republicans and Democrats and determined that should the state authorize the construction of six additional prisons, that action would not prevent the need for an additional six prisons in a few years. The House of the Texas Legislature passed a budget that included no additional prison construction. The Senate passed a budget that included the construction of one additional prison, and the difference would be resolved in committee. Mr. Thompson remarked that Texas ultimately made one of the single largest investments in community-based and prison-based treatment programs than any other state in the country.

Mr. Thompson said that leaders in other states across the country were dealing with the same issues that were facing leaders in the state of Nevada. Those leaders felt that if their states were being asked to spend billions of dollars to increase public safety, they wanted to ensure that the funding would have the best possible impact. States such as Texas, Kansas, and Connecticut, all made the decision that simply constructing more prisons in perpetuity was not the best guarantee of increased public safety. Those states also determined that reinvesting part of the savings generated by different strategies would ensure success of the policies.

Mr. Thompson said that completed the overview of the national situation. He advised the Committee that Dr. Austin would address the situation in Nevada, and Dr. Osher would present information about community-based treatment.

Dr. James Austin, President, JFA Institute, indicated that he would walk the Committee through prison population trends and provide suggestions for alternatives to that trend.

By way of comparison, Dr. Austin reported that the parole grant rate in Texas was at approximately 30 percent, or approximately 30 percent of the cases heard by the parole board were granted parole. Nevada's parole rate was at least twice that at approximately 60 percent.

Dr. Austin stated that until approximately 2003 Nevada did not experience significant growth in prison admissions. The State admitted approximately 4,000 to 4,200 persons a year, either for violation of probation or parole, or because of a new court commitment. In 2003, the number of prison admissions grew very unexpectedly. Over the past year, 5,500 people were admitted to the Nevada Department of Corrections (NDOC). According to Dr. Austin, that represented an approximately 25 percent increase in the admission stream. The Justice Center did not know why that increase occurred, but noted that the State was increasing demographically and was one of the fastest growing states in the country. Certainly, the demographics in Nevada were a factor, but Dr. Austin said that alone would not explain a 25 percent increase in the NDOC admission stream over a period of three years.

Dr. Austin pointed out that almost 60 percent of all admissions were coming from the Clark County area. Once again, the Justice Center was not aware of the reason why the percentage of admissions had increased from Clark County. Perhaps it was because of a change in the court system or changes in law enforcement practices.

Dr. Austin explained that Nevada was somewhat unique in terms of available options. The JFA Institute compiled the official forecast for the State every six months and noted that the prison population had been growing quite rapidly. At the present time, the prison population was projected to grow by 60 percent over the next ten years. Dr. Austin stated that Nevada had the fastest growing prison system in the country. There was one major reason why the prison system was experiencing such growth, and that was because there had been an unbelievable increase in the number of admissions.

According to Dr. Austin, prison populations were usually driven by two key statistics: (1) the number of people sentenced to prison; and, (2) the length of the sentences for those people. In Nevada, the length of the prison stay was driven by the sentences handed down by the courts and the practices of the Nevada Board of Parole Commissioners (Parole Board). However, Dr. Austin indicated that the system in Nevada was not growing because of the length of sentence or length of stay, because sentencing lengths had remained very stable. The courts were not handing down longer sentences, and compared to other states, the Parole Board was paroling at a very healthy rate.

Dr. Austin stated that, similar to the maps referenced by Mr. Thompson in [Exhibit C](#) that showed certain neighborhoods in other states that produced the majority of the prison population, Nevada's urban areas also produced large, disproportionate numbers of people who were sentenced to prison.

That occurred year after year, and from a policy standpoint something had to be done to address the neighborhoods that produced the majority of the prison population. Dr. Austin said if the admission stream could be reduced over the next two years there would be a significant reduction in the projected prison population.

The current estimate in today's costs was that Nevada would spend \$2 billion to construct new prisons unless something was done to curb the admission stream. Dr. Austin said the State could build the prisons, fill them with inmates, and operate those prisons, but from the experience of the Justice Center in other states, that would not significantly impact the crime rate in Nevada. Dr. Austin believed that Nevada would experience approximately the same crime rate after spending the \$2 billion on prison construction.

According to Dr. Austin, the Justice Center was attempting to discover ways that Nevada could save money and put those savings into effective crime-reduction strategies, particularly in the targeted neighborhoods. Dr. Austin said it was very important for the Legislature to understand what was driving the prison population in Nevada and what needed to be done to reduce the prison admissions stream, which had grown very rapidly over the past three years.

The chart included in [Exhibit C](#), "Nevada Population & Crime Trends," compared Nevada with the rest of the country, and Dr. Austin pointed out three very important statistics. The first was demographic changes that indicated the United States had grown by 13 percent while Nevada had grown by 57 percent. Dr. Austin said that more people moving into a state created a greater demand on resources. Nevada was growing annually at about 3 percent to 4 percent, which was three to four times the growth rate of the rest of the country.

In terms of Nevada's crime rate, Dr. Austin noted that the State's crime rate had always been higher than the national average, but still was not the highest in the country. However, the State's violent and property crime rates were higher than the rest of the country. Dr. Austin said it was interesting to note that since 1995 Nevada's crime rate had dropped at the same rate as the rest of the country at about 26 percent. Every state in the country had dropped at that rate, whether prison populations increased or decreased. Dr. Austin reported that New York State experienced a lower reduction in the crime rate after decreasing its prison population by approximately 15,000 inmates.

Dr. Austin referenced the graphs included in [Exhibit C](#), which showed that Nevada's prison population remained fairly stable prior to 2003 and began to increase in 2004. The exhibit also contained a graph that depicted the population projections from the State Demographer for the next ten years, which indicated that the State's population was projected to increase at a rate of 3.3 percent each year. Dr. Austin explained that the at-risk population included those people in the range of 20 to 39 years of age, which was the typical age range for prisoners. That population was projected to grow at the same 3.3 percent rate. Looking at the demographics over ten years, the population would continue to grow at a 30 percent rate, but the prison population was projected to grow at a 60 percent rate because prison admissions were growing faster than the demographics. Dr. Austin explained that the rate of incarceration was increasing faster than the growth rate of the State.

The forecast for male and female admissions showed the increase in incarceration rates, but those figures might change. Dr. Austin said that was the reason JFA Institute compiled prison population estimates every six months. At the present time, the estimates were tracking very accurately.

Dr. Austin stated that one of the issues that impacted the prison admission stream was the high failure rate of people on probation supervision whose probation was revoked. According to the Nevada Division of Parole and Probation, felony probation revocations for the past year numbered 1,900 to 2,000, and Dr. Austin stated that number represented one-third of the prison admission stream.

Dr. Austin pointed out that 80 percent of the people admitted to prison came from Las Vegas and Reno, and 81 percent were previously on probation or parole. The exhibit showed the areas in Clark County that produced the highest prison admissions per 1,000 adults:

- Las Vegas – 1,203 or 3.98 percent
- Paradise – 419 or 3.25 percent
- Henderson – 188 or 1.77 percent
- Sunrise Manor – 423 or 4.25 percent
- North Las Vegas – 426 or 6.08 percent

Dr. Austin stated that the exhibit depicted prison expenditures for Clark County by census tracts and zip code areas. Prison expenditures were not balanced and were concentrated in certain neighborhoods. The probation and parole snapshot revealed the percentages of people under supervision. Four of the zip codes listed represented 11 percent of the county's population, but represented 23 percent of the people under supervision.

Assemblyman Hogan wondered whether shortening the length of incarceration for probation violators would help the state's prison population growth. Dr. Austin said that approximately three years ago, Nevada passed a law that allowed parolees to earn good time credit while under parole supervision, which was a very innovative idea adopted by the State. The idea, Dr. Austin said, was to provide incentives for parolees to complete their supervision period. Because of that law, the success rate for parolees in Nevada increased to 80 percent, which was an extremely high success rate. At the same time, the Parole Board had increased its grant rate to help the NDOC reduce its population.

Dr. Austin said that because parolees were under supervision for a shorter period of time there were fewer parole violations, and there had been a slight decline in the parole population. Dr. Austin said it had been a win-win situation for everyone: less money was being spent on parole supervision; the parole success rate was quite high; and fewer people were entering prison because of parole violations. However, that "carrot" was not available for probationers and that was one thing that the Justice Center recommended be adopted by the State.

Senator Beers referenced the graphs included in [Exhibit C](#) that depicted the population density. It appeared that the geographic density for the Clark County area was less than that of the cities depicted for Connecticut, and Senator Beers asked whether Nevada cities were more geographically dispersed compared to other cities.

Mr. Thompson stated that appeared to be correct, and the population in Clark County appeared to be more spread out. The Justice Center also mapped neighborhoods in New York, and Nevada simply did not have the same type of population density in the Clark County area as other large cities.

Senator Beers asked about the concentration of trouble spots in Clark County. Mr. Thompson said that the Justice Center discovered there was the same opportunity to hone in on certain zip codes and neighborhoods in Nevada as it had in other states, and to ensure that there was a more efficient allocation of resources to those neighborhoods than was found in other neighborhoods. Mr. Thompson stated that Nevada experienced the same problem within zip codes and neighborhoods that had a disproportionate concentration of persons entering the prison system as other states. The Justice Center believed that the same opportunities existed in Nevada as were available in other states.

Senator Raggio commented that his background experience had been that of a prosecutor for a number of years, and it had always been obvious to him that one of the failings of the system was the lack of supervision for first-time felony offenders who were placed on probation. Senator Raggio said he had always been adamant that the State did not provide sufficient support for those offenders. Senator Raggio noted that the statistics from the Justice Center indicated that at least one-third of the persons placed on probation ultimately violated that probation and were sent to prison, thereby becoming part of the admission problem.

The State should direct its attention to providing more intense supervision for felony probationers, but that occurred in word only and not in practice. Senator Raggio recognized that most people in prison had committed more than one felony, and the time to save people and prevent admission to prison was when persons were on probation. Senator Raggio was not aware of the state's capability to provide incentives for the successful completion of probation.

Another factor that impacted the prison population in Nevada as compared to other states was the number of illegal aliens in its prison system. Obviously, that would be a factor in both Texas and Arizona, but Senator Raggio was not aware of statistics from the Justice Center that identified that problem area in Nevada. He also wondered whether the high admission numbers were because of the high level of drug offenses in Nevada. Senator Raggio wanted to know whether or not those factors had been considered as part of the problem, and he hoped the Justice Center would address the issue of intensive supervision for first-time felony probationers.

Mr. Thompson stated that the question about intensive levels of supervision was appropriate and was an area of concern throughout the country. Mr. Thompson advised the Committee that Dr. Osher's presentation would show how connecting probationers to treatment programs in addition to intensive supervision was beneficial. In terms of immigration, Mr. Thompson said that the Justice Center had not factored that into its analysis but certainly recognized the relevance of the problem, which was also problematic in other states.

Dr. Austin said it was very clear that Nevada needed probationers to perform better under supervision, which was not meant as a criticism of the Division of Parole and Probation. The Division needed the resources to provide intensive supervision, and with better performance under supervision, the prison population projections would be significantly reduced.

According to Dr. Austin, the amount of time persons spent on probation, parole, or in prison would not affect the recidivism rates. Persons who failed probation supervision tended to fail rather quickly and after a period of 12 to 18 months, the question became why spend the money to keep those persons under supervision. Dr. Austin said that in terms of public safety, continued supervision was not useful. What was useful was responding more quickly to persons who encountered problems under supervision and helping those persons remain on track so they did not become more costly to the system.

Dr. Austin informed the Committee that the problem could not be solved in one day, and the Justice Center was here to work with the State over a long period of time. It would take a long period of time to figure out the puzzle and to help the State save money without jeopardizing public safety.

Senator Cegavske stated that she heard a news report today about an incident in Mexico in which 30 bodies were discovered in an apparent war between drug lords who were involved in trafficking drugs into the United States. Senator Cegavske said the amount of drugs being brought into the United States was what caught her attention and brought the number one issue of drugs to the forefront. It appeared that large quantities of drugs from Mexico were being brought into the United States, and Senator Cegavske believed that drugs were also a significant issue for the federal government.

Senator Cegavske noted that the Justice Center had implied that the parole and probation system in Nevada was working well, but that was not the sense that she received from individuals who told her that the system was "broken" and needed to be fixed.

The other issue was treatment, and Senator Cegavske concurred that the State did not offer sufficient treatment programs to persons under supervision. Senator Cegavske had received emails from church groups that wanted to be involved in Alcoholics Anonymous programs, and she believed that giving the community back the responsibility of helping and being a part of the issue was also important.

Dr. Austin clarified that he had not indicated that the parole and probation system was working well, but rather his statement was that the parole success rate for Nevada was very high at 80 percent. Part of that success was because of the legislation that provided incentives to paroles that helped them finish parole more quickly. Dr. Austin indicated that probation was the opposite with 46 percent of probationers failing supervision, which was a significant problem.

Senator Cegavske stated that she misunderstood Dr. Austin's comments. She indicated that aftercare programs in Nevada were not sufficient. A person could enter and complete a treatment program, but if that person did not have access to a sufficient aftercare program, there was a good possibility that the person would violate probation or parole. Senator Cegavske believed that was an area in which Nevada fell short because it did not provide sufficient aftercare programs to assist parolees or probationers after release from treatment programs.

Chairman Arberry asked whether Dr. Austin had noted a trend in revocations that was based on an inability to locate employment. Many job applications asked whether a person had ever been convicted of an offense, and once an applicant answered truthfully, that applicant was often not considered.

Dr. Austin said that the Justice Center had conducted a study with the Parole Board about parolees who had violated the technical conditions of parole. Very few, if any, cases included a single violation and most cases consisted of multiple violations such as: absconding supervision; testing positive for drug use; failure to pay fees; failure to report for treatment; and failure to maintain employment. Dr. Austin stated that it appeared once a parolee began experiencing difficulties, such as drug usage, the situation "snowballed," and soon the parolee was not complying with any of his parole conditions. The parole officer often felt that was the time to arrest the parolee for violation of parole and return him to prison. Dr. Austin explained that lack of employment was one of the reasons that parolees and probationers violated supervision, but it was usually not the only reason.

Chairman Arberry explained that his district in Las Vegas was probably one of the areas from which there were a large number of persons being sent to prison. Many ex-felons told him that employment was their biggest concern, that they wanted to take care of their families, but they could not find employment.

Dr. Austin said that the Justice Center had reviewed many cases, and there were no cases where a person was returned to prison simply because he did not have a job.

Mr. Thompson stated that part of the legislative package in Texas was to review the legal barriers to employment for ex-felons, and it appeared that the legislation would pass. Mr. Thompson said that Chairman Arberry's colleagues in Texas had experienced the same concerns and were moving legislation to help in that regard.

Chairman Arberry pointed out that the gaming industry would hire ex-felons. One of his constituents secured employment in the gaming industry as a chef, but lied on his employment application, and once the background check was completed, that lie came to light. Even though his constituent was a model employee, he was fired from his job and ultimately was returned to prison for parole violation for selling drugs.

Assemblywoman Leslie pointed out that there were some very alarming notations in [Exhibit D](#) entitled, "Increasing Public Safety and Generating Savings: Options for Nevada Policymakers," submitted to the Committee by the Justice Center. Page 3 of the exhibit read, "Rates of admissions to treatment for methamphetamine/amphetamine use in Nevada are three times the national average." The report also indicated that Nevada ranked worst in the nation with 42 percent of the prison population reporting poor mental health.

Ms. Leslie stated that the Legislature had made great strides in increasing the state's mental health budget, but [Exhibit D](#) stated that, "Nevada ranks 41st in the nation in mental health actual dollars and per capita expenditures."

Ms. Leslie indicated that the exhibit also stated that, "Between 2004 and 2006, the number of residential substance abuse beds in Nevada has declined ten percent." Ms. Leslie pointed out that the State had fewer treatment beds available today, and there would be even less bed space because one treatment center in Fallon had recently been damaged by a fire. Ms. Leslie believed that many people were being sent back to prison because they were not receiving treatment, and one reason offenders failed to receive treatment was because of long waiting lists for treatment programs.

Ms. Leslie hoped that the State would reinvest in the communities by actually providing substance abuse treatment, access to mental health care, and treatment for co-occurring disorders, which would be the best way for the State to reduce the prison population.

Dr. Austin stated that [Exhibit C](#) included three options. Option number 1 was to create an incentive for people in prison to successfully complete vocational, educational, and substance abuse treatment programs prior to release. The incentive included increasing the credit for time that could be earned. Dr. Austin noted that one reason that option would not have an impact on Nevada's prison population was because there was a very low level of program opportunities within the NDOC. As long as program opportunities were low, providing additional program credits to inmates would not have much impact.

The second option, Dr. Austin said, was to reserve prison space for serious and violent offenders by placing low-level offenders with category E sentences on probation. Category E offenders were very low-level felons entering the prison system, and diverting those offenders to community-based programming would produce up to a 500 bed reduction in the prison population.

Dr. Austin stated that option three was to reduce the number of probation violations. That option would have a much greater impact on the admission stream for the NDOC. Over a ten year period, the reduction of probation violators would greatly decrease the number of persons in the prison system. Dr. Austin pointed out that the third option included improving the probation system, making the system more effective, and limiting the number of technical violators being sent to prison.

Dr. Austin indicated that the Legislature and policymakers of Nevada needed to determine whether the suggested options would be useful in averting prison construction and operating costs. The question was whether additional programs could be initiated within the NDOC so additional credits could be awarded to inmates who completed educational, vocational, or substance abuse programs.

Dr. Austin noted that legislation had been introduced that would provide statutory time increases for inmates, which would also serve to reduce the length of prison stay. If low-risk offenders could be identified and released from prison as quickly as possible, and prison bed space saved for dangerous and violent offenders that should remain incarcerated, the projection facing Nevada's prison system could be changed. According to Dr. Austin, Nevada faced challenges because of the dynamics that were unique to Nevada.

Testifying next before the Committee was Fred Osher, M.D., Director of Health Systems and Services Polices, Justice Center, CSG. Dr. Osher said he would address the origins of the drivers within Nevada's jail and prison population.

Dr. Osher referenced [Exhibit C](#), which included an overview of effective treatment for criminal justice populations. His presentation would include what was known about the literature and analysis of the treatment needs of Nevada's probation, parole, and prison population. Also included would be the behavioral health components to the policy options conveyed by Dr. Austin, and the challenges and opportunities facing Nevada moving forward.

According to Dr. Osher, there was a growing sense in the medical world that drug addiction and mental illnesses were brain diseases that affected behavior. There was more scientific evidence available about the neurological pathways

associated with addiction so that very clear diagrams could be drawn of the impact of drugs on the brain and the resultant behavior. Dr. Osher indicated that because of the availability of that information, design strategies could be created to intervene for those individuals.

The principles of effective treatment that were critical, regardless of where the individual was located along the criminal justice continuum, was that standardized, objective, and credible screening instruments should be used to identify need. Dr. Osher said he was talking about screening for substance abuse disorders and mental illnesses. Screening included yes or no questions about whether or not there might be the presence of an illness, and if the answer to screening was positive, comprehensive and objective assessments should be considered, not just of the disorders, but of the phenomena associated with the disorders. Persons simply did not have behavioral disorders, but rather had medical, social, and family needs and a variety of issues that kept them from reintegrating back into the community in a successful fashion.

Continuing his presentation, Dr. Osher explained that with completed assessments, community placement could be discussed by highlighting the dearth of community options available for substance abuse disorders and mental health treatment. Nonetheless, the first step was to match offenders, based on screening and assessment, to available community services.

Dr. Osher stated that it was important to provide treatment on demand or significant opportunities could be lost. Court-mandated treatment and treatment within the criminal justice system was a public health opportunity, because for the first time, individuals could be identified as suffering from a behavioral disorder, and those persons could then be engaged in treatment programs. Dr. Osher commented that when persons in need were involved in the criminal justice system, treatment should be available at that point in time. A gap between release to the community and accessing treatment was critical and was often the time when people relapsed or were rearrested and sent back to prison, thereby contributing to the growth of the prison population.

According to Dr. Osher, coerced treatment could be effective. People often entered treatment programs because of coercion, whether it was through the criminal justice system or because of familial pressure, there came a point when the person was told that he had to change his behavior or severe consequences would occur. A great deal of data supported the idea that coerced treatment was associated with successful recovery for many individuals.

Dr. Osher commented that "one size does not fit all" was the principle that each individual with substance abuse issues or mental health disorders had a range of strengths, weaknesses, and needs that had to be accommodated when the treatment plan was designed. Most importantly, Dr. Osher stated, mental illness frequently coincided with a substance abuse disorder and vice versa. Those were not independent phenomena, and the evidence-based practices that allowed individuals with co-occurring disorders to move forward and integrate back into the community had to be considered.

Dr. Osher stated that per capita alcohol consumption in Nevada was the second highest in the United States, and the rates of admissions to treatment for methamphetamine use were three times the national average. Dr. Osher remarked that the data from substance abuse/prevention treatment agencies in Nevada showed that admissions to treatment programs were 35 percent alcohol-related and 33 percent methamphetamine-related. Persons with substance abuse disorders often combined rather than isolated their drugs of

choice. Dr. Osher stated that approximately 80 percent of the substance abusing adults in Nevada received no treatment whatsoever in the year preceding the study. There appeared to be a huge demand for services in Nevada with a limited capacity.

According to Dr. Osher, the same situation existed for mental health treatment needs in Nevada. In 2003, the Kaiser Family Foundation ranked Nevada first, or worst, in the nation with 42 percent of the population reporting poor mental health in the 30 days prior to the report. Nevada ranked 41st in the national in mental health actual dollars and per capita expenditures, and state officials estimated that approximately 40 percent of all clients left state psychiatric emergency clinics without being served because of intolerably long waits.

Dr. Osher pointed out that quite often persons utilized hospital emergency rooms as opposed to community-based clinics because of the limited options available in Nevada. Persons were then frustrated by the long wait, left the hospital, and did not access treatment or care. Dr. Osher said that situation presented missed opportunities for treatment.

Continuing his presentation, Dr. Osher stated that the analysis of treatment needs of Nevada's probation and parole populations was facilitated by a study supervised by Dr. Austin. It was learned that the majority of people incarcerated or under community supervision in Nevada suffered from substance abuse problems, many with co-occurring mental health disorders.

During calendar year 2003, 8,513 adults were arrested for drug-related crimes, and 14,393 were arrested for alcohol-related crimes. Dr. Osher indicated that in a random sample conducted in March 2007, 43 percent of the individuals under probation or parole supervision reported significant drug addiction, and 20 percent suffered from significant alcohol abuse problems. Dr. Osher contended that the rates might be lower than actual because the screening assessment measures might not be as valid and reliable as possible. However, the percentages gave the sense that substance abuse was a significant driver of probation and parole violation issues.

In a study conducted by NDOC on March 26, 2007, the percentage of male and female inmates with mental health diagnosis was 29 percent. Dr. Osher said that was about twice the national average; the Bureau of Justice Statistics estimated that 16 percent of state's inmates had mental health diagnosis. Dr. Osher commented that high costs were usually associated with persons with mental health diagnosis, and it was important not to underestimate the management issues associated with individuals with mental illness in jail or prison.

Dr. Osher reported that the number of people under the supervision of the criminal justice system in Nevada who were required to participate in treatment for drug or alcohol addiction vastly exceeded the capacity of community-based providers. The Justice Center had held focus groups with community providers and parole and probation officers, spoken with judges, and observed the available drug court programs. The message was clear and consistent that there was not enough capacity in community-based programs for the number of people under supervision who were in need of services. Dr. Osher noted that the majority of the referrals to treatment programs were from correctional settings, and the programs usually had long wait lists.

Dr. Osher stated that between 2004 and 2006, the number of residential substance abuse in-patient treatment beds in Nevada declined by 10 percent. Such treatment programs were very important and often made a significant difference between an individual being approved for parole and actually being released or being approved for probation and remaining in the community. Dr. Osher indicated that 70 percent of the people on probation or parole referred to community-based substance abuse and mental health programs waited an average of one month before starting an outpatient treatment program. Once again, a critical opportunity was missed with those persons, leaving them without help or resources. Such persons often returned to their old habits and were often returned to prison.

Dr. Osher stated that parole and probation officers were frustrated over the conditions of release imposed by the courts and the Parole Board that included treatment for drug and alcohol abuse or mental health treatment. An offender was often told to locate treatment and return in 30 days to report to his officer. Quite often, offenders were not able to locate a treatment program that had available space, or the offender could not afford the fees required by the program. The officer often told the offender to continue looking for a program and return in 30 days to report, and quite often there would be no change. After awhile, the offender usually violated his supervision and was returned to prison.

Dr. Osher explained that even when an offender was motivated, quite often he was not able to access the care that might make a difference between returning to prison or complying with his release sanctions and reducing the public safety risk in the community to which he returned.

Referring to [Exhibit C](#), Dr. Osher stated that the map entitled, "Prison Admissions & SAPTA Certified Programs," showed the areas of Clark County with the highest reentry rates of people released from prison, who often lived in small, sometimes isolated, neighborhood pockets. Dr. Osher explained that the map also included sites for prevention and treatment programs, and there was often a mismatch between the location of programs and the locations in which persons returning from prison resided. Transportation was often a problem for individuals who had lost their driver's licenses or did not have access to resources, and quite often those persons were not able to travel to treatment programs. In looking at the maps, Dr. Osher suggested that perhaps some resources could be redistributed in a way that would make it easier for persons to access the care that would help them remain out of prison.

Dr. Osher stated that the behavioral health components to policy options number one and two, as outlined by Dr. Austin, included creating an incentive for people to successfully complete vocational, educational, and substance abuse treatment programs by increasing the credit for time that could be earned. Dr. Osher stated that the NDOC did not contain sufficient programs for persons who actually needed those programs to enter treatment. He commented that the programs should be evidence-based, so that modified therapeutic communities that could make a difference for high-need offenders were available, along with programs for low-level offenders. Dr. Osher emphasized that before persons could receive credits for completing a program, there had to be programs available for them to complete.

The second component was to expand the availability of substance abuse treatment and other community-based services and sanctions for people sentenced to probation for low-level offenses. Dr. Osher commented that

Senator Raggio had previously identified that category of offender as being the group that could greatly benefit from something other than long-term prison commitment. The State had to ensure, if a condition of release for such offenders included treatment, that there were programs available to provide that treatment.

Dr. Osher explained that the third component to address policy options one and two was to increase funding for the Division of Parole and Probation to create new positions to supervise people convicted of low-level offenses. As mentioned earlier, such supervision would entail more intensive supervision, but supervision would be in combination with resources available in the community. Dr. Osher said that policy options one and two addressed not only the intensity of supervision, but paired that intensity with reasonable effective services that low-level offenders might be required to attain.

Regarding policy option three, the behavioral health components included training for probation officers on evidenced-based principles, such as motivational interviewing. Dr. Osher said there was a great deal of creativity around the country in the area of training in which, along with supervision activities, probation officers were learning how to support individuals who were making behavioral changes.

Dr. Osher indicated that the components included development of a set of intermediate sanctions to respond to offenders at risk of being revoked. The last thing that should be done to individuals who were attempting to make changes in their lifestyle was to separate them from the community and from treatment programs. Dr. Osher stated that, providing the offender had not committed a new crime, intermediate sanctions should be afforded to those individuals.

In the past, Dr. Osher said, grant funding had been available to pay for assessment and treatment for probationers, which were often conditions of probation. Offenders frequently cited the inability to access treatment as the reason why they failed to comply with the conditions of supervision. Dr. Osher said that even though probationers had committed crimes, it was not always the best-cost policy to simply put them in prison for long periods of time, when a small amount of money might have allowed the probationers to meet the conditions of release.

Dr. Osher emphasized that the problem would not be solved by one system alone, and it would take a collaborative effort across mental health, substance abuse, corrections, and housing to make a difference for individuals under supervision. A coordinated effort would be required by the components of the state system that touched those individuals to allow them to remain out of prison, and through a comprehensive plan, assist them in gaining a foothold in the community.

According to Dr. Osher, Nevada had to demonstrate a tough and smart approach to allocating scarce taxpayer dollars. Not many resources were available and what few resources were available should be used as effectively and efficiently as possible. Dr. Osher stated that the Justice Center suggested reinvesting savings from avoided prison costs to expand the community treatment capacity, with a priority to focus on high-risk neighborhoods. The Justice Center also promoted shared goals and objectives between behavioral providers, criminal justice systems, and the offender to create a beneficial situation.

Dr. Osher noted that there were many challenges facing the State, and the problem could not be fixed overnight, but the Legislature had an opportunity to chart a course to incorporate some of the best practices and support collaborative opportunities in targeted neighborhoods of high density.

Dr. Osher explained that the State had to develop performance measures and hold people accountable for achieving certain standards, evaluate the outcomes, and determine whether the policy options and the investment of dollars were used as wisely as envisioned.

Mr. Thompson indicated that he would present an overview of the program. If the State took no action in changing existing policies, it would be required to appropriate billions of dollars for the construction and operation of additional prisons. The Justice Center presented a number of options today that would be a more strategic long-term investment for the State, and one that would produce a better impact on public safety.

Mr. Thompson stated that the question before the Committee was which of the policy options should be pursued, and whether action would be taken to ensure that a portion of the savings generated by the options were in fact reinvested in the targeted neighborhoods. If reinvestment did not occur, the options would not yield the impact on public safety that was anticipated by the Justice Center.

According to Mr. Thompson, there were other options that the State could explore. The Justice Center had been very focused in its presentation because some key information was not available. The Justice Center believed that the Legislature should consider:

- Conducting analyses of prison and probation populations.
- Developing a comprehensive policy framework, including changes to state laws and organization/operation of state agencies.
- Developing intergovernmental strategies (community/local/state) that targeted high stakes communities.

Mr. Thompson explained that the NDOC and the Division of Parole and Probation were very helpful to the Justice Center, but the information systems in Nevada were not as sophisticated as those in other states. The Justice Center noted that information about probation or correction populations did not exist in Nevada because of the lack of data systems.

Mr. Thompson advised the Committee that the Justice Center needed to conduct a more comprehensive analysis to identify where options existed. The scope of the analysis, where the data would come from, and who would conduct the analyses were questions that had to be addressed.

Mr. Thompson referred to page 8 of [Exhibit D](#), "Increasing Public Safety and Generating Savings: Options for Nevada Policymakers," which depicted options that could be implemented by the State and had the potential to avert some growth in the prison population. However, the Justice Center could not estimate the impact without a review of the State's entire sentencing structure and the organization of the Division of Parole and Probation. Mr. Thompson stated that many options the Justice Center believed could impact Nevada's prison population would require direction from the Legislature, such as what was politically viable and what was not.

The Justice Center attempted to focus the Committee's attention on a number of zip codes that were contributing disproportionately to the prison population in Nevada. Mr. Thompson explained that Nevada needed to develop intergovernmental strategies to integrate community, local, and state plans and focus on targeted neighborhoods. That would involve multiple agencies with an intergovernmental structure across agencies. Mr. Thompson stated that the Justice Center was not aware of the structure that could actually move that forward.

Mr. Thompson stated that data-driven analyses, a comprehensive policy framework, and the governance structure that would be established to develop intergovernmental strategies, were the areas that the Justice Center believed should be addressed to produce a more dramatic impact on Nevada's prison population.

Chairman Arberry asked how the caseload of Nevada's parole and probation officers compared to those in other states because it appeared that, per capita, the caseloads assigned to Nevada parole and probation officers were overwhelming.

Dr. Austin explained that the caseloads used for budgeting were based on a workload study that was conducted several years ago, and it was unknown whether those statistics remained accurate. It was difficult to determine what would be considered an appropriate caseload until the duties of the officers were understood. Dr. Austin said it was his observation that some duties assigned to parole and probation officers were redundant, unnecessary, and did not need to be done, or could be specialized and handed off to other personnel within the Division of Parole and Probation. In Dr. Austin's opinion, officers from the Division spent an enormous amount of time "pushing paper."

Assemblywoman Smith noted that there had been little discussion of education related to the prison population, and she asked Dr. Austin to comment on the connection between education and the prison population.

Dr. Austin referenced a study where the authors looked at the indicators of social stress state-by-state in America. At the time the study was completed, Nevada was either first or second in the level of stress in the country. One of the indicators used in that study was education and the lack of completing high school. Dr. Austin commented that well-educated persons ran a low risk of being sent to prison, while persons who did not perform well in educational pursuits soon fell out of the conventional mainstream of earning a living and being successful. Dr. Austin said that improving the ability to educate children through a public school system was very important.

Within the correctional population, Dr. Austin advised the Committee that offenders who completed educational programs performed better in the community and had a lower recidivism rate. Simply teaching offenders how to read, use the Internet, or other basic skills was enormously lacking in corrections. Dr. Austin stated if he were a probationer and wanted to learn how to read, there was no attainable funded program. Education would favorably impact crime rates, recidivism rates, and the cost of the prison system.

Senator Rhoads asked what percentage of the prison population were residents of Nevada prior to being incarcerated. He opined that Nevada was very different from other states in that aspect. Dr. Austin replied that approximately 20 percent of Nevada's prison population consisted of non-Nevada residents,

mostly from California. Nevada also had to deal with the illegal immigrant situation.

Dr. Austin indicated that the State's recidivism rate after a period of three years was one of the lowest in the country at approximately 27 percent. Part of that was because nonresidents left Nevada and returned to their home states. It was also suggestive of the fact that Nevada incarcerated low-risk offenders who could have been dealt with under community supervision. There were great opportunities for Nevada to review its sentencing structure and ensure that the State was not overly incarcerating low-risk offenders.

Assemblywoman Weber referenced the neighborhoods that produced the highest level of persons who were incarcerated, and she asked whether studies had been conducted about the children raised in those neighborhoods, or perhaps the State should undertake a study regarding intervention and prevention strategies.

Dr. Austin said that about half of the projected future prison population consisted of teenage boys currently living in those neighborhoods. Clearly, prevention was the key for Nevada, and those teens were currently on track to enter the prison system.

Mr. Thompson explained that a study had been conducted in Oregon, which indicated that children of incarcerated persons were five times as likely to end up incarcerated as other children. One significant issue was that there was no information available in the states about how many people in prison or jail actually had children. The Justice Center was aware that the children of persons in prison were at much higher risk of becoming involved in the criminal justice system.

Senator Coffin remarked that Dr. Austin had been testifying before the Nevada Legislature for about 20 years, and the Legislature had taken his advice, but many times the attempts to follow his advice had failed for budgetary or policy reasons. Senator Coffin asked whether the Justice Center had tracked what had been done in the State compared to the advice that Dr. Austin had given over the years.

Dr. Austin said when he first testified in Nevada 20 years ago, the State had the highest incarceration rate in the country, and at the present time the incarceration rate had decreased. Over the years, Nevada had taken positive action. Dr. Austin stated that he could present the science, but he could not predict the politics about how to accomplish the tasks. Dr. Austin was convinced that he could craft a series of policies that would significantly reduce the operating cost of the NDOC and ultimately reduce the crime rate, but quite often, politics became an obstacle in adopting policies.

Dr. Austin opined that Nevada had taken positive action over the years, because sentences handed down by the courts were not increasing, and the Parole Board had been progressive. The major challenges facing Nevada today were addressing the probation system and investing long-term prevention efforts in the targeted communities. Dr. Austin explained that Nevada had to reduce its crime rate, and continuing to build prisons would not address the crime rate.

Senator Coffin stated that Nevada had to overcome the politics. The Justice Center had provided the Legislature with good ideas but Nevada was facing a problem with funding based on the pledge by the Governor and several legislators not to increase taxes. Senator Coffin stated that it would cost money to initiate the programs suggested by the Justice Center, which would

be a consideration for the Legislature as it determined whether to protect neighborhoods or protect the wallets of the taxpayers.

Mr. Thomsen indicated that the Committee was also in receipt of a packet of information that explained the work of the Justice Center, [Exhibit E](#).

Chairman Arberry opened the meeting for public comment.

Justice James Hardesty, Nevada Supreme Court, indicated that he had provided a number of alternatives and suggestions to the Committee in the past. As previously expressed in testimony before the Select Committee on Corrections, Parole, and Probation, the matter should have a sense of urgency. Justice Hardesty stated that on February 13, 2007, prison officials testified to the Select Committee on Corrections, Parole, and Probation that the prison population was approximately 12,600, which put it 1,000 inmates over capacity.

Approximately two weeks ago, Justice Hardesty reported that officials from the NDOC testified that the inmate population was 13,150 at that time. A number of suggestions were made today by representatives from the Justice Center, and a number of other suggestions had been made earlier by Justice Hardesty and others. Justice Hardesty believed that it was important for the Committee to convene an Advisory Sentencing Commission as soon as possible so that many of the issues could be vetted.

Justice Hardesty urged that the Legislature seriously charge that Commission with the responsibility of returning detailed recommendations to the Legislature within the next four months, and that the Legislature consider a special session to evaluate the issues, because the day of reckoning was close at hand. As pointed out by representatives from the NDOC, the capacity of the state's prison system had been exceeded.

Justice Hardesty emphasized that exceeding the capacity at NDOC should not happen, and he felt that Nevada could do better. Justice Hardesty stated that he chose to be optimistic. There were a plethora of projects and changes that could be initiated within the state's prison system, which were within the Legislature's power and the power of the court to initiate.

Justice Hardesty urged the Committee to accept some of the recommendations that had already been suggested during the 2007 Session, charge the Commission to act swiftly, and return to the Legislature in a short period of time with detailed recommendations to change and improve the prison system. There were many steps that would go beyond the presentations made by the Justice Center today, including the manner in which the state utilized mandatory sentencing.

One step alone that Justice Hardesty urged the Legislature to consider was to grant judges the discretion when making specific findings to deviate from mandatory sentences. Judges were incarcerating the wrong people under the drug trafficking laws. Justice Hardesty said the question was why a 19-year-old, who drove drugs from Sacramento to Salt Lake City, and got caught in Lovelock with a broken tail light with a trafficking quantity of drugs in the trunk of his car, was being sentenced to prison for 10 years to 25 years. The judges of Nevada should be given the authority to deviate in situations such as that, so they did not incarcerate people that really did not deserve to be incarcerated under mandatory sentencing statutes.

Justice Hardesty stated that he had suggested a number of other approaches, and had emailed legislators to report the progress of deportation of illegal aliens. Justice Hardesty pointed out that Senator Raggio had made an important point earlier in the discussion about illegal aliens. Justice Hardesty did not believe that all illegal aliens had been identified within Nevada's prison system, and the appropriate steps should be taken to identify those persons so that U.S. Immigration and Naturalization Service (INS) holds could be placed on those individuals, and they could be deported.

The Committee should adopt a goal to reduce the prison population in Nevada by at least 2,000 inmates, which then prompted the question of how that could be accomplished. Justice Hardesty submitted that the reduction could be realized through a combination of programs including deportation of illegal aliens, improving community-based supervision, and strengthening the specialty courts in the State.

Justice Hardesty said there were 20 inmates in the prison reentry drug court program in Clark County, 16 in the Washoe County program, and 1 in the Elko County program. According to Justice Hardesty, those results were terrible, and the Legislature should change the statutes that made it almost impossible, and provided no incentives, for inmates to seek the benefit of those programs.

The Supreme Court had presented a budget to the Legislature in which it had requested \$5.1 million for specialty court funding. Justice Hardesty stated that such a small amount was ridiculous. When specialty court judges were asked how much funding was really needed by those courts, the response was \$30 million.

Justice Hardesty found it interesting that one of the components of the Justice Center proposal was entitled, "Justice Reinvestment," [Exhibit C](#), and whether that program used new or old dollars, the fact was that the state's investment in prisons could be redirected to other programs. Justice Hardesty emphasized that the programs did not require additional funding, but rather the Legislature could reinvest current prison funding. There were many answers available, but it would require significant attention to detail.

Justice Hardesty stated that he had spent much time on the issue over the past three months and had learned a great deal. He believed that if the Legislature and the courts spent the necessary time studying the issues serious changes could be made in Nevada's spending on corrections.

Chairman Arberry asked whether there was further public testimony to come before the Committee.

Dr. Richard Siegel, President, American Civil Liberties Union (ACLU), stated that Justice Hardesty's testimony was eloquent and he endorsed his statements. Dr. Siegel said the point was that the report from Dr. Austin was not a front-loaded proposal. The options would take time, and the suggestion was that Nevada could locate reinvestment funding from those options. Dr. Siegel stated it was a wonderful set of suggestions, but the State had to have additional ideas, such as those suggested by Justice Hardesty, so that action could be taken within the next six months. That was the only way the Legislature could find money for investment in the areas of prevention mentioned in the presentation by the Justice Center.

Dr. Siegel emphasized that the Legislature should think "front loading," and if it took a sentencing commission or a special session to help locate the funding, he hoped that the Legislature would recognize the need. Dr. Siegel hoped that the Legislature would determine the type of changes needed for mandatory sentencing or for enhanced sentences for use of weapons.

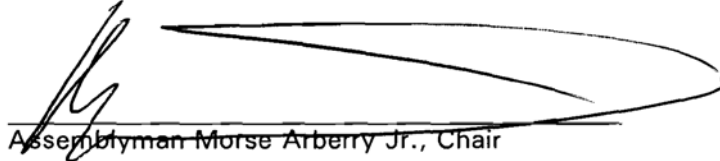
Dr. Siegel stated that the ACLU agreed that a target should be set to reduce the prison population, such as 2,000 beds. During his presentation, Dr. Austin pointed out that the Arizona prison system had reduced its population by 4,500, and Dr. Siegel commented that it was possible to target a 2,000-bed reduction in Nevada's prison system.

Chairman Arberry asked whether there was further testimony to come before the Committee and, there being none, adjourned the meeting at 9:10 a.m.

RESPECTFULLY SUBMITTED:

Carol Thomsen
Committee Secretary

APPROVED BY:



Assemblyman Morse Arberry Jr., Chair

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Assembly Committee on Ways and Means/Senate Committee on Finance</u>			
Date: <u>April 17, 2007</u>		Time of Meeting: <u>7:30 a.m.</u>	
Bill	Exhibit	Witness / Agency	Description
* * *	A		Agenda
* * *	B		Attendance roster
* * *	C	Michael Thompson, CSG/Justice Center	PowerPoint presentation
* * *	D	Michael Thompson, CSG/Justice Center	Increasing Public Safety and Generating Savings: Options for Nevada Policymakers
* * *	E	Michael Thompson, CSG/Justice Center	Packet of Information