

**MINUTES OF THE MEETING
OF THE
ASSEMBLY SELECT COMMITTEE ON CORRECTIONS,
PAROLE, AND PROBATION**

**Seventy-Fourth Session
May 1, 2007**

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:58 p.m., on Tuesday, May 1, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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).

COMMITTEE MEMBERS PRESENT:

Assemblyman David R. Parks, Chair
Assemblyman Bernie Anderson, Vice Chair
Assemblyman John C. Carpenter
Assemblyman William Horne
Assemblywoman Kathy McClain
Assemblywoman Valerie E. Weber

GUEST LEGISLATORS PRESENT:

Senator Dennis Nolan, Clark County Senatorial District No. 9

STAFF MEMBERS PRESENT:

Craig Hoffecker, Committee Policy Analyst
Matt Nichols, Committee Counsel
Brooke Bishop, Committee Secretary
Deanna Duncan, Committee Manager
Olivia Lloyd, Committee Assistant

Minutes ID: 1098



OTHERS PRESENT:

Howard Skolnik, Director, Department of Corrections
Don Helling, Programs Director, Department of Corrections
Tim Kuzanek, Lieutenant, Administrative Services, Governmental
Affairs, Washoe County Sheriff's Office
Ray Flynn, Assistant Sheriff, Law Enforcement Services, Las Vegas
Metropolitan Police Department
Frank Adams, Executive Director, Sheriffs' and Chiefs' Association
Florence Jones, Private Citizen, Las Vegas, Nevada
Joseph Turco, Legislative Advocate, American Civil Liberties
Union of Nevada
Dorla Salling, Chairman, Board of Parole Commissioners
David Smith, Management Analyst, Board of Parole Commissioners
Josh Hicks, General Counsel, Office of the Governor
Tonja Brown, Private Citizen, Carson City, Nevada
Jane Foraker-Thompson, Reverend, Religious Alliance in Nevada
Donald Hinton, Private Citizen, Las Vegas, Nevada
Constance Kosuda, Private Citizen, Las Vegas, Nevada
Juli Star-Alexander, Inmate Advocate, Redress Incorporated
Patti Edgin, Private Citizen, Las Vegas, Nevada
Patricia Hines, Private Citizen, Yerington, Nevada
Stephanie Santiago, Private Citizen, Las Vegas, Nevada
Sharon Samson, Private Citizen, Las Vegas, Nevada
Carol Sneed, Private Citizen, Las Vegas, Nevada
Philip K. (P.K.) O'Neill, Captain, Records and Technology Division,
Department of Public Safety

Chair Parks:

[Roll called.] We will start our meeting with an introduction by the Nevada Department of Corrections (NDOC) Director, Howard Skolnik.

Howard Skolnik, Director, Department of Corrections:

I would like to introduce Don Helling, the new Programs Director for the NDOC. It will be nice to be able to have someone I trust up here in the north, so I can stay home in the south.

Chair Parks:

Thank you, Mr. Skolnik. It is very nice to meet you, Mr. Helling. We look forward to working with you.

Don Helling, Programs Director, Department of Corrections:

Thank you for the introduction, Mr. Skolnik. I am pleased to meet all of you and look forward to working with you, too. I will be located at the Northern Nevada Correctional Center (NNCC) on the Stewart reservation, in Building 17.

Chair Parks:

We will now start our meeting with Senate Bill 30 (1st Reprint).

Senate Bill 30 (1st Reprint): Revises the provisions governing the early release of prisoners from county or city jails to relieve overcrowding. (BDR 16-362)

Tim Kuzanek, Lieutenant, Administrative Services, Governmental Affairs, Washoe County Sheriff's Office:

The Washoe County Sheriff's Office is in support of S.B. 30 (R1), but we do have one amendment. The *Nevada Revised Statutes* (NRS) 211.240 currently allows the sheriff, with respect to the county jail, or the officer in charge, with respect to a city jail, of any judicial district, to grant or request the authority to release certain inmates when the number of inmates exceeds the number of available beds. Our amendment changes the current wording from "available beds" to a standard identified as "operational capacity," which would be defined as the number of prisoners that we can house in the jail while remaining in compliance with the health, safety, and administrative standards of NRS 444.335 adopted by the State Board of Health. Our intent is to try and make it safer for the inmates we have to keep and the officers employed in our facilities. We are not trying to change the means with which we can release prisoners. Many of the problems we are currently experiencing deal with the correct classification of inmates, their medical needs, and the rehabilitation programs offered. There is also the separation of inmates, such as male and female, violent and nonviolent, gang member and non-gang member, and so on. This amendment would provide us the opportunity to release nonviolent inmates who have served more than 75 percent of their sentence, and in turn give us the ability to house those who are deemed violent or have not served 75 percent of their sentence.

Assemblyman Anderson:

How is operational capacity quantitatively determined? Will it be specific to a particular institution or will it be a defined standard throughout?

Tim Kuzanek:

The operational capacity is determined by a combined analysis of many variables: the original design capacity, whether or not beds have been added,

the amount of staff available, how many programs are offered, and the list goes on. Once the analysis has been done, the operational capacity for that particular facility will have been quantitatively determined.

Assemblyman Anderson:

Having worked on school design committees before, there is a design capacity, a student capacity, and then there are those areas that were not designed for students. If determined to be needed, those areas not designed for students could be converted into classrooms. The correctional facilities also have design capacities and areas not originally designed for housing inmates. I do not understand why you would not want to keep the "beds available" wording? What is the advantage of operating capacity? Is it because the number of available guards could change?

Tim Kuzanek:

The reasoning is that I cannot house males and females together. So even if I have 25 female beds available and 20 males that need beds, we would have exceeded our capacity as the wording is now.

Assemblyman Anderson:

Could those extra female beds be moved to the male area? I do not want this to become a sheriff's choice like the number of guards needed to properly take care of the number of inmates, whereas "beds available" is more precise.

Tim Kuzanek:

I do not believe it to be a sheriff's choice. We are regulated through safety codes with regulations such as a certain number of toilets per number of inmates, certain number of square feet per inmate in a living area, et cetera.

One thing that is imperative, yet hard to control, is our correct classification of inmates. Most of the beds are connected directly to the walls. The only exception to that are medical beds, which need to be easily moved. Since we do not have the ability to move beds, separation of inmates becomes more difficult. Within our facilities we cannot house all inmates together due to gangs, an inmate's vulnerability to others in the facility, some medical reasons, and gender. The need for inmate segregation prevents us from using all beds available.

Ray Flynn, Assistant Sheriff, Law Enforcement Services, Las Vegas Metropolitan Police Department:

We, too, are here in support of S.B. 30 (R1). The Clark County Detention Center (CCDC) has been fortunate enough not to have applied for emergency population relief. We agree with and fully support the wording change from

"beds available" to "operational capacity." What defines "beds available"? Is it putting beds in showers, in closets, and in the hallways? Operational capacity is defined by the American Correctional Association (ACA) standards based on the variables Mr. Kuzanek gave, and this also assures the professionalism of correctional institutions.

Assemblywoman McClain:

What would happen if you did reach this capacity and you identified those who qualified for early release, but the judge says no?

Ray Flynn:

When we reach high levels of dangerous overcrowding, which we have before, we have many options, such as bringing in more staff to speed up the bureaucracy of release. Even though an inmate has been released, the paperwork for that release can take up to eight hours. We are lucky in the sense that our population is mostly pretrial detainees, so the watch commander on duty has a good amount of discretion in order to allow for own recognizance (OR) releases.

Assemblywoman McClain:

My concern is if we get to the point of letting people out who are nonviolent or short-timers, then why were those individuals even put there in the first place? If we do that, we will then be left with the worst of the worst, and if this sort of thing happened again, then what would we do? We would have to build another jail.

Ray Flynn:

The majority of the inmates at CCDC are pretrial detainees. This gives us more options when dealing with overcrowding and early release. Luckily, we have not reached that point yet.

Assemblywoman Weber:

Has this situation happened at any facilities, and, if so, how long ago, and how often?

Ray Flynn:

At the CCDC, it has not happened in the 27 years I have been there.

Tim Kuzanek:

Yes, it has occurred in Washoe County a number of times over the last several years. We have 1,254 available beds and as of eight o'clock this morning we had 1,254 inmates.

Assemblywoman Weber:

What kind of notice, if any, is given to the public when these releases take place?

Tim Kuzanek:

There is no notice.

Assemblyman Anderson:

This legislation was brought to the Legislature several years ago. The discretion was left to the sheriff to make the notification.

Chair Parks:

How many prisoners in your facilities are simply waiting for transport to the NDOC?

Tim Kuzanek:

I do not know that exact number. I can say that before we would apply to the chief judge for emergency relief, we do exhaust all other avenues of relief available. We can contact the NDOC for assistance in the transporting of inmates to their facility more quickly. We also receive assistance from the Immigration and Customs Enforcement (ICE) officials who have been very helpful. We do absolutely everything we possibly can before we apply to the chief judge for emergency release.

Ray Flynn:

To answer your question, Mr. Parks, the CCDC can have anywhere from 30 to 150 detainees at one time. The biggest holdup is not the NDOC, but the district court in providing us with the conviction paperwork after the person has been convicted.

Frank Adams, Executive Director, Sheriffs' and Chiefs' Association:

The Sheriffs' and Chiefs' Association is in support of S.B. 30 (R1). I would like to remind you these are rural areas, Churchill, Lyon, White Pine, and Pershing Counties, and the City of Carlin, which have facilities that were built in the 1960s. The facility in Esmeralda County was built in 1907 and is still in operation. These facilities' operational capacities are very small because of that fact, and areas such as Douglas and Lyon Counties have applied for emergency relief because of that fact. We would support this because it gives us flexibility when dealing with this issue.

Florence Jones, Private Citizen, Las Vegas, Nevada:

I believe we need to have some common sense approaches when dealing with overcrowding in our prison systems. This bill, S.B. 30 (R1), seems to take a

responsible look at our prison system and gives those in charge the discretion to deal with this problem. We need to start taking a hard look at those who are incarcerated and decide who can make it out on the streets with some supervision. We need to get smarter on crime, not tougher on crime.

Joseph Turco, Public Advocate, American Civil Liberties Union of Nevada:

The American Civil Liberties Union (ACLU) of Nevada is neutral on this bill. I have testified on this bill before and we at the ACLU would like the definition of "operational capacity" in the bill to have language that provides the lowest threshold. Mr. Kuzanek and Mr. Flynn tell me that S.B. 30 (R1) will provide the definition for the closest to the lowest threshold.

Assemblyman Horne:

Is there a particular reason why the ACLU says the lowest threshold? Is not relieving overcrowding at any level good public policy? In some cases it may not be good public policy to make it the lowest threshold. You must have some rationale as to why the lowest threshold.

Joseph Turco:

Safety of the inmates, the guards, and the staff in these facilities is very important to us and the lowest threshold would further that safety.

Assemblyman Horne:

Let us say the capacity of a facility is 1,000 and they have 1,500 inmates. They are 500 over, so they release 600 inmates, bringing the total down to 900 inmates. Now 900 inmates are under the 1,000 capacity, but the lowest threshold might be 750 inmates. We still accomplished relief, but have not met the lowest threshold. The intent of the bill is to be efficient while relieving overcrowding.

Assemblyman Anderson:

I will be supporting this bill, but I am concerned with the uncertainty of a fixed number for operational capacity, where the staff can use it as a tool and make internal changes which would lead them to say they were overcrowded.

ASSEMBLYMAN HORNE MOVED TO DO PASS
SENATE BILL 30 (R1).

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Parks:

I would like to open the hearing on Senate Bill 496.

Senate Bill 496: Makes various changes to provisions governing the State Board of Pardons Commissioners and the State Board of Parole Commissioners. (BDR 19-1435)

Dorla Salling, Chairman, Board of Parole Commissioners:

I am here today in support of S.B. 496, which would provide for the Parole Board to be exempt from the open meeting law (OML).

[Read directly from prepared testimony ([Exhibit C](#)).]

I have David Smith, the Management Analyst for the Board, with me today. He will go through the handouts we have provided you.

David Smith, Management Analyst, Board of Parole Commissioners:

We have provided you the Parole Board Eligibility List for May 2007, ([Exhibit D](#)), the Parole Board Hearings Schedule for May 2007, ([Exhibit E](#)), and the Nevada Board of Parole Commissioners Agenda ([Exhibit F](#)).

Chair Parks:

When do the inmates become aware of the date of their parole hearing?

David Smith:

The Nevada Department of Corrections (NDOC) provides the Board the list of those inmates eligible for parole. The list you have is for the month of May 2007, and was prepared March 15, 2007. Once the list is created, the NDOC will begin sitting down with the inmates and preparing their progress reports, which are provided to the Board prior to their hearings. What sometimes happens is inmates are moved, and often neither the inmate nor the new facility is notified of the hearing date and often we end up having to reschedule. In order for us to comply with the OML we would have to send notification by certified mail 20 days in advance of the hearing to notify the inmate. The OML will cause a great fiscal impact and other problems if the Parole Board is made to comply.

Assemblywoman Weber:

How is this eligibility list provided to the public, is it just available in printed form or electronically?

David Smith:

Chapter 213 of the NRS regulates the Board to make this list available to the public. It is printed and is posted in our office for the public to view. The new system we will be getting soon will allow us to have it in an electronic form. Currently, the parole agendas are on our website.

Assemblywoman Weber:

If you develop the capability, will you put the list on the website?

David Smith:

We could, yes.

Assemblyman Horne:

Did you say that you could not do videoconferencing?

Dorla Salling:

We do not know for sure what the OML will require if we are made to comply with it; we are sure that we will not be able to do our hearing in absentia.

Assemblyman Horne:

I am looking at the statutes here and I do not see a prohibition against that in here. You mentioned you were waiting on an Attorney General Opinion (AGO) on whether you would remain exempt from the OML or not. What have you done to prepare if you are made to comply with the OML?

David Smith:

We have prepared a very lengthy report as far as what we would have to do if made to comply. There are some problems such as the camps and other institutions that do not have videoconferencing capabilities, and if we cannot do anything in absentia, that would mean having to travel to those inmates and that would have a great impact on the Board financially, as well as on the number of hearings we would be able to do in a day. Also the moving of inmates creates a problem for us. There are certain provisions within the OML that would be very difficult for us to meet.

Assemblyman Carpenter:

Why are inmates moved from one facility to another and what is the percentage of those inmates?

David Smith:

The percentage of those moved is about 5 to 8 percent of the total inmate population. There are many reasons for movement such as overcrowding, discipline problems, or medical needs.

Assemblyman Carpenter:

I do not see why videoconferencing would be such a problem. Even the camps that do not have that capability are close enough to a larger facility that would. In regard to the recording and transcribing of your meetings, do you not already have some sort of record of what took place?

David Smith:

No. At this time we do not record any of our meetings.

Chair Parks:

With the current lawsuit, have you looked at or reviewed any other alternatives for use between now and when you would be subject to the OML, if you were made to comply?

Dorla Salling:

The main point of the current lawsuit is the OML which we have provided you a copy of the Nevada Supreme Court's legal opinion in that case ([Exhibit G](#)). But, no, we have not considered any alternatives at this point.

Josh Hicks, General Counsel, Office of the Governor:

I am here to show the Governor's support of S.B. 496.

Chair Parks:

We will now open public comment on S.B. 496.

Joseph Turco, Legislative Advocate, American Civil Liberties Union of Nevada:

The American Civil Liberties Union (ACLU) of Nevada is in total opposition to Senate Bill 496.

Tonja Brown, Private Citizen, Carson City, Nevada:

I am opposed to S.B. 496 and would like to say that the average time of Parole Board hearings, previously said to be 20 minutes, is really 3 or 4 minutes.

Florence Jones, Private Citizen, Las Vegas, Nevada:

I am glad that something is going to finally be done about the Parole Board and how they have deliberately not complied with the OML since its onset.

Jane Foraker-Thompson, Reverend, Religious Alliance in Nevada:

I am opposed to S.B. 496. I have worked in the prisons, directly with inmates, for many years, and the way the Board does things and handles the cases before it is really unfair, and I am absolutely appalled by their deliberate disobeying of the laws. When you have the time, I would like you to read an

article I wrote and have provided you each a copy of "Creating a Humane Criminal Justice System and Significantly Reducing Tax Expenditures" dated March 26, 2007 ([Exhibit H](#)).

Donald Hinton, Private Citizen, Las Vegas, Nevada:

I am opposed to S.B. 496.

Constance Kosuda, Private Citizen, Las Vegas, Nevada:

[Read directly from prepared testimony ([Exhibit I](#)).]

Juli Star-Alexander, Inmate Advocate, Redress Incorporated:

I am opposed to S.B. 496.

Patti Edgin, Private Citizen, Las Vegas, Nevada:

My son was denied his parole for reasons that were not made known. I am in opposition to S.B. 496.

Patricia Hines, Private Citizen, Yerington, Nevada:

[Read directly from prepared testimony ([Exhibit J](#)).]

Stephanie Santiago, Private Citizen, Las Vegas, Nevada:

I am opposed to S.B. 496.

Sharon Samson, Private Citizen, Las Vegas, Nevada:

I am opposed to S.B. 496.

Carol Sneed, Private Citizen, Las Vegas, Nevada:

My husband has served seven years in northern Nevada and I now have medical issues that make it very hard for me to visit him often. I was not made aware of his parole hearing, and like Ms. Brown mentioned, the hearings are not 20 minutes long. The inmate can say nothing and have no one present on his behalf. I am in complete opposition to S.B. 496.

Chair Parks:

We will close the hearing on S.B. 496 and open the hearing on Senate Bill 389 (1st Reprint), which is Senator Nolan's bill.

Senate Bill 389 (1st Reprint): Makes various changes to provisions relating to public safety. (BDR 14-1348)

Philip K. (P.K.) O'Neill, Captain, Records and Technology Division, Department of Public Safety:

[Read directly from prepared testimony ([Exhibit K](#)).]

Assemblyman Horne:

Who is eligible for this assistance?

Senator Dennis Nolan, Clark County Senatorial District No. 9:

The intent of S.B. 389 (R1) is to provide for those nonprofit groups that are oriented toward children that have volunteers working for them; to help get those volunteers fingerprinted who otherwise would not be able to afford it.

P.K. O'Neill:

Our original intent when we put in the 501(c)(3) wording was strictly to include those nonprofits that could not otherwise afford this service. Because the 501(c)(3) eligibility is so broad, there have been groups that have been taking advantage of a service we were trying to provide to only those that could not afford it.

Assemblyman Horne:

Does this new language in the bill accomplish your intent of addressing a specific group?

P.K. O'Neill:

Yes, it does. Some of the intended recipients of the monies we have available include American Youth Soccer Organization (AYSO) teams and Pop Warner teams. I think this bill is the best solution.

Senator Nolan:

I would be happy with any amendments you might like to add as long as our original intent is not lost.

Chair Parks:

Why are people like me fingerprinted over and over again?

P.K. O'Neill:

The fingerprints themselves are not kept on the civil side; this is the reason you are required to have them done over so many different times. On the criminal side, they are kept in a repository for use in comparison of a crime or something similar.

Chair Parks:

That explains it, thank you very much. We are adjourned [at 6:41 p.m.].

RESPECTFULLY SUBMITTED:

Brooke Bishop
Committee Secretary

APPROVED BY:

Assemblyman David R. Parks, Chair

DATE: _____

EXHIBITS

Committee Name: Select Committee on Corrections, Parole, and Probation

Date: May 1, 2007

Time of Meeting: 3:58 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 496	C	Dorla Salling, Chairman, Board of Parole Commissioners	Written testimony.
S.B. 496	D	David Smith, Management Analyst, Board of Parole Commissioners	Parole Board Eligibility List for May 2007.
S.B. 496	E	David Smith	Parole Board Hearings Schedule for May 2007.
S.B. 496	F	David Smith	Nevada Board of Parole Commissioners Agenda
S.B. 496	G	Dorla Salling	Copy of legal opinion of the Supreme Court.
S.B. 496	H	Jane Foraker-Thompson, Reverend, Religious Alliance of Nevada (RAIN)	Article, "Creating a Humane Criminal Justice System while Significantly Reducing Tax Expenditures," dated March 26, 2007.
S.B. 496	I	Constance Kosuda, Private Citizen, Las Vegas, Nevada	Written testimony.
S.B. 496	J	Patricia Hines, Private Citizen, Yerington, Nevada	Written testimony.
S.B. 389 (R1)	K	Philip K. (P.K) O'Neill, Captain, Records and Technology Division, Department of Public Safety	Written testimony.