

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

**Seventy-Fourth Session  
May 8, 2007**

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:57 p.m., on Tuesday, May 8, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/](http://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](mailto: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  
Assemblywoman Kathy McClain  
Assemblywoman Valerie E. Weber

**COMMITTEE MEMBERS ABSENT:**

Assemblyman William Horne (Excused)

**STAFF MEMBERS PRESENT:**

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



**OTHERS PRESENT:**

Ray Flynn, Assistant Sheriff, Las Vegas Metropolitan Police Department

Jason Frierson, Public Defender, representing Clark County

David Kallas, Director, Governmental Affairs, Las Vegas Police Protective Association/Southern Nevada Conference of Police and Sheriffs

Danny Thompson, Executive Secretary/Treasurer, American Federation of Labor-Congress of Industrial Organizations

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

**Chair Parks:**

[Roll called.] We will start our meeting with a work session on Senate Bill 389 (1st Reprint), presented to this Committee on May 1, 2007.

**Craig Hoffecker, Committee Policy Analyst:**

[Read directly from work session document ([Exhibit C](#)).]

ASSEMBLYMAN ANDERSON MOVED TO DO PASS  
SENATE BILL 389 (R1).

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HORNE WAS ABSENT FOR THE VOTE.)

**Chair Parks:**

We will now introduce Senate Bill 438 (1st Reprint).

**Senate Bill 438 (1st Reprint): Authorizes a board of county commissioners to contract with a private entity for the detention of prisoners. (BDR 16-1354)**

**Ray Flynn, Assistant Sheriff, Las Vegas Metropolitan Police Department:**

The Las Vegas Metropolitan Police Department and Clark County Detention Center (CCDC) are in support of S.B. 438 (R1). Space is tight in our prisons and jails and we are quickly running out of room. The United States (U.S.) Marshal Service and the Federal Department of Prisons are planning to build a privately run facility 70 miles outside of Las Vegas, Nevada. I was asked if Clark County would be interested in renting beds from this facility and I said yes, not realizing that currently counties cannot contract with private

entities, like the State and cities can. We have no immediate plans to contract with any other private entity, besides working with the U.S. Marshals, but I am sure other opportunities or proposals will arise and this bill will allow us to privately contract as well. It is simply a fairness issue.

**Assemblywoman McClain:**

When the federal government contracts with private entities, does that include the use of their staff as well?

**Ray Flynn:**

Yes, they are privately run and privately built.

**Chair Parks:**

Nevada has had unfortunate experiences with privatization over the years; the women's prison and the facility in Ely are examples. If this bill is passed, what could we do to prevent what happened at the state level from happening locally at the county level?

**Ray Flynn:**

*Nevada Revised Statutes* (NRS) 209.141 is the enabling language for the State to privatize, but it is very limited in terms of providing control and protection. Senate Bill 438 (R1) provides the enabling language for counties to privatize as well as providing the additional protection standards needed for the facility, the inmates, and the staff.

**Chair Parks:**

What groups of inmates do you envision being placed into this privately operated facility?

**Ray Flynn:**

We are currently renting space from Henderson, North Las Vegas, and Lincoln County. A facility within 40 minutes of the courthouse can house any of our inmates. The population of the CCDC consists of about 70 percent pretrial detainees. A facility farther than 45 minutes from the courthouse would only be able to house those inmates already sentenced for misdemeanors.

**Chair Parks:**

Section 6 subsection 2 states an entity must provide eligibility and qualifications to comply with standards. What standards is the bill referring to?

**Ray Flynn:**

Interpretation of the language in the bill is this: Does the facility meet the American Correctional Association (ACA) standards and the Nevada health standards our facilities are required to comply with?

**Chair Parks:**

Would that mean a correctional officer working in one of these privately run facilities would have to be equivalent to one of our Peace Officers Standards and Training (POST) certified correctional officers the Nevada Department of Corrections (NDOC) currently employs?

**Ray Flynn:**

I am unaware of the standards private industry uses for their officers. Our compliance with the ACA standards applies to our officers as well as our institutions.

**Jason Frierson, Public Defender, representing Clark County:**

Clark County is in support of S.B. 438 (R1). We have two amendments which we previously presented to the authors of the bill. The first is in Section 6, subsection 2, where the State is the only entity listed, thus excluding any other entity, like Clark County, from the same protection proposed in this bill. Our other concern is in Section 7, subsection 2, regarding programming opportunities for inmates while incarcerated. We strongly agree in the importance of offering programs, but our concern involves those inmates with misdemeanor offenses. They are typically serving shorter sentences and possibly could not participate in those opportunities simply due to time constraints. We just want to make sure those inmates would not be penalized in any way for not being able to participate. Clark County's main concern with the bill, specifically, is the language referring to the State entering into an agreement with a private entity. If Clark County contracted with a private entity, we need the assurance we would be treated the same as the State.

**Assemblyman Anderson:**

Currently, if something happened at a county-run facility, liability exposure would be \$50,000. If something happened at a privately owned facility, what would the liability exposure be?

**Jason Frierson:**

Clark County is concerned about being removed from that cap since no other entity is listed in the wording.

**Chair Parks:**

We will now open the testimony to those who are opposed to S.B. 438 (R1).

**David Kallas, Director, Governmental Affairs, Las Vegas Police Protective Association/Southern Nevada Conference of Police and Sheriffs:**

The Las Vegas Police Protective Association/Southern Nevada Conference of Police and Sheriffs (LVPPA/SNCOPS) is opposed to S.B. 438 (R1). The lack of proposed standards in the current language concerns us. Particularly, in Section 6 the wording is open and subject to interpretation. I have provided you with an article about a riot that broke out in a privately run prison in Indiana ([Exhibit D](#)). Indiana had to engage the help of the local Special Weapons and Tactics (SWAT) team and police force in order to deal with that riot.

Even though we are reviewed yearly for compliance with the ACA standards that does not mean we always meet all of those standards. One standard we can never seem to meet is having one officer for every 64 inmates at any given time. There is no doubt that we are in need of more prisons beds, but our lessening of standards is not the way to deal with those issues.

This bill refers to the operational functionality of these privately run facilities, but there is no mention of the initial training or the ongoing training of their employees. Our correctional officers go through extensive training and this bill does not mention anything about training. These entities have proven their only concern is possible profits generated not the protection or safety of the general public ([Exhibit E](#)).

We, the LVPPA/SNCOPS, stand in opposition to S.B. 438 (R1) until standards are added to ensure the protection and safety of our community. Such facilities must operate with the protection of the community in mind, not the possible profits generated by the operator.

**Assemblywoman Weber:**

Did you have any opposition to the original bill?

**David Kallas:**

I have not seen the original bill. Mr. Flynn mentioned only those with misdemeanor offenses would be placed in these facilities, but there is nothing in the language of the bill governing who would be sent there.

**Assemblywoman Weber:**

The original bill had a lot less language. Many times the addition of language to a bill provides more opportunity for opposition to arise.

**Chair Parks:**

The original bill was only one line.

**Assemblywoman McClain:**

Who added this language to the bill?

**Matt Nichols, Committee Counsel:**

The original bill was simply a skeleton bill and later amended to include language from S.B. No. 551 from the 66th Legislative Session, which created the women's privately operated correctional facility. The language was then changed and geared specifically toward these county facilities.

**Chair Parks:**

We have repeatedly seen situations where there have been riots in various privately operated facilities. Summit View turned out to be a situation where the contractor failed to adequately perform his duties.

**Danny Thompson, Executive Secretary/Treasurer, American Federation of Labor-Congress of Industrial Organizations:**

The American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) is opposed to S.B. 438 (R1). When states turn to privatization, we have witnessed only disastrous outcomes. The operational responsibility of correctional facilities is a function of state government and should not be turned over to private industry. Every city within Nevada, especially those in southern Nevada, is definitely experiencing problems with population growth and prison overcrowding. Privatizing will not solve either of those problems. State government needs to respond responsibly and carry out its functions to deal with them accordingly. We are opposed to the entire concept of this bill ([Exhibit F](#)).

**Chair Parks:**

I would like to read into the record an email I received from Ron Dreher, Government Affairs Director, Peace Officers Research Association of Nevada (PORAN), who is opposed to S.B. 438 (R1). [Mr. Parks read directly from prepared testimony ([Exhibit G](#)).]

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

The American Civil Liberties Union (ACLU) of Nevada is opposed to S.B. 438 (R1) in its conception and the whole idea of privatization. Women's prison medical care was under private contract when the problems happened at the women's facility and, in fact, that case is about to go to litigation. One group that would most likely be placed into one of these

privately operated facilities would be the pretrial detainees. Pretrial detainees are innocent until proven guilty and it is inappropriate and unfair to put their fate in the hands of a private corporation whose only motive is profit. State government cannot outsource its constitutional obligations. We cannot leave our civil liberties to the dictates of the marketplace. I believe the history of privatization speaks for itself.

**Chair Parks:**

If this bill were to pass and Mr. Flynn were to contract just for those individuals who were found guilty and serving a gross misdemeanor sentence, would that change anything?

**Joseph Turco:**

No, it would not. It is true that a convicted person has fewer rights than the rest of us, but privately operated incarceration of any type is of poor quality, and has a lack of training provided for those employed there.

**Ray Flynn:**

The purpose of this bill was simply to allow Clark County to partner with the federal government, which is currently looking to build a facility here in southern Nevada. As it is right now, the State and cities can partner with them, but counties cannot. It is a lot easier to lease space than to do capital projects; I am simply looking for options for southern Nevada.

**Assemblywoman McClain:**

Where is the authority given to cities to contract with the federal government?

**Ray Flynn:**

I apologize; I will have to get back to you tomorrow on that; I do not have that information with me.

**Chair Parks:**

Do you think there are any amendments, given the opposition, which might address the concerns expressed here today?

**Ray Flynn:**

A possible amendment could be our initial intent, which is to simply allow a county to contract or lease with a private entity where the primary contractor is the federal government. The building of this federally contracted, privately run facility is coming soon and we, at the county level, do not want to lose the opportunity to take part in it when it happens. If this bill dies, we will lose that opportunity.

**Assemblywoman McClain:**

Once we find what statute and/or what specific language gives that federal contracting authority to cities, we could apply it to the counties in this bill.

**Assemblywoman Weber:**

Can you tell us where this language came from? It does not seem to have been a group effort.

**Ray Flynn:**

Our initial bill was short and sweet, but there were many concerns. The additional language was added to try and prevent the problems the State had already experienced with privatizing.

**Matt Nichols:**

The language was changed to specifically address the treatment of the prisoners and make it comparable in these county-operated private facilities as in the State-run facilities.

**Chair Parks:**

Are there any others who would like to speak in favor of or in opposition to S.B. 438 (R1)? We will close the hearing on S.B. 438 (R1), and having no further business, we are adjourned [at 4:33 p.m.].

RESPECTFULLY

SUBMITTED:

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Brooke Bishop  
Committee Secretary

APPROVED BY:

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Assemblyman David R. Parks, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

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

**Date:** May 8, 2007

**Time of Meeting:** 3:57 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 389 (R1)	C	Research Division, Legislative Counsel Bureau	Committee work session document.
S.B. 438 (R1)	D	David Kallas, Government Affairs Director, LVPPA/SNCOPS	<i>Associated Press</i> article, "Riot Breaks Out at Indiana Prison."
S.B. 438 (R1)	E	David Kallas	GEO Group Incorporated earnings for 2007.
S.B. 438 (R1)	F	Danny Thompson, Executive Secretary/Treasurer, AFL-CIO	Written testimony in opposition.
S.B. 438 (R1)	G	Ron Dreher, Government Affairs Director, PORAN	Email from PORAN in opposition.