

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

**Seventy-Fourth Session
February 13, 2007**

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:49 p.m., on Tuesday, February 13, 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

STAFF MEMBERS PRESENT:

Craig V. Hoeffcker, Committee Policy Analyst
Risa Lang, Committee Counsel
Deanna Duncan, Committee Manager
Gayle Miles, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

The Honorable Robert E. Rose, Former Chief Justice,
Nevada Supreme Court



The Honorable James Hardesty, Associate Justice,
Nevada Supreme Court
Dorothy Nash Holmes, Deputy Director, Correctional Programs
Division, Nevada Department of Corrections
Glen Whorton, Director, Nevada Department of Corrections
Tonja Brown, Private Citizen, Carson City, Nevada
Constance Kosuda, Private Citizen, Las Vegas, Nevada
Donald Hinton, Private Citizen, Las Vegas, Nevada
Florence Jones, Private Citizen, Las Vegas, Nevada
Wanda Tilcock, Private Citizen, Las Vegas, Nevada
Juli Star-Alexander, Executive Director, Redress Incorporated

Chair Parks:

[Roll called.] We will have a presentation on the justice system and issues related to corrections, parole, and probation. We welcome former Chief Justice Robert Rose and Justice James Hardesty.

The Honorable Robert Rose, Former Chief Justice, Nevada Supreme Court:

I am not an expert in penology or penal sentence structures in the United States, but I have been a district attorney, a district judge, and was a Supreme Court justice for 18 years. I speak for myself and do not represent the Supreme Court, although, I do serve part-time as a senior justice.

The defining terms of sentencing have four purposes: deterrence, incapacitation (separation from society), rehabilitation, and retribution (punishment). Over the last 30 years, we have discounted rehabilitation as a factor, the emphasis now placed solely on incarceration.

About 35 years ago, as a district attorney, I viewed the laws pertaining to sentencing as being too lenient. The laws were reviewed and stiffened, but I believe we went too far. The system now incarcerates people for too long. This has not only happened in Nevada, but throughout the country as well. Last January, The National Center of State Courts, issued a paper, *Sentencing in the United States*, and here are excerpts from that paper:

Commencing in the mid-1970s, state and federal governments began to severely limit judicial discretion in sentencing through a position of mandatory minimum sentence provisions and to increase the use of incarceration as a criminal sanction through legislation and sentencing guidelines that substantially increase the penalties for most serious crimes. The cost of America's over reliance on incarceration over the last 30 years has been

extraordinary. The enormous cost of corrections has drained scarce resources that could be used to address other societal and justice system needs. Between 1982 and 1999, direct expenditures on corrections by federal, state and local government have jumped more than five-fold from \$9 billion to almost \$50 billion a year. Recent trends, however, strongly suggest an available window of opportunity to reverse our nation's excessive restriction of judicial discretion and over reliance on incarceration.

Nevada is now facing problems which are not centralized but nationwide. As a solution, many states have formed sentencing commissions. The U.S. Supreme Court Justice Anthony Kennedy chaired the American Bar Association (ABA) Commission—what is now called the Kennedy Commission. That Commission studied this subject and came up with various recommendations. Justice Kennedy advised that oftentimes punishments are too severe and sentences are too long. The Commission had four recommendations: provide adequate sentencing without over reliance on incarceration as a criminal sanction, provide greater rehabilitation opportunities, eliminate mandatory minimum sentences, and use sentencing commissions with flexible sentencing guidelines.

Mandatory minimums are improper because a judge cannot always make the sentence fit the crime. Warden Glen Whorton testified a few weeks ago indicating he had a number of low-risk prisoners who could be released that day, but he could not release them because of the mandatory minimums for drug offenses. The realization is that when you have a sexual assault, for example, with a mandatory minimum of ten years, the offender has to do every day of those ten years. There are no good-time or work-time credits. I am not saying a ten-year minimum for most sexual assaults is not appropriate, but there are cases where you have a youthful defendant who might be mentally challenged, who commits his first serious crime, and whether he is a hardened criminal or a youthful first offender, he must complete the mandatory minimum. What we can do is reduce or eliminate the mandatory minimums, or we can permit a judge to deviate from the law for "good cause." It should be appropriate for a judge to say, "The mandatory minimum for this crime is ten years, but I am going to deviate from that and sentence you to two years because of X, Y and Z." That would allow the opportunity for judicial discretion.

Also in Nevada is the "deadly weapon enhancement" which doubles a sentence if a firearm, or other deadly weapon, is used to commit a crime. This is the toughest deadly weapon enhancement in the United States.

It does not enhance the crime, it doubles the sentence. In 2001, we had a case where a pizza delivery boy was killed in Reno. Ryan Moore and a group of young men agreed to rob a drug dealer for cash, but accosted the wrong person and shot and killed a pizza delivery boy. Moore was not the shooter, but because of the "felony murder rule," he was convicted of first-degree murder. And though he did not use the gun, a weapon was used, and he was assessed the deadly weapon enhancement. Since the mandatory minimum for murder is 20 years, he was sentenced to life with the possibility of parole after 20 years, plus a consecutive additional 20 years for the deadly weapon enhancement for a weapon that he personally did not use. We said in our opinion that Moore, who was a juvenile at the time the crime was committed, will spend at least 40 years in prison, even though he was not the shooter. The sentencing judge, Hardesty, said he felt the sentence was unduly harsh, but he had no other option than to follow the law. There was no other way to moderate the sentence. These types of sentences are even more problematic because of the definition the Legislature has given a firearm or other deadly weapon.

You, the Legislature, have adopted the verbiage in *Nevada Revised Statutes* (NRS) 193.165 which states, "Any instrument used in the commission of a crime; any instrument that can cause substantial bodily harm in its use, qualifies as a firearm or other deadly weapon."

We have seen the deadly weapon enhancement used for a rock, a boot, and even shoestrings if these items were used to commit the crime, and when you double it, the mandatory minimum is doubled. Someone should review sentences to see if they are excessive, under different circumstances. This is something that is not done currently. The Nevada Supreme Court reviews a case only to determine if the sentence is "cruel and unusual"; "excessive" is not addressed. The formation of a sentencing review commission, whose only function would be to review sentences and determine if they are excessive, should be a priority of this Committee. Many people turn to the Pardons Board, which is comprised of nine members: seven justices, the Governor, and the Attorney General, and only meet twice a year to hear less than ten cases. We should not be a vehicle for adjusting excessive sentences or for moderating inequitable situations. The Board is truly limited in its scope and is also political because all the members are elected officials. My recommendation is to continue emphasizing drug and mental health courts because they work and make a difference. Another component that works is halfway houses, which have greatly reduced the recidivism rate. The Ridge House in Reno and Casa Grande in Las Vegas are excellent examples of the reversal of the high recidivism. Instead of a 25 percent

success rate, they have a 75 percent success rate. Those programs cost money and effort by staff.

Lastly, a look at the beginning and end of the correction's process should also be reviewed. The process begins with Parole and Probation making the recommendations on punishments. As a district judge and a district attorney, I have always believed that their recommendations are excessive because they recommend incarceration as opposed to probation more times than not. The end process is not releasing prisoners in a timely fashion. Generally the Nevada Department of Corrections (NDOC) does a good job, but they show a reluctance to let prisoners go. Looking at the beginning and the end of the process, you would get a perspective of appropriate alternatives. We have a system that has been tough on crime but not always giving us the intended consequences. Programs that can work are halfway houses and stricter guidelines used for parole and probation. They have proven successful here in Nevada and across the nation. For some reason we are reluctant to fund them. Legislation can be put in place to allow judicial discretion in mandatory minimum assessments and modifications to the deadly weapons enhancement. Judges' proper use of discretion is the most appropriate solution.

Assemblyman Anderson:

Thank you, Justice Rose; I hope the court can keep the high standards that you have set forth. I know Judge Hardesty has great knowledge in the using of "enhancements," would not the defense attorney, in a trial, be able to argue that his defendant was not the individual who used the weapon involved, and therefore would not be subject to the enhancement? Would that not be part of the overall enhancement argument?

Robert Rose:

Judge Hardesty can correct me, but if a weapon was used in the commission of a crime in which the defendant was a part of, whether the one who used the weapon or not, all involved are liable for that enhancement.

Assemblyman Anderson:

I understood that was the basic concept. I am mindful of a similar incident with a 15-year-old with that same consequence. In reviewing the excessive nature of penalties for the court, the Governor, along with the victims of crime who pushed for the enhancement bill in 1995, were concerned with the flexibility available to the courts and the sentencing ranges allowed for minimum and maximum sentences. How do we maintain a balance in judicial discretion without creating other sentencing problems? Would you

suggest a judge to act as a nonbiased party and review the sentence made prior to it being given in court?

Robert Rose:

Having faith in our judges, and knowing they are mindful and tough on crime, I would let each judge be his own reviewer. He then must state in writing what the specific exceptions are for, and they would be subject to review by the Nevada Supreme Court to determine if they were sufficiently meritorious to warrant deviating from the guidelines. The chief judge could concur, or one could get another panel of judges. I would just leave the decision to the one specific judge. You mentioned 1995 and the "truth-in-sentencing" law. When you see a sentence, you know what is coming down—that is, if you are sentenced to a crime, you will get the mandatory minimum, or if you do not have a minimum, you will have to do 80 percent, so we are sure there is "truth" in what was assessed, and the person will have to do that time regardless. Victims want the maximum sentences, and often they are right in asking for that. But they can understand that exceptions can be made from time to time in the law because of the nature of the crime and specifics pertaining to the defendant, such as young age or mental handicap.

Assemblyman Anderson:

How does Parole and Probation operate in terms of letting people out and making recommendations for sentencing, and what would you advise is a reasonable time to be released from the time the offender has been awarded parole?

Robert Rose:

I cannot give you an exact length of time. In many of the more serious crimes we see, when someone who has served his mandatory minimum of ten years kept a good conduct record and comes before the Parole Board, the Board can decide that the crime was serious enough to impose another two to three years, and even another two to three years after that. This offender has already served a significant amount of time, and yet when he comes before Board, he finds he is jumping through the hoops once again. The Board does do a good job in most cases; however, there are some cases where they hold on a little too long. Statistics are encouraging, even though a standard is not known. In one of your last meetings, someone who testified said Nevada's Parole Board was within the "normal" range nationally as far as the time of holding on to prisoners. An article two years ago criticized the Board severely for holding on to prisoners for much too long. I do not know where the truth lies.

Assemblyman Horne:

I, too, have a concern. Judges go before the people to be elected and they have competitive campaigns. If not during the whole six years but in the two years prior to elections, will we not be able to count on the consistency wanted from a judge on sentencing? If we are going to have the deviation I can imagine the testimony from the District Attorneys Association saying, "They should be able to deviate both ways, either up or down, if they are going to deviate." If a sentence calls for 10 to life, judges may deviate and make it 20 to life. So it could also work the other way around. Even if it is something as simple as 2 to 5 years for robbery, judges would have the ability to deviate and impose 4 to 8 years, for example.

Robert Rose:

Judges will always have differing opinions, and, I agree, the public might witness more caution by a judge during an election year. Judges try to do the right thing in the off years and in the election years. In the case I mentioned earlier involving Ryan Moore, Judge Hardesty might have knocked off 10 years and made it 30 years. I might knock off 20 years and eliminate the enhancement completely because of the circumstances of his case—not being the shooter and his age when the crime was committed. Another judge could use his discretion and up the sentence to 40 years. At this time, it appears the law has all the minimums and enhancements needed. We do not need to empower the judges to use their discretion to add to a sentence. Quite often in a serious crime it has several counts with several minimums and several deadly weapon enhancements. The judge can run the sentences consecutively or concurrently; he has the discretion to assess the time he thinks is necessarily to make the punishment fit the crime.

Assemblyman Horne:

In that case you referenced, did Mr. Moore receive the same identical sentence as the shooter?

Robert Rose:

Yes, he did. The shooter was the killer, but the felony murder rule says, "You are all responsible even though it was not your gun used in the commission of a crime."

The Honorable James Hardesty, Associate Justice, Nevada Supreme Court:

Like Justice Rose, I am not an expert in penology, nor do I speak for the Nevada Supreme Court. I also only speak for myself here today. Like many Nevadans and members of the judiciary committee, I have been following your hearings with much interest. I applaud the Assembly's effort to review the corrections, parole, and probation systems in our State. I have made

suggestions concerning the system over the past several weeks, and Chairman Parks has asked that I share those views with you today. As a lawyer and a judge, I have had the privilege of working with a number of professionals in the systems who have given testimony before this Committee. They are an outstanding, dedicated group of men and women, and my remarks and suggestions are not intended in any way to be critical of the job these professionals do for us. Rather, I am proposing that the three branches of government join in a cooperative effort to assess our approach to the system in our State and develop new ways for dealing with incarceration, parole, and probation.

My proposed outline is based on reducing our prison population in a responsible manner, identifying the cost savings, and redirecting those savings into rehabilitation, funding for specialty courts, and the appropriation of measures to guard against unnecessary overpopulation in the future. Central to this plan is the need to save taxpayer dollars and invest the funds necessary in efficient corrections, parole, and probation systems. All three branches of government must comprehensively review the prison populations and find responsible, effective ways to reduce the population. The Assembly Subcommittee and this Select Committee have received testimony from the Director of the NDOC on the overcrowding conditions within the prison systems. Our prison officials have no choice but to suggest measures to deal with this situation. In this, they have recommended the construction of new prisons and the expenditure of \$30 million for pre-engineered modular housing units. Each building would be 200 feet by 114 feet and would house 200 prisoners.

As prison officials will tell you, the trailers, currently used for housing, are not appropriate for the long-term use by inmates. These trailers put guards and inmates at risk. Is this the best we can do? I do not believe so. We need to undertake a comprehensive review of our prison population and determine whether better, less expensive alternatives exist to reduce the population before we spend more dollars on overcrowding.

It is necessary to make clear that I am not suggesting the State release murderers, violent inmates, sex offenders, et cetera, out of prison. No one would authorize the early release of an inmate who poses a risk to society. However, there are, without a doubt, categories of inmates who can be released without jeopardizing the public safety of our communities. In doing so, we can save significant tax dollars. Here are some examples:

As of January 31, 2007, there were 1,039 inmates in the Nevada correctional system who were illegal aliens with Immigration and

Naturalization Services (INS) holds placed on them by Immigration with the intent to deport them to their country of origin upon completion of their prison sentences here in Nevada. The INS, now called "ICE," for Immigration, Customs and Enforcement, has many inmates with no prior convictions, and can not justify retaining them in Nevada's prison system.

First, the system should examine and evaluate every inmate's file listed above then, working through various federal programs and agencies, deport them. A release of 500 inmates to deportation could save the State nearly \$10 million in annual occupancy costs.

I have discussed this issue with members of the Governor's Transition Team, and I am advised that Mr. Galeoto, the new Director of Public Safety, endorses this proposal. I recognize the concerns of some people that some of the defendants will find their way back to Nevada. If they do, they will face federal charges and enter the federal prison system. Nevada and its federal delegation can inquire as to why they are continually coming back here, and what can be done about it.

Secondly, we must conduct a comprehensive evaluation of the inmate population, using a new criterion that recognizes an inmate's amenability to supervision, rehabilitation, and treatment. The Legislature should review the statutes providing for release to a residential confinement. Only 126 inmates are currently in residential confinement programs. Among the six statutory schemes provided for residential confinement, three are not used for lack of funding. Foremost is the problem of inadequate housing provisions to accommodate residential confinement. The prisons currently have restrictions on the release of inmates. If these restrictions were removed it would save substantial federal dollars, specifically on the inmates who are receptive to supervision and outside treatment, thus assisting in alleviating the overcrowding.

Included in this effort would be a redirection of funds to drug and other specialty reentry programs. Drug court, to name one, has proven to be a success, and the State should support efforts of transitioning inmates back into society.

Thirdly, we must restructure the criteria used by the Pardons Board for commuting sentences to be considered for parole. Prisons are housing inmates convicted under mandatory drug trafficking sentences of 2 years to 15 years or 10 to 25 years that have no prior criminal convictions and no crimes of violence. Excessive duration of jail sentences is costing our State an inordinate amount of money that could be used elsewhere, such as

treatment rehabilitation and housing. In a documented case of drug trafficking, the transporter gets 10 years to 25 years. Law enforcement should focus on the principal trafficker—the primary drug dealer in many of these cases. These secondary partakers rarely perform enough assistance to law enforcement to qualify for consideration of probation by the sentencing judge. An in-depth review of these and other measures will contribute to prison population reduction, avoiding the cost of trailers. The specialty courts of this State are best suited to take on a substantial part of that task.

I assent to Mr. Rose's earlier comments regarding mandatory sentencing for certain offenses and enhancements of added time on other offenses. We have an obligation to review regulations used by Parole and Probation for making recommendations in the Pre-Sentence Investigation (PSI) reports which are ultimately used by judges for sentencing. We should return discretion to the judges for sentencing in certain crimes, provided that consideration is explained and findings are submitted with that determination in writing. In some cases, requiring mandatory prison time is not warranted but remains one of the contributing factors in correctional spending. I have advised the prison staff, the Division of Parole and Probation staff, the district attorney's office staff, the public defender's office, the Attorney General's office staff, and the courts, all to assemble a panel outlining areas needing restructuring in order to reduce cost and overcrowding, identify the possible savings, and make recommendations to the Legislature for changes and appropriations. We should not let these urgent problems escalate into the next legislative session. Meaningful solutions and alternatives to our correctional problems here in Nevada are drastically needed.

Assemblyman Carpenter:

Can Nevada deport illegal aliens, or do we have to go through the federal government?

James Hardesty:

One way is to use the NDOC. Another is to use the deportation process through ICE, and there may be others ways. There are Homeland Security funds that would assist in the process. Immigration/deportation is a problem requiring an in-depth evaluation and is a main contributor to overcrowding. The Board has, on occasion, accommodated requests from inmates who wanted to be deported to their countries of origin.

Assemblyman Anderson:

We spent a good deal of time on the specific criteria for use of the sentencing commission in 1995. The commission members consisted of a district judge, and representatives from judiciary, law enforcement, district

attorneys office, and Legislators, to review the sentencing parameters to identify problems. However, nothing came of it even though it met for several sessions. It ultimately recommended the Legislature to do away with itself. Have you reviewed the criteria that are currently being used? There was a chart put together that they were told to use, but they were not happy about it.

James Hardesty:

Given the productivity of the prior committee, I am glad they disbanded. I have reviewed those criteria and have offered some specifics for how the criteria could be changed. Just like the criteria dealing with the statutes for residential confinement, there are instances in which the discretion of professionals who address those issues is being limited unnecessarily.

Assemblyman Anderson:

Are you anticipating putting together a document of your recommendations, or do you see another body being created to do another report?

James Hardesty:

I am not in favor of another body doing more reports. I am suggesting a panel of appointees from the various entities, plus staff, be formed and given the responsibility to determine solutions to the issues addressed. They would need to submit a specific and concrete proposal to this Committee and to the Senate for consideration by April 1, 2007.

Assemblyman Anderson:

Are you offering the relationship of the court to enter into this? Do you anticipate that the District Attorney, Parole and Probation, and other groups are willing to step into the arena with you? Such a cross-pollination of the three branches is extremely rare.

James Hardesty:

This problem is acute enough that it warrants just that. I did not come here without making phone calls in advance of my testimony. I spoke with Glen Whorton at length. I hope we can grab his cell phone and home telephone numbers before he leaves the prison system. This issue is of such importance to all of State government that those who are responsible will be interested in participating in this, and we should not wait.

Assemblyman Anderson:

Has there been a certain kind of commitment from the District Attorneys Association, the Defense Bar, Attorneys for Criminal Justice, and those who you mentioned?

James Hardesty:

I do not have that commitment from them, but I am sure a telephone call would result in their participation.

Assemblyman Anderson:

And from the Chief Executive's office?

James Hardesty:

Yes.

Assemblywoman Weber:

Instead of microcosmically doing something, how do we do the greater good to protect the public and be cost-efficient? During your watch in judicial government, state sentencing policies have affected our State. For example, the Three-Strikes Law in California, has that driven criminal activity toward our borders? There is a presence of over 500 gangs, mostly from southern California, but some from Central America. Regionally, California is facing a crisis similar to Nevada. Do you see the whole region working together?

Robert Rose:

Each state, legislatures, courts, and executive bodies handles its own justice system and has its own set of parameters, guidelines, mandatory minimums, and deadly weapons enhancements. Generally, there is continuity, although with Nevada's deadly weapon enhancement, we double the sentence. Where as other state courts adjust the time from one to five years. California has the Three-Strikes Law and here we have the "little and large habitual criminal" statute which does the same thing for repeat offenders.

There are sociological trends that impact regions as well. There were gangs in Las Vegas when I lived there 20 years ago; now the numbers have risen dramatically. A lot of that does come from other regions. Perhaps it is the glamour of gambling that attracts the less desirable, consequently 20 percent of the serious crime is committed by transient offenders who have only been in the State less than 6 months. We do, however, adjust our policies to try to remain in the norm and sometimes borrow policies from other states that we see have been working for them.

James Hardesty:

Law enforcement shares the same regional concerns. In terms of sentencing criteria or correctional approaches, I would have to defer to prison officials about their relationships with others. The judicial system applies the laws of Nevada, the *Nevada Constitution*, and the *United States Constitution*. Whether there are three strikes in California is not important to me as a

sentencing judge. The federal system's use of sentencing guidelines is something I would hope Nevada would never do at the state level. I wholeheartedly endorse the concept of truth-in-sentencing. And, yes, victims have a right to know and expect what the sentence will be and defendants will serve the sentence they have been given. That is different from the concept of mandatory sentencing. There may be many instances, drug trafficking, for example, where there is no specific victim involved in the mandatory sentence that is being served. As to the use of sentencing guidelines, the United States Supreme Court has called those into question in a recent opinion, and sentencing guidelines became increasingly complex to apply at the federal level. We should never get to that point because we would never be able to explain to the victims, the defendant, the judge, or the lawyers what the sentence was and how it was reached.

Assemblyman Carpenter:

If we were to take Justice Hardesty's suggestion of getting a panel together, then we need to take the leadership within this Committee, and hopefully, we have the resources to do that, and find out what is needed to get the various entities to meet and work on all the questions brought forward.

Chair Parks:

A week from this coming Thursday, Dr. James Austin will be here and will speak to us about prison populations and other work he has done with the Parole Commission in a joint effort between the Department of Justice and Council of State Governments (CSG). There are two additional bill draft requests (BDRs) that have been offered, the deadline of which is next Monday. We will ask for input from the different departments such as NDOC, Parole and Probation, et cetera. Next we will have a presentation by the Correctional Programs Division of the NDOC.

**Dorothy Nash Holmes, Deputy Director, Correctional Programs Division,
Nevada Department of Corrections:**

There were questions about American Correctional Association (ACA) standards and how they impact what we do in our prisons. We get them every year, and write our Administrative Regulations (AR) and Operating Procedures (OP) in compliance with the standards. They cover everything—how many officers, size of the cells, visitation, and training. What we do not have are programs or treatments on which to apply the standards. We follow the ACA standards whether we have dollars to apply for accreditation or not. The courts look favorably on us when we are in compliance.

I will echo statements of earlier speakers in considering the entire criminal justice/corrections continuum. Our mistake is the piecemeal method of fixing

parts of the whole problem. When prisons did not want treatment, judges created boot camps and forced that on us. When they did not want drug treatment, the treatment community and Senator Valerie Wiener forced therapeutic communities on us because there was federal drug money for it, although there were no state dollars. When victims believed prosecutors were too lenient with plea bargains, et cetera, laws were passed that would not allow plea bargaining in cases like a Driving Under the Influence (DUI) and added mandatory sentences. A case in one department affected the rest of the departments. The most recent statistics from the Bureau of Justice dated November 2006 states: "As of December 31, 2005, 1 in every 136 adults in the United States was or has been incarcerated." If you add the numbers that are "on paper," on parole or probation, it is 1 in every 32 adults. There are 19,585 people in the parole and probation system in Nevada; as of yesterday, we have 12,905 inmates "in-house," which is 1,000 more than what was budgeted for. The Criminal Justice continuum in other states averages \$228 per capita; Nevada spends half that at \$147 per capita. Fixing the entire system is imperative, and we have to look at the decisions the prosecutor makes—how many charges to lodge and what kind—and also the sentences the judge makes, the duration of the sentence, and decisions the Parole Board makes regarding release.

Our division gave up a capital improvement budget of \$15 million, which was allocated to build the High Desert State Prison. The Governor used a portion of those dollars to build a psychiatric hospital in Las Vegas, and our numbers were low in 2001. We rented out beds to Washington and Wyoming for two years. The trade-off was Casa Grande and other creative programming. Now we are two years behind in our building. Overcrowding and inmates sleeping in the gym have made trailers the emergency fix. Nevada has no sentence modification procedure. The Public Defender or the Federal Public Defender in Clark County made recommendations in the Assembly Concurrent Resolution 17 hearings regarding taking a look at those cases, such as the one Justice Rose mentioned in which a 16-year old gets sentenced to 40 years in prison. By the time that person is 25 or 30, he will be a completely different person, and he will still be in prison.

As a prosecutor, rarely did I believe in rehabilitation. In the last six years, I have seen individuals who are different people, not only on paper by virtue of their education, treatment and programming, but in their demeanor, actions, and the way they deal with others in the prison system. They are not getting disciplined and are taking paid prison jobs. Unfortunately, we must hold them for another 15 years.

This system needs revisiting. It needs alternatives for early reentry, such as a sentencing commission as suggested. It is often assumed we have light-weight offenders, which we do have, for example, Category C—a one-to-four-year sentence, and Categories D and E. Some of the category Cs may have prior gang activity or a gun sentence; hence, the prison looks at this person differently. We need to review how those decisions are made. Testimony from last week's meeting mentioned prisoners who are bad, regardless of their behavior or participation in treatment programs, and who will never be paroled. Why are we wasting our resources in bringing them before the Parole Board?

In 2006, there were 8,427 Parole Board decisions with 3,884 being favorable. What was wrong with the other 4,543? Of the favorable decisions, only 2,741 were released. Why were the other 1,143 denied release? We have 372 drug treatment beds for men; we will lose 172 of them to northern Nevada in June when the federal dollars have been exhausted, if that is not picked up by you. We have a spending cap, so we cannot ask for those dollars. We increased our loads from 50 to 70 treatment beds for our women in the last two years, where almost 70 percent of those women have methamphetamine charges. There is no room for expansion.

Idaho looked at the problem of housing since inmates were not getting out of prison. They created a Housing Voucher Assistance fund, giving up to \$900 to an inmate upon release from prison. That program proved cost effective because it did not keep inmates incarcerated for another six months. These are cost-saving alternatives that should be examined. The "three-year reentry assistance program" is working to prepare inmates for re-entry. Those were our worst offenders, 14- to 35-year-olds—serious and violent offenders, armed robbers, and rapists—and 69 percent have not come back. One hundred percent of them go to job referrals, and 91 percent have jobs, almost 90 percent obtained their GEDs, a large percentage went into drug treatment, 50 percent received financial assistant for housing. Those figures speak volumes.

Nevada now has no money to continue that program. We do have the four reentry positions in the budget, and I assigned five others down south, so we have nine treatment positions in the prison system and out of 12,905 prisoners, half of which are released every year.

Treatment works; drug courts work. Right now we have 61 inmates in the "305 program," the DUI program, which enables inmates at the end of their sentences, to do our eight-week intensive treatment program, which might

qualify them for residential confinement. That is more than we had when we came before you last session by about 15 or 20 inmates because we have assigned our reentry coordinator to focus on getting people into that program. Why are there not more? We need answers to these questions.

The "317 residential confinement program," or house arrest, is another alternative in which inmates can spend the last parts of their sentences at home with electronic bracelets and supervision. There are only 38 people in that program. Why? We have to ask the Division of Parole and Probation about that. Is it too expensive? Is it that we do not have those kinds of low-risk offenders in our system? If so, get rid of the program, and let us do something else with them, or not send them to prison in the first place. It costs the State \$20,000 per year to house each inmate. Perhaps the criteria is too restrictive.

I have fewer than 90 employees in the Correctional Programs Division. We do not have enough staff or dollars to fix all the problems. We need to fix the problem before people come to prison, or we need some kind of consensus on when they get out. Holding hearings in absentia for everyone in minimum custody is an obvious indicator of overcrowding. Maybe no hearings should be held for those in minimum custody. Maybe that is a waste of tax dollars. There are only seven members on the Parole Board, and only four of them are needed to make a decision. If the Open Meeting Law is applied, the State will have to add one or two more commissioners because they will not be able to deliberate in public; there will neither be enough of them, nor enough resources.

Dr. James Austin says 80 percent of parolees are successful. Mr. Gonska's statistics say it is 77 percent. How long are they on parole? If the majority of them are on for six months or less, why bother? Is that worth our resources? Why not let them out and put them into treatment in the community where it is not costing \$20,000 annually per person per year? Let us look at what we are doing with them in the community. The Department of Parole and Probation has practically no programming resources in the community. Justice Hardesty mentioned getting the players together to deal with illegal immigrant issues. Nearly two sessions ago, Nevada amended the Compassionate Release Act. That issue was extremely narrow in its interpretive solution. The offender was released only if he were dying within 12 months, not ambulatory, and not a threat, and only after two physicians verified his condition. Such individuals were let out on the condition they had a home to go to. We helped to amend that statute so that those who were seriously ill, not a threat to others, and didn't have to be dying within the next 12 months, could be released. The Department

could decide how to house them, whether in a hospice, residential confinement, et cetera. The percentage of inmates using that legislation is miniscule at best. Why? It is not enough for us to count in our successes.

We have 250 to 300 more inmates in high school programs this year in comparison to 2005; we have doubled the number of high school diplomas, and quadrupled the number of GEDs. The NDOC stressed the need for possible parolees to work on the aspect of their release in tandem with their in-house, or prison industry, job. That got them going. We have 516 inmates taking college classes. We had 400 when we came before you last time. Another success is the reentry program, our elderly program that was featured in the magazine *True Grit*. We have done what was allowed with the dollars available. Initially, our program had \$3 million to work with. We have no additional money to continue, and those federal dollars are dwindling with competitive programs just like ours—Katrina and the war in Iraq.

We must fix the problems discussed throughout the entire NDOC. Good tax-saving alternatives are available. Let us use them. Like I said before treatment works. With the 400 beds in the community and the 472 beds in prison, treatment should be there for *all* types of addiction. Alcohol is as big or a bigger problem in Nevada than methamphetamine use. We cannot continue to look for federal dollars any longer; we must find those solutions ourselves, and it has to come from you, the Legislature, telling us what to do and appointing the committee suggested. This has to be a concerted effort; working against each other is hurting Corrections' financial future. One department should not be made to bear the entire responsibility.

Assemblyman Anderson:

Drug treatment programs are having many problems. Programs to address sex offenders are real because those offenders will ultimately get out. There is a need to treat the third-time DUI offender. There are district attorneys who do not want to charge for the first DUI because they realize some will be repeat offenders. We have been asking the prison system to participate since 1995. In the 1995 Session we put together the truth-in-sentencing package and other treatment programs. We have not received cooperation from the prison system to keep those programs going. Even though we promoted those programs as policy, there were certain administrations that did not give it the kind of success that previous wardens enforced when moving from a prison system to a correctional system. Those programs met with huge amounts of internal resistance from within the NDOC. We do well at sending the offender to prison and protecting the public. The punishment element will never be as good for the victims of crime as they would like it

to be. We are doing a terrible job. The solutions are somewhere within what has been brought before this Committee. Building walls to house inmates has proven to be a failure.

Dorothy Nash Holmes:

Nationwide, Nevada is 47th in terms of the nonuse of probation. When we were prosecutors, we thought everyone got probation. We use it less than almost every other state in the United States. Other states use programming and treatment in the community before prison. Nevada uses prison before anything else. It has taken generations for the prison system to come to the table. We are at the table now. We have changed our name; we are working on changing our attitude, and our culture. Director Whorton has strongly supported treatment programs. We have to put in place programs that are sustainable. Piecing dollars from various grants is not enough. We are desperately in need of a systematic approach. We are finally at the table. We have got to do something different in this State.

Assemblywoman Weber:

What is the status on the federal side of attracting dollars to the State, specifically the Second Chance Act? Also, do you have a grant writer who looks for an opportunity to attract more funding?

Dorothy Nash Holmes:

Yes. The Second Chance Act has been proposed and passed in Congress twice, but it has yet to be funded. It is before the current Congress again, and again there are no dollars attached to it. I have been writing grants and we have staff assigned to that effort as well. There is an email list and chat line that announces all new grants from every federal department on a daily basis. Constraints on the federal budget have thus decreased the dollars available to us.

Assemblywoman Weber:

What percentage is coming back from the grants that you pursue?

Dorothy Nash Holmes:

I am not sure on the percentage, but the coming in of the funds is at a trickle. We applied for a mental health grant for \$250,000, which is a pittance, but was intended to connect parolees in northern Nevada with mental health courts in Washoe County utilizing the treatment and housing money they already had. There were supposed to be 55 grants given out by the government and in the end they only gave out 27 grants, none of which was ours. Among those grants denied was, one for about \$350,000 for

Prison Rape Elimination Act (PREA), which we are now federally mandated under and the other was a grant for re-entry of youthful offenders.

Glen Whorton, Director, Department of Corrections:

We appreciate your support for programs of the NDOC, Ms. Weber. The NDOC is looking for grants, but there seems to be no indication of a commitment on the part of the Nevada Legislature to provide the funds that we need. We have a dismal staffing ratio, a dismal record of providing programs, and sustaining those programs that are supported by the State and not by federal funds. That is not a problem for the NDOC, it is a problem for you, the Legislature. You have the department that you have asked and paid for—a department that is populated by individuals who were sentenced under laws that passed and signed by governors. We do not create or approve our own budget, nor do we decide who comes into or leaves our facilities. We work with what we have. Given the efforts of our staff, you should be grateful for that; you do not have the major problems or the major incidents and we are not on *60 Minutes* with pictures of riots that continue time after time. If you are unhappy with the NDOC, then I suggest you go to the budget committees and lobby for the funds. We get what we pay for. We want change and we need your help to do that.

Assemblywoman Weber:

How much money was requested for programming that we are not providing or is not in the budget?

Glen Whorton:

We make our requests to the Governor's Office. The overwhelming portion of requests the NDOC applied for were capped out. That spending cap can be addressed by this Legislature. We asked for program staff positions, a major revision to the NDOC to include the development of a women's division specifically to address their needs and a review of staffing in support of the audit that was provided.

Assemblyman Anderson:

Ms. Weber, we did a study, between the 1995 and 1997 Sessions dealing with the recidivism rate. Perhaps you could review that document. It made several changes to the entry programs for prisons and gave credit to the drug court program and other diversionary programs. We also made recommendations to Fiscal as to funding sources and had a rather extensive number of BDRs. I appeared before Taxation and other money committees and continue to support those kinds of diversion and educational programs. There are other kinds of budgetary shortfalls, which do not allow for full funding of all the recommendations that have come forward. There were

some, however, that were put in place by the NDOC, and some of those programs were not as successful. Therefore, subsequent legislative sessions did not show support, nor did the NDOC, because they were not able to find the staff to meet their internal needs. That is one of the problems facing us—the need for treatment providers, which are lacking in smaller communities. Mr. Whorton is correct in that there have been many requests from the NDOC and many pieces of legislation that were put in place from various committees to address those very issues raised today, some of which have been adopted, and others which have not. Education, internal, and diversionary programs are the best ways to protect our society, not by just building prisons to house people.

Glen Whorton:

I agree; those items are the means of controlling institutional populations. Some of the programs you alluded to and the problems with their success rates, again, are an issue of what is sustainable and what is not. In the drug court program, inmates were afforded an opportunity to attend and the fees were available. However, when those funds dried up, it became necessary for inmates to pay those funds up front; this is a population that does not have that kind of money even though they work at prison jobs. That is why we saw the dramatic fall off in that program; also, we do not have the budget for it. People who attend those kinds of diversionary programs through the drug court system should not have been sent to prison in the first place.

Assemblyman Horne:

Does the NDOC ever give standard statements on how good or bad an inmate conducted his stay and then make recommendations for release to the Parole Board?

Glen Whorton:

That is an interesting question. I have direct involvement in that process. We had staff make that kind of recommendation, and it was passed onto the warden and then to the Parole Board. When I returned, we implemented the objective classification program—the information system at the Southern Desert Correctional Center. We used a group of actual Parole Board reports as examples. Every recommendation that came out of that institution read exactly the same way whether the crime was murder, DUI, or burglary. The criminal history of each participant varied, of course, but the generic recommendations caused more confusion, and it made no sense to me to even provide a recommendation for an inmate to work in a community. This was the case especially when we had no knowledge of his activities or

performance, except for the fact that something got him to prison in the first place.

The other reason for the program's discontinuance was that we did not want to be seen as an impediment to the Parole Board, making their decisions to release the inmates. A decision on whether or not an inmate should be released should be based on his criminal history, performance while incarcerated, amenability to supervision, and expectation he will obey his parole officer. You do not need someone from the NDOC to tell you that. We have a professional Board now. Years ago, we had bankers, school teachers, and business people sitting on the Board part-time. They made their decisions based on what the secretary of the Board said and deferred to that nonvoting individual.

Assemblyman Horne:

There are instances when their power could be abused.

Glen Whorton:

Those who express a positive attitude and behavior are those we seek in corrections. On the issue of releasing inmates, the most difficult thing for us is to say, "Yes," because most believe us saying, "No," means we are doing a good job.

I would suggest you, the Legislature, carefully write and review the statutes dealing with the staffing or management of the Parole Board. As you know, changes sometimes result in unintended consequences.

Chair Parks:

That concludes our presentation of the justice system listed on our agenda. We will now introduce the BDR 16-616 (Later introduced as [Assembly Bill 106](#).)

ASSEMBLYMAN ANDERSON MADE THE MOTION TO APPROVE THE INTRODUCTION OF BDR 16-616.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Tonja Brown, Private Citizen, Carson City, Nevada:

I received a letter from an inmate and I have provided each of you a copy ([Exhibit C](#)). I would like to keep this confidential and express my feelings that there definitely are some problems with the current corrections system.

Constance Kosuda, Private Citizen, Las Vegas, Nevada:

I have sent my written testimony up to your Committee ([Exhibit D](#)). In the paper today Assembly Speaker Barbara Buckley pointed out Nevada's use of restitution centers, house arrest, or even community service for nonviolent offenders as less expensive alternatives to the cost of prison beds. She also spoke of education and how important it is to keeping many people out of prison. That would relate directly to the testimony of Dr. Austin, who pointed out schools hold the key to deterrence. Money needs to go into education, not into prisons.

The State Public Works Board (SPWB) has recommended that the NDOC needs \$538 million. In the two-page document I submitted include proposed project costs of up to \$1,000 per square foot and for the Public Works Project 654, an administration building in excess of 10,000 square feet, costs of \$460 per square foot, and the Public Works Project 653, installation of pipe, costs of \$145 per linear foot. I personally called the SPWB to find out why these costs were so high and what calculations were used? I was informed that the SPWB does the calculations themselves. I was also informed of two factors which impact these projected costs. The first factor is supply and demand, which is a hypothetical factor since they do not know what the actual demand is in the community, they make a guess. The second factor is inflation. They add an 11 percent per month cost increase for each separate project. I would like to suggest that this Committee, or the Legislature as a whole, take a look at the way these costs are computed. Thank you.

Chair Parks:

Thank you. The issues you brought up have been widely discussed relative to the SPWB and their cost estimates. We, as a nation, have seen significant inflation in our costs. There is a Committee this Seventy-Fourth Session who is looking into that.

Donald Hinton, Private Citizen, Las Vegas, Nevada:

I also feel there are problems that need to be addressed in Nevada's corrections system. Men and women are being sentenced to a length of time they may not outlive, and there is no consideration from the Parole Board, except denials. Prisons have been failing for thousands of years, and everyone knows this. Nevada needs to be a front runner and start something that is going to work for all, not only victims. I am not suggesting doing away with prisons, just doing something else that will work. Senator Mark James really did this State a disservice when he said, and I quote:

Let us put truth-in-sentencing in here. Let us take away all chances for these guys getting a parole no matter how well they behave, no matter how well their attitude changes, no matter how their mindset changes about crime in the community as it relates to themselves, their families, and other people. We are just going to take everything away from them. They do not have any choice; they are going to do the time.

That has not worked in the past and will not work in the future. The story about the 16-year-old really affected me. Why has the State of Nevada not instituted a youth authority program? A child getting sentenced as an adult destroys their youthful life just because someone suggested truth-in-sentencing and then the addition of enhancements to these sentences. If a man is charged with an armed robbery, why does he need an enhancement of use a deadly weapon on top of that? Does not armed robbery say it all?

I would also like to make this Committee aware of prison life, and how an inmate can end up in "the hole" which is solitary confinement for days at a time, for something as irrelevant as asking for the copies of an infraction being returned to him so he could appeal the charges. If you aggravate a man to the point of wanting to kill prior to his release, what chance does our public have of helping that man once he is released? A few years ago I visited the women's prison and saw women inmates urinating in coffee cans. Does the Director, or you the Legislature, know what is really going on inside these institutions?

Chair Parks:

Thank you, Mr. Hinton. Your concerns are exactly the reasons this Committee was created. We see inmates coming out sicker and slicker than when they went in, and we need to reverse that.

Florence Jones, Private Citizen, Las Vegas, Nevada:

I have submitted to the Committee documents in support of my testimony ([Exhibit E](#)). I am a retired school teacher with a Masters in Education, and I have taught in Nevada for 24 years. I have two sons who have both been incarcerated for 26 years, so I have a personal interest and experience relative to this topic. I would like to specifically address the sentence structure that is given by the judges, whom we all respect.

Since 1995, judges have given a range of a sentence, for example 10 to 15 years. The low number, 10 years, is never even considered by the Parole Board. This over ruling of the judge's sentences applies to all inmates

sentenced after 1995. The Parole Board's decisions should not be based on the information initially used by the judge in sentencing, nor do they have the training, expertise, or education of judges. It seems the Parole Board can do just about anything they want, and they regularly extend the inmate's parole release date beyond the judge's bottom number, 10 years in my earlier example. I would like you to consider codifying the parole procedure and clarifying what the Parole Board can and can not do. At the sentencing, a judge considered all the presented information and determined a range as to the number of years for that sentence. If that inmate behaves well, gets an education, and does all the things he is supposed to do while incarcerated, and does not commit another crime, that low number needs to be respected and needs to be the date of parole. What it has become in our system is a parole "dump," which is an almost automatic denial for parole.

When the Legislature meets and sets boundaries, the boundaries for the Parole Board need to be very specific, so that they will be bound by legislation to grant parole at the judge's low number in the sentence range. The only deviation would be something occurring while an inmate was in prison, like committing another crime, which the judge would not have known when determining his initial sentence.

Assemblyman Anderson:

Do I understand that you would prefer the judge to pick a definite number of years within the range that is offered statutorily, or are you saying the low number of years is the one that should be used?

Florence Jones:

The low number of years would be reasonable, if the inmate has not committed another crime, and I hope it would be considered. Right now it is not even being considered.

There are three inmates who were willing to submit their names for the record that were seen by the Southern Parole Board. All Board members participated in their hearings and voted to grant; however, it takes four votes from the Board to grant or deny parole. The decision was sent up north with a checklist and the PSI reports from the sentencing, where all four members voted to deny. That happened on these three occasions for which I have documentation, and I believe that is just the tip of the iceberg. Is it possible to have a fourth member in the south so that each board could in fact effect a change if they choose to? Is it truly an inmate issue here, or do we see a division between the Boards in the north and the south? I understand they come together in public hearings before you as one unit. I am not sure how that will pan out because a quorum is four with a board of seven members.

If you go to eight members, that changes the number needed for granting a release.

Chair Parks:

That is one issue we are looking at and considering making revisions to.

Florence Jones:

For four years, I have continuously observed and collected material regarding the Parole Board's actions, specifically their testimony to the Assembly Judicial Committee, and some of those proceedings have me gravely concerned. In 2005, David Smith turned in a memo with attachments, written in cursive, by Attorney General Ward, in 2003 to the Legislative Counsel Bureau (LCB), with Chief Counsel Wasserman outlining how they circumvent the Open Meeting Law (OML), and have codified information that would keep the Parole Board from having to honor the OML. Those initial attachments are missing from an LCB record of hearing on Senate Bill 423, and I have sent this question to you.

The first memo was revised by David Smith, presented and submitted by Parole Board Commissioners to Assemblyman Anderson and presented again but without the hand written attachment. I have a copy of the missing attachment, and do not understand the reasons for its being taken out. There are questions as to why the Parole Board is adamant about not following the law of open meetings for Nevada. The original attachment clarifies the mandates of Open Meeting Laws. The Parole Board's reprehensible actions mandate extensive deliberation; perhaps the Legislature should consider replacing the entire Board. Thank you.

Wanda Tilcock, Private Citizen, Las Vegas, Nevada:

We are very concerned also about the dismal state of medical services provided to inmates. Media coverage has not resulted in a positive change. A letter, written by Juli Star-Alexander, to the Editor of the *Las Vegas Sun* discusses a pattern of medical neglect and constitutional violations by the NDOC medical staff and its employees.

I feel it is imperative that you consider the following:

- 1) Inmates suffering from lack of medical care have repeatedly expressed a fear of retaliation for insisting on their legal right to medical care during incarceration. Friends and families of inmates relay stories to us, but are afraid to take action. We submitted the issue to the U.S. Department of Justice.

2) Failure to rectify this situation can result in the NDOC being placed on federal mandate, with federal courts overseeing the matter. This would be an embarrassment to the State of Nevada. Similar mandates have been placed on the Departments of Corrections of California and Texas.

3) We are, as a result of the letter sent to the U.S. Department of Justice, preparing a flyer regarding the matter which will be distributed to all prison reform groups and prison family support groups. We are requesting the information be submitted to us in writing so we may collect and submit information back to the U.S. Department of Justice

4) Juli Star-Alexander went to the Federal Court House and the Regional Justice Center to review the amount of litigation against the NDOC and the Division of Parole and Probation. This is a burden to the taxpayer. This could be avoided if the NDOC and the Division would act in accordance with federal law in the medical area.

5) The unburdening of Nevada prisons with regard to prisoners convicted of drug use or those in the system that are mentally ill would be converted to Casa Grande or to an in-patient treatment facility. Mandatory parole has and will release high-risk offenders without having received appropriate treatment. This would not benefit Nevada.

Juli Star-Alexander, Executive Director, Redress Incorporated:

I have submitted documents supporting my testimony ([Exhibit F](#)). On February 8, 2007, this Committee heard testimony from the Department of Parole and Probation, which included the topic of the PSI reports. We wish to put forth our view of false or legally unsupported information being issued and submitted on PSI reports in addition to the same injustices by prison psychologists. Those reports should only be used by the presiding judge for conviction of a crime. Often false statements or incorrect information is included in the PSI reports then carried over to an inmate's record.

Use of false information is a violation of due process and creates a legal burden that should not exist. The convicted are forced to have the false information removed which burdens the legal system. It results in harsher than necessary sentences, and when removed through legal action has no bearing on the original PSI report being used by the prisons, Parole and Probation, or by the Pardons Board. It creates a further unnecessary burden on the inmates. This translates to the loss of release opportunities, which harms all of society by creating overcrowding and tax burdens. We would like to see information posted in writing to the Department of Parole and Probation website with regard to education, background training, and

certifications of those submitting the PSI reports and the need for those reports to be accurate and fair cannot be understated.

Equally, the same should apply to prison psychologists. Interviews of victims and their families are often included in those reports and contain non-adjudicated statements, which can then be used to inflict a higher than necessary penalty on the inmate and constitutes a constitutional violation of due process. Unless a matter was found and held to be so by a jury, any additional statements must not be included. Non-adjudicated information has been used by some Parole Commissioners in order to extend length in incarceration. Family and friends of convicted persons are not interviewed, so valid information and input is completely disregarded, which creates a one-sided system that cannot truly show a snapshot of the inmate. Whoever submits PSI reports should be required to do so under penalty of perjury in order to discourage the release of wrongful information and to encourage that all PSI reports be critically reviewed prior to any sharing with other NDOC entities. This will require a new statute for enforcement to include the termination of employment for bad reporting. A written process must be initiated and used, when wrongful information has been identified, for the correction of those reports, and to address existing bad reporting without legal action required if the NDOC and Parole and Probation insist on using those reports containing false information. That when combined with false reporting does not include information for the inmate with regard to his behavior, education, and programming during incarceration. This must be rectified or else the entire inmate rehabilitation process is flawed. Prison psychologists, while performing their examinations, could also include non-adjudicated information into the files, which again violates due process rights and results in higher litigation rates and a waste of money. There must be some certification under oath that the factual information, aside from any psychological opinion, must be true and correct as submitted under penalty of perjury with termination of employment for the prison psychologist to include false or non-adjudicated information into the inmate record. Again, this will require a new statute for enforcement to include the termination of employment for bad reporting.

I spoke at the A.C.R. 17 hearing, but at that time did not submit supporting data regarding the concept that the criminal justice system has been identified by a national organization as being "broken beyond repair." I have included that in my documents as well. There was a comment by a member that 100 percent of the inmates the Department of Parole and Probation deals with are bad people and all guilty. Because of the work we do—court watching, collecting of overturned convictions, and acquittals—we know this

is not true and the legal system in its entirety is in fact broken beyond repair, not just in Nevada but nation-wide.

Assemblyman Anderson:

In the United States you are considered innocent until proven guilty. I would not give up any Bill of Rights statutes that violate that concept. If we hold to the first, you must hold to the second, that once you have gone through the process, you must then be guilty.

Juli Star Alexander:

I understand your comment. You are talking about the situation as we perceive it to work, but I would encourage you to review the information submitted and hope you will have an open-mind to see the situation as it really is. That is all we are asking. Thank you.

Chair Parks:

Thank you. Seeing there are no further questions or comments, this meeting is adjourned [at 6:34 p.m.]

RESPECTFULLY SUBMITTED:

Brooke Bishop
Transcribing Secretary

APPROVED BY:

Assemblyman David R. Parks, Chair

DATE: _____

EXHIBITS

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

Date: February 13, 2007

Time of Meeting: 3:49 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Tonja Brown, Private Citizen	Written Testimony including letters from inmates
	D	Constance Kosuda, Private Citizen	News Articles and Public Works Cost Estimates
	E	Florence Jones, Private Citizen	Documents in support of testimony.
	F	Juli Star-Alexander, Executive Director, Redress Incorporated	Documents in support of testimony