

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

**Seventy-Fourth Session
February 15, 2007**

The Committee on Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:52 p.m., on Thursday, February 15, 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/. 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:

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

STAFF MEMBERS PRESENT:

Craig V. Hoffercker, Committee Policy Analyst
Risa Lang, Committee Counsel
Gayle Miles, Committee Recording Secretary
Judith Coolbaugh, Committee Transcribing Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Paul V. Townsend, Legislative Auditor, Legislative Counsel Bureau, Audit Division



Rocky J. Cooper, Audit Supervisor, Legislative Counsel Bureau, Audit Division

Richard A. Neil, Audit Supervisor, Legislative Counsel Bureau, Audit Division

Howard Skolnik, Deputy Director, Industrial Programs, State of Nevada,
Department of Corrections (NDOC), Las Vegas

Darrel J. Rexwinkel, Deputy Director, Support Services, State of Nevada,
Department of Corrections, Carson City

Patricia A. Hines, Private Citizen, Yerington, Nevada

Donald Hinton, representing Spartacus Project, Las Vegas

Dorothy Nash Holmes, Deputy Director, Correctional Programs, State of
Nevada, Department of Corrections, Carson City

Frederick Schlottman, Administrator, Offender Management Division, State of
Nevada, Department of Corrections, Carson City

Tonja Brown, Private Citizen, Carson City, Nevada

Lee Rowland, Staff Attorney, American Civil Liberties Union (ACLU) of Nevada

Florence Jones, Private Citizen, Las Vegas, Nevada

Constance Kosuda, Private Citizen, Las Vegas, Nevada

Chair Parks:

[Roll called.] Today, we have two bills to consider and an audit report presentation. We will start with the Legislative Auditor's presentation.

Paul V. Townsend, Legislative Auditor, Legislative Counsel Bureau, Audit Division:

At the table with me is Rocky Cooper on my right, and Rick Neil on my left. Both gentlemen are audit supervisors. We are presenting our audit report summaries ([Exhibit C](#)). The transmittal audit memorandum indicates seven audits were performed throughout the State of Nevada, Department of Corrections (NDOC). Also, there is an audit report on the Division of Parole and Probation, and one for the State Board of Parole Commissioners. These executive summaries date back to 1998. If you would like a copy of the complete report, please let me know. The reports issued after 2001 are available on our website. At one time or another, the three of us at this table have worked on the audits before you with the exception of the computer system security. Mr. Cooper will begin our review with the Inmate Medical Services report.

Rocky J. Cooper, Audit Supervisor, Legislative Counsel Bureau, Audit Division:

On page 1 of the report, you will find some background information. The NDOC is required to provide medical services to inmates. The services include medical treatment, mental health, dental, and pharmacy.

The pharmacy is responsible for filling drug orders from the institutions. This includes prescriptions ordered by physicians and psychiatrists and requests for

stock to replenish drug inventories maintained at the institutions. Stock inventories, often called "floor stock," are ordered by the nursing staff for immediate and emergency use. This stock is frequently used to administer drugs while waiting for the pharmacy to dispense prescriptions. The pharmacy costs for fiscal year (FY) 2006 totaled \$5.1 million. The figure includes personnel costs for eight employees.

On page 2, the purpose of the audit was to evaluate the NDOC's pharmacy operations. The audit focused on pharmacy operations from July 2005 through October 2006 to follow up on certain issues.

Our results show that the NDOC has significant weaknesses in its pharmacy operations. These weaknesses involve key functions including controlling drug inventories, distributing drugs to institution medication rooms, and monitoring operations. Most of the problems stem from a lack of management controls to guide pharmacy operations. These problems were compounded in late 2005, when the northern and southern pharmacies were combined into a Central Pharmacy without proper planning.

The audit's principal findings are at the bottom of page 2. First, the Central Pharmacy did not maintain adequate records to account for the use of all controlled substances distributed to the institutions. The pharmacy could not locate 54 of 165 controlled substance forms we tested, resulting in 1,350 doses of drugs not accounted for. Most of the missing controlled substance forms were issued to the Southern Nevada Women's Correctional Center (SNWCC) to provide Phenobarbital. After we completed our audit, the NDOC found 50 of the 54 missing records. The NDOC staff indicated these forms had been misfiled.

During the audit, we reported this inadequacy of fiscal records to the Governor, each member of the Legislature, and to the Director of the Department of Corrections. In addition, because potential illegal acts may have been committed, we also notified the Attorney General. As a result, an investigation was conducted. According to discussions we had with investigators, no criminal activities were identified. However, the investigators plan to make additional recommendations to correct flaws in the drug handling process. The substance forms are very important, and they are required by both federal laws and the State Board of Pharmacy Regulations.

Second, although several million dollars in drugs flow through the pharmacy each year, inventory records documenting additions, distributions, and inventory balances were not maintained. Without inventory records, significant loss can occur without being detected by the management.

Third, neither the Central Pharmacy nor the institutions had adequate controls over the drug stock distributed to institutions. The Central Pharmacy did not track the amount of drug stock distributed to institutions for most of FY 2006. In addition, the institutions' staff did not adequately track quantities of drugs on hand. As a result, drugs were overstocked in medication rooms, which contributed to waste because drugs expire after a certain date.

On page 4, the audit found that the Central Pharmacy was slow in dispensing drugs, at times taking more than four weeks to provide medications. During our audit, slow turnaround time caused complaints, confusion, and frustration, because nursing staff and inmates did not know when the medications would be received.

In the next two findings, we identify some areas where the implementation of suggested improvements would contribute to more efficient operations. On page 5, the review found that the pharmacy did not conduct required monthly inspections of institution medication rooms. We found only 5 of 96 required inspections were performed during FY 2006. The NDOC did not review and verify the accuracy of controlled substance inventory counts at each institution on a monthly basis as required by NDOC regulations. Additionally, the NDOC lacked adequate management information and guidelines to monitor pharmacy activities. Information on pharmacy operations was not consistent, complete, accurate, or readily available.

At the bottom of page 5, the report indicates the NDOC centralized its pharmacy operations at High Desert State Prison in December 2005. However, consolidation took place without adequate planning for the pharmacy's space needs, for contingency planning to cover staff vacancies, and for establishing necessary guidelines to meet inspection requirements. As a result, the pharmacy was not prepared to effectively handle its workload during and after centralization of operations.

In addition, the Central Pharmacy uses higher-paid pharmacist physicians to perform tasks that can be done by pharmacy technicians. The audit estimated that the NDOC could save about \$130,000 annually by adjusting the ratio of pharmacists to pharmacy technicians.

This report contains 16 recommendations to improve pharmacy operations and control over drugs. The NDOC accepted all of the recommendations. If you have any questions about this audit, I would be happy to answer them.

Chair Parks:

Are there any questions?

Assemblyman Anderson:

Do you feel the NDOC is making progress in resolving the identified problems, or are there ongoing concerns? Was there a high level of cooperation, or a medium level of cooperation from the NDOC?

Rocky Cooper:

This was the first time there has been an audit and an evaluation of the Central Pharmacy. During our audit, the nursing staffs at the institutions were doing everything they could to procure the necessary medications for the inmates. They were occasionally hoarding drugs, or not returning unused quantities of drugs. The nursing staffs were working hard, and the pharmacists were trying to fill the prescriptions as fast as they could.

The problem developed when the operations were centralized without adequate planning. The institutions did not have enough staff to keep up with the demand for prescriptions. To ease the situation, the pharmacy was shipping large quantities of drugs to the institutions without maintaining an inventory of the distribution. There were no systems in place to handle the workload.

The 218 Letter was generated to locate the missing controlled substance forms and account for the missing drugs. The forms are pre-numbered for accountability. Apparently, in the past, a process was in place to track these forms, but with the current lack of policies and procedures, and the high staff turnover within the NDOC, the documentation process was overlooked. The pharmacy should have been able to account for all the forms issued and returned. At the time of the audit, the staffing had changed. There was a new Medical Director, as well as a new Chief of Pharmacy. They were very cooperative during the audit process. I believe they will make a lot of the recommended improvements.

Assemblyman Anderson:

Will there be a standardized protocol put in place for controlling the drug inventory? Is that your responsibility, since your audit and review generated the recommendations for improvements, or would it be up to the NDOC to establish the necessary protocol? Was the establishment of a standardized protocol one of your recommendations?

Rocky Cooper:

We recommended that policies and procedures be established, so even if there is staff turnover there would be accountability.

Chair Parks:

I have one question about the length of time, up to four weeks, to dispense medications. Does that delay mean inmates went without the proper medications?

Rocky Cooper:

The medication rooms do have a stock of drugs. The "floor" stock is needed to provide drugs for emergency care and for temporary medications. Therefore, for most of the drugs required, the nursing staff is able to deliver the medications. A problem could occur if an inmate needed a refill of a prescription drug not in stock. The nursing staff would order the refill, but it could take up to four weeks before it is delivered. For the most part, during the audit, we found the majority of medications were in stock. We even found some overstocking of drugs in the medication room.

Chair Parks:

Did you encounter many medications with expired dates?

Rocky Cooper:

We did look at the results of the medication room inspections. The Central Pharmacy had identified expired medications, but they did not know the total number in the actual drug stock. We did see, on the monthly inspections that were done, expired stocks of drugs.

Assemblywoman Weber:

As a point of clarification, are the drugs ordered electronically by the institutions requesting them?

Rocky Cooper:

A fax machine is used to order prescriptions from the Central Pharmacy. It is my understanding the NDOC is working on changing that process, so electronic ordering in the future will be a reality.

Chair Parks:

Are there any further questions about this audit?

Richard A. Neil, Audit Supervisor, Legislative Counsel Bureau, Audit Division:

I will review the Offender Trust Accounts (OTA) audit that was performed in 2006. Page 1 of this section gives some background information. Individual trust accounts are opened for each offender when they enter the prison system. The transactions and balances for these accounts are recorded in the NDOC's internal accounting system called the Inmate Banking System (IBS). The offenders' money is also recorded in the State's accounting system in the

Prisoners' Personal Property Fund (PPF). As of the end of FY 2006, the PPF had a cash balance of about \$3.7 million.

The purpose of this audit was to determine whether the NDOC accurately accounted for, and properly safeguarded the OTA. Also, the audit was used to determine whether the NDOC had recovered the appropriate amounts from those trust accounts for medical expenses and other assessments authorized by State laws, regulations, and policies. The audit focused on transactions involving the OTA between July 1, 2004, and December 31, 2005.

Page 2 covers the results of the audit. Although the NDOC accurately accounted for the OTA transactions during the audit period, key reconciliations of the trust accounts were not always completed, or they were delayed. In addition, we determined the NDOC recovered the appropriate amounts from the trust accounts for medical expenses and other assessments. Finally, controls over the outside bank account used to disburse money from the OTA are adequate. Some enhancements are needed to further safeguard the funds. This audit contains six recommendations to improve the NDOC's safeguarding of the OTA, and the NDOC accepted all of the recommendations. I would be happy to answer any questions.

Chair Parks:

Are there any questions on the OTA? Seeing none, we will proceed to the next audit.

Richard Neil:

The audit on the NDOC's Department of Administration was also performed in 2006. On page 1 of this section, some background information is provided. Actual expenditures for the NDOC for FY 2006 were about \$225 million, with personnel costs accounting for about 76 percent of the total. The NDOC's legislatively approved budget for FY 2006 authorizes 2,655 full-time equivalent positions. The average annual cost per offender is about \$18,600.

The purpose of this audit was to evaluate the NDOC's financial and administrative activities, including whether those activities were carried out in accordance with applicable laws, regulations, policies, and procedures. This audit included a review of the NDOC's non-medical expenditures and accountability over property and equipment for the 18 months ending December 31, 2005.

On page 2, the results of the audit showed that the NDOC generally complied with laws, regulations, policies, and procedures that were significant to its financial and administrative activities. However, we noted some problems

relating to payroll, personnel requirements, and accountability over property and equipment.

With regard to payroll, the audit found NDOC's employee time sheets contained errors resulting in both under and overpayments to employees. Approximately 7.5 percent of the time sheets reviewed had errors. These errors range from 40 hours of shift differential being underpaid to an overpayment of 40 hours of overtime. Another problem with payroll was the NDOC did not always comply with statutory requirements to approve overtime before it was worked. Most of the problems with overtime occurred at two institutions.

With regard to personnel problems, the audit was unable to locate written agreements for about half of the custody staff who were working on a variable schedule. Written agreements document the employee's request and management's approval to work a variable work schedule and an understanding of the overtime rules applicable when working that schedule. Without signed agreements, there is a potential for additional overtime pay. The audit also found that the NDOC did not complete performance evaluations required by State law for about half of the employees we tested.

On page 4, the audit identified some issues of accountability over property and equipment. The NDOC did not perform a complete physical inventory of equipment at all its locations in 2005 and 2006 as required by State law. Property records were not always updated to reflect dispositions, transfers, and additions of equipment. This audit contains nine recommendations, and the NDOC accepted all recommendations. I would be happy to answer any questions.

Chair Parks:

Are there any questions on this audit?

Assemblyman Horne:

I have a question on the discrepancy in the shift differential pay. Was the total amount a loss to the NDOC, or was the total in underpayment to employees?

Richard Neil:

We calculated the dollar figures, and I apologize for not having those amounts shown in the audit report. When we brought the problem to the attention of the NDOC, they fixed the problem. The loss was in both under and overpayments.

Chair Parks:

Let us move to the Sex Offender Certification Panel audit.

Rocky Cooper:

This audit was conducted in 2000. According to State law, the Board of Parole Commissioners cannot release a sex offender on parole unless they have been certified by a panel. Certification means an offender does not represent a high risk to reoffend. The purpose of the audit was to assess the State's process for certifying sex offenders for parole consideration. This review included an assessment of the process used to select panelists, conduct hearings, evaluate, and certify offenders. The audit included the Board's certification panel activities occurring between July 1996 and December 1999.

Nevada uses a three-member panel to evaluate and certify whether sex offenders should be considered for parole. However, these panels operate without adequate guidance. As a result, certification hearings and evaluation methods were not consistent throughout the State. In addition, the percentage of sex offenders certified varied widely among the prison institutions where panel meetings were held.

Our principal findings are on page 1 of the report. Although the Department of Prisons (DOP) performs most of the functions related to the panels, the responsibility for the panels' activities is not clear. State law requires representatives from two State agencies participate on the panels, but it does not identify who is responsible for administering panel activities. The DOP does not view the panels as its responsibility, and its statutes contain no specific panel-related requirements. However, legislative testimony and budget documents indicate the DOP has assumed ownership for panel activities. The process for selecting some panel members is not clearly defined in statute. State law requires that one panelist be a psychologist or a psychiatrist licensed to practice in Nevada, but the law does not define how this member is selected or by whom. In addition, qualifications have not been established for designee panel members. More than 50 different individuals have participated on panels since July 1996, which increases the need for establishing qualifications.

Also, Sex Offender Certification panels operated without an established system of management controls. Policies and procedures had not been developed to direct and control their activities, and the panels' methods for conducting meetings were not always consistent. While the panels completed a rating form to document their evaluations, the evaluation process varied significantly among the different panels. Also, the panels did not have a clearly defined voting process for making certification decisions.

On page 3, the audit results show that the percentage of certified sex offenders varied widely among the prison institutions where the panel meetings were held. During FY 1997 to 1999, the panels certified about 25 percent of the offenders

evaluated. However, certification rates vary among the institutions from a low of 12 percent at Nevada State Prison to a high of 40 percent at southern Nevada institutions.

The audit report includes six recommendations for selecting panel members, conducting hearings, evaluating, and certifying sex offenders for parole consideration. The NDOC accepted all six recommendations. Are there any questions?

Assemblyman Anderson:

This document appears to be dated. We have gone through several Legislative Sessions since these agencies were evaluated. Has there been a review to see if the recommendations have been fully implemented?

Rocky Cooper:

This audit went through our standard follow-up process. However, we were looking at a lengthy passage of time since the audits were performed. Therefore, it was difficult to tell where the NDOC is today in implementation of the recommendations. Legislation was introduced in 2001 to clarify who was responsible for the panels. Time ran out for that legislation, and it was not passed. However, the NDOC took action to accept responsibility for these panels. In addition, they have developed administrative regulations to provide guidance and oversight. They are also using a standard assessment form for these panels. So, there are ongoing processes in place, and the NDOC has clarified most of the issues.

Assemblyman Anderson:

I understand that some of the responsibility has been moved to the Department of Public Safety.

Chair Parks:

Are there any questions? Seeing none, we will proceed to the next report in the audit.

Paul Townsend:

The next audit in the report is Inmate Medical Services, completed in 1998. The focus of this audit was different from the previous one that focused on the pharmacy. This audit focuses on costs incurred when inmates receive outside medical care. The inmates are transported outside the institutions to a doctor's office or hospital for various medical procedures. Some changes have been made since this audit was completed in 1998. At that time, medical services were contracted out at the Ely and the SNWCC facilities.

At the time of this report, it was noted that although the DOP had one of the lowest overall costs per inmate in the nation, its health care costs ranked among the highest. While the DOP has made efforts to ensure that inmates are provided quality health care, it did not establish adequate controls to ensure that the health care delivered was cost effective. This lack of controls has resulted in a poor process for controlling access and payments to outside health care providers. Furthermore, the DOP has had difficulty implementing legislative reforms designed to control costs.

On page 3 of the report, the first two paragraphs discuss some of the cost factors. The third paragraph discusses one of the key findings of the report. The DOP, Medical Division, has poor controls for authorizing access to outside medical care. In 57 instances of the 110 inmate cases we reviewed, there was no evidence of prior DOP approval, as required by the DOP policy. By not properly controlling access to outside providers, costs not directly linked to medical services, including inmate security and the custody costs of transportation, were also impacted. When high-security inmates are transferred into the community to receive treatment, they are placed in a less secure environment. This situation can place the safety of DOP staff and private citizens at an increased risk. In addition, transporting inmates to outside care providers often results in overtime costs for correctional officers.

Since the time of the audit, we have noted many departmental changes. The DOP now has a utilization review panel that includes institutional physicians, a medical director, and a quality assurance specialist. Over the years, we have tracked the savings that have been generated by providing closer scrutiny of inmates' actual needs for outside health care. Physicians have also been brought into the institutions to provide clinical care.

On page 4, the audit found that the DOP lacked an adequate system to ensure medical claims are processed accurately and appropriately by the third-party administrator. The DOP has had difficulty implementing legislative reforms designed to decrease unnecessary medical costs. These reforms include collecting co-payments for medical services, and reimbursements for injuries that are self-inflicted, the result of inmate-to-inmate violence, or recreational activity injuries. The DOP lacks an effective system for identifying eligible medical costs, which has hindered the collection of reimbursable charges. We looked at the OTA to see if these charges were being assessed, and found the charges were being paid by the inmates. So, the DOP has made verifiable improvements since 1997.

On page 5, the audit report indicates that information the DOP was maintaining on staffing expenditures in the categories of medical services, mental health

services, dental, and pharmacy was inadequate to monitor costs. Utilization of medical services and cost comparisons by institutions are also not routinely maintained.

The final paragraph deals with mental health services. There have been some changes since 2003 legislation moved the outpatient mental health program to the Director of Programs division. The report makes eight recommendations. Follow-up procedures show that all eight have been fully implemented. I would be happy to answer any questions.

Chair Parks:

Are there any questions on the Inmate Medical Services audit report? Seeing none, we will proceed to the next section of the audit report.

Paul Townsend:

This 1998 report deals with Inmate Classification. Page 1 of the report gives a description of the DOP process. Once criminal offenders are sentenced to prison, the inmate classification procedures determine where the inmate will be incarcerated. At the time of the audit, this responsibility was within the Director's Office, where the Classification Planning Unit oversees the DOP's inmate classification process. It reviews and approves institutional classification decisions, strategically manages bed space, coordinates inmate transportation, manages inmate sentence data, maintains the classification computer system, and performs various other support functions. The day-to-day evaluation of inmate classification takes place at the individual institutions.

Appropriate inmate classification is essential to running a safe and economical prison system. Concern was expressed in 1997 over the cost of housing since over-classifying inmates negatively impacts money available for housing. The average cost to house an inmate in a minimum security facility was \$5,700 per year. In a medium security facility the figure was \$11,500. A \$5,800 savings can be realized if an inmate can be moved to minimum custody from a medium facility. The objective of the audit was to determine if inmates were classified appropriately according to the DOP policies and procedures.

This audit had some positive results. The DOP had a process that was designed to place inmates in appropriate facilities while economically using State funds. The DOP had well-documented policies and procedures. Also, the staff utilized the in-house computer, Nevada Corrections Information System (NCIS), to automate many of the inmate classification functions and provide management with the ability to monitor performance. The DOP deserves credit for operating this system for many years, and it has expanded the quantity of data stored.

On page 3 of the report, we identified some classification practices that do not always ensure inmates being placed at the lowest appropriate custody level. Of 179 inmates we tested, we found 35 were not in the lowest level of custody possible. The inmates were in a medium facility instead of a minimum custody institution. The different divisions need to convey information because many of the delays in determining accurate classification were related to securing appropriate health classifications. In these cases, the Medical Division was responsible for the misclassifications. We found 1,700 inmates waiting for health classifications. Proper health classification is important because an inmate with a health issue cannot be sent to a remote conservation camp. He needs to be housed in an institution that has a medical facility.

The next paragraph covers "walkaways" between 1994 and 1997. Of the 116 inmate classifications we reviewed, we identified 12 inmates that we felt were not in appropriate custody. They should not have been in a minimum security facility. This custody assignment was mainly due to disciplinary actions that were noted in the NCIS. We also discussed our concerns with the DOP management. The disciplinary actions included violent assaults, which are considered a mandatory exclusion from minimum custody. One inmate had taken drugs while at a restitution center. Yet, he remained there. Another inmate had previously walked away, which is also a mandatory exclusion from minimum custody.

The 10 percent of inmates who walked away from DOP facilities were not in proper custody. Nearly all of the "walkaways" were sentenced to an additional prison term. We estimate this extra prison time will cost the State up to \$500,000. The DOP has the ability to prevent misclassification. This can be done by ensuring the staffs at the DOP facilities fully utilize the NCIS for inmate classification, and expanding the data stored in the NCIS.

On page 4, the report lists ten recommendations. All were accepted by the DOP. Some of those recommendations involving the NCIS are still not fully implemented, because the DOP is moving to a new computer system—called the Nevada Offender Tracking Information System (NOTIS). This new computer system will be able to generate some of the needed specialized reports that we noted in this audit. For the most part, this was a positive audit.

Chair Parks:

Are there any questions about Inmate Classification?

Assemblyman Anderson:

Looking back at the Executive Summary, I read a prison population in 2006 of 12,103 inmates, and a DOP staff totaling 2,655 officers. In this audit, I see a

1997 total inmate population of 7,972. This represents a 4,131 increase in inmate population and a corresponding staff increase of 600-plus officers. Is that correct?

Paul Townsend:

Yes, your analysis is correct.

Assemblyman Anderson:

I presume you utilize those numbers in developing recommendations. Are these audit reports done at regular intervals?

Paul Townsend:

Every time we audit a large department like the DOP, we start by doing a preliminary survey and a risk assessment. We evaluate where our efforts would best be directed. Last time the audit was done, we started in the Medical Division again because we saw some concerns. We had not audited the OTA since 1991. We had perceived some problems with the OTA, so we looked at them although this audit concentrated on the OTA administration. I have not received many complaints about the Inmate Classification system. Since they had a fairly adequate system last time, we did not consider Inmate Classification as high a risk as the Medical Division. We do not have another Inmate Classification audit scheduled at this time. This audit was complicated and intensely time-consuming. It necessitated having the auditor learn how the classification process actually works. The DOP wanted to hire the auditor at the end of the audit, because of the knowledge he had acquired.

Assemblyman Anderson:

I do not want to lose any of our good employees to the Executive Branch of the government. We like what you do for us. Thank you very much.

Chair Parks:

Are there further questions?

Assemblywoman Weber:

I have a general question. If we did three audits in 2006, one in 2000, and the others in the late 1990s, is there any interest in auditing the 20 facilities at least once a year? Could you have a dedicated staff for oversight of the DOP? Do you foresee any of these possibilities?

Paul Townsend:

The Executive Branch has an internal audit function. They look at some of these divisions as well. We are doing as many agencies as we can handle at this point. The cycle of time in this audit report is probably a good indicator of

what is possible in the future. I do not foresee auditing each institution on a regular basis. That undertaking would be labor intensive, and it would require additional resources.

Chair Parks:

If there are no further questions, we will move on to the next report.

Paul Townsend:

The next audit report is the DOP Computer System Security. This review was completed in 1998. On page 2 under "Results in Brief," it is noted that the DOP's AS/400 security system controls provide reasonable assurance that its data, programs, and software are protected from unauthorized access. However, we did find some security settings that could be adjusted. Also, installation of a fire suppression system over the physical controls of the computer would provide needed protection. There were two recommendations, both of which were accepted by the DOP.

Chair Parks:

Are there any questions? Please proceed.

Rocky Cooper:

The Division of Parole and Probation audit was conducted in 1999. The purpose of the audit was to determine whether the Division of Parole and Probation had controls in place to ensure criminal offenders were supervised according to the Division's policies and procedures. The audit also determined whether supervision fees were being collected. Because of significant management control weaknesses, the Division of Parole and Probation was having difficulty meeting its responsibility to protect the public. Offenders had not been supervised according to the Division standards. In addition, the Division had many problems in the classification process it used to place offenders at the appropriate supervision level. As a result, the Division has little assurance that offenders are being supervised according to the risks they pose to the public.

The Division's process to collect monthly supervision fees from offenders also needed improvement. During FY 1998, about \$900,000 in supervision fees went uncollected because of poor collection practices, inaccurate records, and weak controls over granting fee exemptions. Although the Division had received sufficient funding to perform supervision activities, it did not have an effective management system in place to ensure that those resources were used efficiently.

To ensure adequate offender supervision, the Division has established minimum monthly contact standards. Officers are required to make the contacts at each supervision level. However, officers did not make many of the required supervision contacts. For the 62 offender files we reviewed, the Division made only 60 percent of the required contacts. A key contact is the home visit. The Division did not make most of the required home visits. For the offender files we reviewed, the Division made only 36 percent of the required home visits.

On page 3, the report found that the Division did not conduct the majority of required supervision level reassessments. For the offender files we reviewed, only 45 percent of reassessments were completed. In July 1997, the Legislature enacted a law requiring the Division to reassess offender supervision levels at least once every six months. Yet, the Division did not conduct 50 percent of statutorily required reassessments between July 1997, and June 1998.

The Division also had a poor process for collecting supervision fees. These fees are \$30 per month, per offender. For FY 1998, the Division collected about 55 percent of the fees owed. Several factors contributed to this low or inconsistent collection rate among districts.

The audit determined that the Division did not establish an adequate system of internal controls to safeguard more than \$2 million in fees paid annually by offenders. We identified and listed seven internal control weaknesses.

The Legislature has provided the Division with sufficient parole and probation officer positions to supervise offender caseloads at formula-funded levels. However, control weaknesses in the hiring process hampered the agency's ability to fill vacancies in a timely manner. These weaknesses resulted in the Division not testing or recruiting applicants from April 1996, to March 1997. Consequently, by July 1997, the Division had 41 officer positions vacant.

Inefficient operations contribute to Nevada having the highest offender supervision cost among the western states. In 1998, Nevada's daily cost per offender was \$5.20, which far exceeds the other western states. The national average is \$3.13. Although we did not audit all functions of the Division, we identified numerous inefficiencies.

The audit report made 28 recommendations to improve performance and management controls of the Division. Eight were for offender supervision; 15 were related to collections; and, 5 were related to management controls. The agency, in response to our report, accepted 24 of the recommendations and rejected 4 of them. However, the agency indicates they are in agreement with

the intent of the rejected recommendations, and they were implementing them as we were completing our audit. I would be happy to answer any questions.

Chair Parks:

Are there any questions?

Assemblyman Anderson:

When will the next audit report be completed for the Division of Parole and Probation? Is it part of your five or six-year cycle?

Paul Townsend:

We average a four- to seven-year cycle for audits. However, we have recently started an audit at the Division of Parole and Probation. We are actively working there right now.

Assemblyman Anderson:

Do you anticipate completion of this audit by the end of this Legislative Session?

Paul Townsend:

No, I do not anticipate completion by the end of this Session.

Chair Parks:

Are there further questions? We will proceed with the last audit report.

Rocky Cooper:

The State Board of Parole Commissioners audit was completed in 1998. The mission of the State Board of Parole Commissioners is to conduct prompt, fair, and impartial hearings on parole application and parole revocation matters. To assist the Board in conducting parole hearings, State law permits the Board to use panels. A panel can consist of one Commissioner and a case hearing representative or two or more members of the Board. The recommendations of all panels are subject to the final approval by a majority of all Board members.

The tragic killing of a Sparks police officer by a parolee prompted the Legislature to evaluate the qualifications to be a Parole Commissioner during the 68th Session. To ensure quality decisions, the Legislature established minimum education and experience requirements for Parole Commissioner applicants. In addition, the Legislature required Parole Commissioners to attend annual training.

The objective of this audit was to determine whether the State Board of Parole Commissioners complied with laws and regulations significant to its

administration of personnel. This audit included the testing and compliance with laws established in 1995 regarding qualifications and training of Commissioners and case hearing representatives.

The results of the audit indicate the State Board of Parole Commissioners has complied with most laws and regulations significant to its administration of personnel. In particular, the Board complied with laws pertaining to the composition, qualifications, and training of Parole Commissioners and parole case hearing representatives.

However, the Board did not comply with provisions governing employee performance evaluations. The Parole Board did not prepare statutorily mandated performance evaluations for five of the six employees. These employees were classified employees. They performed administrative functions; they were not Board members.

This audit report contained two recommendations, both of which were accepted by the Board. That concludes my presentation.

Chair Parks:

Are there any questions? The presentation of these audit reports was intended to be informational. I would ask the representatives of the departments, named in the report, if they have any comments they wish to make about any of the reports that affected them.

**Howard Skolnik, Deputy Director, Industrial Programs, State of Nevada,
Department of Corrections, Las Vegas:**

I would like to briefly comment on the pharmacy audit report. I spent Tuesday morning walking around our northern institutions, particularly the infirmary areas. We are still having some problems with prompt pharmacy response for delivery of medications. Primarily, the problems are attributed to the age of the facility and lack of infrastructure. For example, our phone lines at the Nevada State Prison, which the fax uses to send orders to the pharmacy, are actually the third tier on a three-tier system. It is similar to a party line. Often, the faxes do not go through. We anticipate having these problems resolved with the implementation of the NOTIS, which will automate the pharmacy process. In the meantime, staff members, on their own initiative, are calling the pharmacy to verify receipt of prescription orders. It still causes some delays, but they should be rectified when the NOTIS is implemented. I do want to go on the record with this clarification, because we had previously indicated otherwise.

Assemblyman Horne:

Computers are being used to automate medical procedures to ensure speed and efficiency. You have indicated the Nevada State Prison has a party line for faxing their prescription orders to the pharmacy. Also, it is such an archaic system that the order is sometimes not received at the pharmacy. Does it cost that much to upgrade to the electronic age? Can the prescription be emailed to the pharmacy? We also heard it takes up to four weeks for the prescription order to be filled and delivered. I think even the Pony Express delivery across Nevada was faster than that.

Howard Skolnik:

We have made numerous requests for an updated system prior to receiving approval for the new NOTIS. We are in the fourteenth month of an eighteen-month cycle for implementing the NOTIS, which will provide the needed upgrade. It will provide for instantaneous communication of required prescriptions to the pharmacy using the Internet. Internet access inside an institution has certain inherent dangers, such as identity theft issues. These issues are compounded if ready access is allowed inside our institutions. Access to prison computers is highly controlled. We are limited in finding suitable places to locate the equipment. The NOTIS will be a self-contained and controlled system within the Department.

We have eliminated almost all communication devices carried by the staff. Our doctors are allowed to carry appropriate devices into the institution because they need to access medical information. We cannot permit ready access to computers inside our institutions without inviting potentially illegal use of the system. We are waiting the four or five months until the NOTIS is up and running, but the end result will improve the system. The staff will maintain more detailed records than was possible in the past. I thought the delay time for prescription delivery was a one-week maximum, but the staff has indicated to me that it is longer, as you have heard in the previous testimony. We are addressing that problem, and it will be fixed when the NOTIS is operational.

Chair Parks:

For the benefit of all the Committee members, I would appreciate a quick overview of how the NOTIS works.

**Darrel J. Rexwinkel, Deputy Director, Support Services, State of Nevada,
Department of Corrections, Carson City:**

The current system is the NCIS. It was developed to do offender tracking and sentence calculations. The new NOTIS will have all the functionality of the old system, plus a lot of new functions. There will be a medical module, a program module, and a transportation module. When I started working for the NDOC in

2000, the NCIS had a computer botch. The hard drives were stripped for security purposes. Even at the central office, we only had a few computers. The NOTIS will be a substantial advancement in technology for the NDOC. It will help in the management of inmates and provide faster communications. I can go into a long dissertation about the system, but these are the essential details of the new NOTIS.

Chair Parks:

Is the NOTIS an "off-the-shelf" software system, which is being modified for the NDOC's use?

Darrel Rexwinkel:

This is an "off-the-shelf" system, but the cost is still about \$12 million. If we were to self-develop the system, it would take a lot more time and expense. Some of the modifications to the system are complicated. For example, sentence calculation is different for every state, and it is a complex issue for a correctional department. We are also going to have some interfacing with the Parole and Probation Division, the Parole Board, and the Department of Public Safety, so we will also be communicating with those agencies. They will be able to retrieve needed information from the NOTIS. We do have in the inmate services budget—that is a non-general fund budget—two TIRs (Technology Information Request). One is for the inmate store system; the other is for the inmate banking system. If the TIRs are approved, we will be able to automate both systems.

The auditor's presentation referred to the Prisoners' Personal Property Fund. There has been a problem in reconciling the accounts in the existing inmate banking system because it was not designed for the procedure. It is an antiquated system, so reconciling the accounts to the State's integrated financial system has been nearly impossible. We have the discrepancy down to about a \$5,000 difference in account balances. It is not a double-entry bookkeeping system. With the NOTIS in place, this problem will be resolved. The positive part of the auditor's report was that no discrepancies were found in the inmate accounts. The problem is only in the reconciliation process. The two TIRs will also improve efficiency and reduce errors.

Chair Parks:

Thank you, Mr. Rexwinkel. On our agenda we have two bills listed. We will open the hearing on Assembly Bill 37.

Assembly Bill 37: Revises provisions relating to the administration of the Department of Corrections. (BDR 16-615)

Howard Skolnik:

In Section 1, the bill changes the NDOC's position title "assistant director" to "deputy director." In the 73rd Session, the NDOC pay scale for assistant director was changed to deputy director compensation rates. However, the language in the *Nevada Revised Statutes* (NRS) 209.151 was not modified to reflect the change in the position title.

The other purpose of this bill is to bring us into compliance with the Ninth Circuit Court's decision regarding inmate accounts. The interest on those accounts is to be deducted from the total cost of operating the inmate account system. Those inmates whose account interest is sufficient to cover their share of the operating cost will have that amount deducted from their accounts. The remainder of the interest will be credited to their accounts. Are there any questions?

Assemblyman Carpenter:

In Section 1, it states, "The Director may delegate to a deputy director, manager, warden, or employee of the NDOC the authority to exercise or discharge any duty or function vested in or imposed upon the Director." Can you give us an example of a situation in which an employee would exercise these types of duties?

Howard Skolnik:

If the Director is on annual leave, or if he is out of the State, all his responsibilities would be delegated to a deputy director; or perhaps, a warden needs to develop skills necessary for future promotion. It is not a mandatory delegation, but a discretionary decision on the part of the Director. The Director cannot do the entire job himself.

Assemblyman Horne:

Can you explain the change in language from "assistant" to "deputy" director? The assistant directors were in the classified service. This language change would move the position to unclassified.

Howard Skolnik:

That is correct. There was a personnel division evaluation of policy level positions in the department. The assistant directors of the NDOC were policy level positions. The positions were changed in pay and in classification status to deputy directors with exempt status, which are unclassified positions. The individuals already holding those positions were given the opportunity to change to the non-classified position, or they could remain classified, except for retention. The existing positions were "grandfathered" in. All new hires in the deputy director positions will be unclassified.

Assemblyman Horne:

For the positions "grandfathered" in, retention is not included with the unclassified position, is that correct?

Howard Skolnik:

That is correct. Retention has never been included for the assistant director or deputy director level positions, even when the positions were classified. They were classified except for the purpose of retention.

Chair Parks:

Are there any other questions?

Assemblyman Carpenter:

With the antiquated system the NDOC has, will they be able to keep track of the interest in the inmate accounts? Or will it be hit and miss?

Darrel Rexwinkel:

The calculations are manually processed. We know the amount of interest because the accounts are managed by the State Treasurer. We know how much money is on deposit, so we know how much interest is earned. The calculations are easily performed. It is all done by the inmate banking system, which is the old system operated on our AS/400 computer. This system is separate from the NCIS. If we automate the inmate banking system using the new NOTIS, we will be able to eliminate the AS/400 computer system. A savings will be realized, because the staff will not be operating two computer systems.

Assemblyman Anderson:

I am concerned about a couple of items in this bill. I want reassurance that the opportunity for victims to recover damages will not change with this legislation.

Howard Skolnik:

No, it will not change.

Assemblyman Anderson:

If a family member puts money in an inmate's bank account, are those dollars available for the inmates use only?

Mr. Skolnik:

Prior to this legislation, the inmates did not receive the interest on their bank accounts. The interest was retained by the NDOC. A lawsuit was filed in 1994 against the NDOC resulting in the decision by the Ninth Circuit Court that inmates were entitled to the interest earned on their accounts. The interest was

their property. However, the NDOC was allowed to recover the cost of managing those accounts. This bill does not change any of the other factors regarding inmate accounts. It simply states the NDOC can no longer recover more than the actual cost of managing the inmate bank accounts from the interest earned on those accounts.

Assemblyman Anderson:

I am looking at Section 4, subsection 5, lines 28 through 32, which are going to be removed. It states, "The provisions of this chapter do not establish a basis for any cause of action...." In light of this court case decision, this is obviously not true. Is that why this language is being removed?

Darrel Rexwinkel:

This language was added to the statute in 1995 to protect any interest or income accrued to the State in inmate bank accounts from inmate claim suits. However, the whole issue went away when the court ruled inmates had a property right to the interest income on their accounts. Therefore, the original reason for the language does not exist anymore.

Assemblyman Anderson:

In the past, we have had complaints from the Attorney General's Office that mandating strict procedures in the prison system gives inmates the opportunity to file "nuisance" suits against the State. These suits take up a great deal of time. Do you think the removal of this language will increase the number of "nuisance" suits?

Howard Skolnik:

The removal of the language is a direct result of the settlement in the court case. We have no choice but to remove it.

Assemblyman Anderson:

Thank you. I was afraid you were going to say that.

Chair Parks:

How often is an inmate informed of their account balance?

Darrel Rexwinkel:

The inmates are told the balance in their accounts every time they go to the prison store to make a purchase. We also give them a periodic bank statement.

Chair Parks:

Would anyone else like to testify in favor of A.B. 37? We will be limiting our discussion to the bill language.

Patricia A. Hines, Private Citizen, Yerington, Nevada:

I would like to ask for a clarification. May I ask about something that is not being added or deleted from the bill? May I ask about anything in the bill?

Chair Parks:

As long as your questions are relative to this bill, you may ask them. If there is something that is related to the bill, and you would like us to consider it as part of our deliberation on the bill, we would be happy to respond.

Patricia Hines:

How often do the inmates get a statement on their bank accounts? Is it an established procedure?

Chair Parks:

We can ask the NDOC representatives to come back and give us an answer. Do you have any other questions, so they can take them all at once?

Patricia Hines:

How is the percentage figured, and who does that calculation? Is the cost figured by employees of the NDOC, or is the work contracted out?

Chair Parks:

My understanding, from the testimony we have heard, is the Treasurer's Office does the calculations. They give that amount to the NDOC, and they distribute the cost to the individual inmate accounts.

Patricia Hines:

Does this affect all inmates in the prison or just the ones who have money in a personal property fund?

Howard Skolnik:

This affects only those inmates who have money in their personal property funds. That is what the lawsuit determined. The Chair was correct in explaining how we calculate the amounts. The procedure is consistent with the ruling of the Ninth Circuit Court. The inmates receive a monthly statement showing their balances.

Patricia Hines:

If an inmate needs this money, can an inmate withdraw funds from his account?

Howard Skolnik:

This money goes into the inmate's personal property fund. The inmate can use the money at the prison store or send it home. It is the inmate's choice. It is

not part of the money that is held back unless the inmate does not have enough money in his personal property fund.

Patricia Hines:

If an indigent inmate does not have the required \$200 in savings, will he be affected by this bill?

Howard Skolnik:

If an inmate does not have \$200 in savings, he will not earn enough interest for the NDOC to withhold any of the funds. We are looking at approximately \$4.50 as the average amount withheld to cover the cost of managing the account.

Patricia Hines:

Do you mean the amount is withheld from the inmate's account, or is that the amount the inmate gets?

Howard Skolnik:

That is the amount we would withhold from the interest the inmate earns on his account to cover the cost of managing the account.

Patricia Hines:

It seems strange that the NDOC would charge an inmate for a system that is already in the prison system. I have submitted a statement to supplement my testimony ([Exhibit D](#)).

Darrel Rexwinkel:

The average monthly cost to manage an inmate's account is about \$4.50. We do not charge the inmates. We determine the amount of interest the inmate would earn on his personal property fund. If that interest exceeds \$4.50, the amount of the overage is added to the inmate's account. We look at the cost of managing the account on an individual inmate basis. We do not remove the \$4.50 from their accounts.

Patricia Hines:

How many of the 12,000 inmates are affected by this procedure? What percentage can you give me?

Darrel Rexwinkel:

We take the total cost of the banking system and divide that amount by the total number of inmates. That is how we arrive at the \$4.50 figure. Then, we look at each inmate account to see if it earns more than \$4.50. The cost is allocated across the board. This method is used in accordance with the opinion handed down by the Ninth Circuit Court.

Patricia Hines:

I think this is going to cost more in manpower and time than it will increase an inmate's account balance. I appreciate the information. Thank you.

Chair Parks:

Is there anyone else who would like to speak in opposition to the bill?

Donald Hinton, representing the Spartacus Project, Las Vegas:

I would like to ask what happens to the confiscated money that families send to the inmates.

Chair Parks:

Mr. Hinton, I do not believe that question is pertinent to this particular bill.

Donald Hinton:

Well, it is money the inmate's family sends in that disappears. Would you like me to make this statement in the public comment portion of this hearing?

Chair Parks:

Yes, if you could save your statement for public comment, I would appreciate it.

Donald Hinton:

I can do that. Would you ask the gentlemen from the NDOC to "stick around" until the public comment part of the hearing comes up?

Chair Parks:

Yes, they will be here. They have the next bill as well. Is there anyone else who would like to speak in opposition to this bill? Not seeing anyone, we will close the hearing on A.B. 37 and open the hearing on Assembly Bill 38.

Assembly Bill 38: Revises certain provisions governing the forfeiture of credits earned to reduce the maximum term of imprisonment when a parolee violates a condition of his parole. (BDR 16-617)

Howard Skolnik:

Prior to this bill, if a parolee violates parole, all good time credits earned by the parolee were removed. Credits are earned for behavior and for program performance within the institution. Program performance credits cannot be earned more than once, so once an inmate loses the opportunity to earn those credits, they are gone forever. This bill will make removal of the credits, earned in educational programs and participation in other programs within the institution, at the discretion of the Parole Board. Currently, the removal of the credits is mandatory. Are there any questions?

Assemblywoman McClain:

Are you making this a discretionary option so the credits can be given back to the parolee?

Howard Skolnik:

The credits have always been able to be restored. This bill is making the removal of those credits discretionary instead of mandatory for anything other than good behavior. If this bill passes, the only mandatory removal of credits would be those earned for behavior in the institution, not in program participation. The non-behavior-related good time credits would not be removed automatically, but could be removed at the discretion of the Parole Board.

Dorothy Nash Holmes, Deputy Director, Correctional Programs, State of Nevada, Department of Corrections, Carson City:

I would like to add that in 1995, when the truth-in-sentencing wave came down, many measures were changed to make the prison environment more punitive. The mandatory removal of credits was one of those items. The change was made without a discussion or a hearing. It mandated the removal of all credits earned if someone "messed up" on parole. The purpose of this bill is to promote correctional programs. When an inmate earns his graduate equivalent diploma (GED), he earns it. If an inmate does a year of drug treatment, the credits earned are not removed. This bill would ensure that an inmate would receive the benefits accrued from successful participation in institution programs. It restores the language used prior to 1995. Behavior credits would still be subject to mandatory removal.

Assemblywoman Weber:

Is the term "good behavior" defined? Is it a matrix of behaviors? I am trying to determine if good behavior is subjective.

Frederick Schlottman, Administrator, Offender Management Division, State of Nevada, Department of Corrections, Carson City:

The NRS guarantees that an inmate will receive ten days or credits per month for good behavior. That is statutorily regulated in NRS 209.

Howard Skolnik:

Good behavior credits are automatically granted provided the inmate remains disciplinary-free during that period.

Assemblywoman Weber:

Is good behavior subjective?

Frederick Schlottman:

Good behavior is the absence of bad behavior in our prison system. As long as an inmate does not do something wrong, they will earn the credits for good behavior.

Assemblyman Anderson:

Let me see if I have this correct. Good time credits earned for program participation will not be automatically removed.

Frederick Schlottman:

This bill clarifies the credits that are at risk. Currently, the Parole Board must take all credits earned but grant back credits as it sees fit. Typically, the Board does not take credits for participation in programs. It grants those credits back to the inmate. This bill simply codifies that practice. The only credits that will be at risk are the good time credits.

Assemblyman Anderson:

Then, the inmate will know that once he has earned a program credit, it cannot be taken away. Is that correct?

Frederick Schlottman:

Yes. According to the language in the bill, the only credits subject to forfeiture by the Parole Board would be those credits earned for good behavior. Programs, educational, and work credits would not be subject to forfeiture.

Assemblyman Anderson:

Who could take those credits away? Anybody?

Frederick Schlottman:

The Director may.

Assemblyman Anderson:

He could take them away as a discretionary option. Is that correct?

Frederick Schlottman:

Yes. If the inmate committed a serious infraction of the rules, for instance, an assault, the Director may assess all or part of the inmate's credits for forfeiture.

Assemblyman Horne:

To labor the point and take it out to its logical conclusion, the good time credits are subject to mandatory removal.

Frederick Schlottman:

Yes, that is correct. That is the law.

Assemblyman Horne:

Can an inmate continue to receive those credits while on parole?

Frederick Schlottman:

That change was made during the 73rd Session. Yes, he can receive them on parole.

Assemblyman Horne:

An inmate would continue to receive good time credits while on parole, which lessens the time he would serve on parole. Is that correct? I want to make sure that statement is there.

Frederick Schlottman:

Yes, that is correct.

Assemblyman Horne:

If an inmate receives good time credits, then he can lose them.

Frederick Schlottman:

All good time credits are subject to forfeiture.

Chair Parks:

Are there further questions? Is there anyone in the audience who would like to speak in favor of A.B. 38?

Tonja Brown, Private Citizen, Carson City, Nevada:

I want to clarify the good time credits procedure used at parole hearings. If an inmate is incarcerated for 1, 5, 10, or 20 years, can a parole hearing officer take away all the good time credits earned? Or, should forfeiture of good time credits only apply from his last parole hearing to the next parole hearing, be it 3 or 5 years away? Some things happen. Maybe there was a death in the family, and it triggered the bad behavior. Should the parolee lose 10 years or 20 years of good time credits, or should credits only be forfeited during the period between parole hearings?

Frederick Schlottman:

All good time credits earned throughout the entire length of the inmate's stay in the NDOC would be subject to forfeiture.

Chair Parks:

The credits accrue on a monthly basis. Depending upon the severity of the bad behavior, some or all of the credits would be forfeited. Is that correct?

Frederick Schlottman:

Yes, that is correct. If an inmate is serving consecutive sentences, the only credits subject to forfeiture are those earned on the active sentence.

Chair Parks:

Does everyone understand that?

Assemblyman Anderson:

Is the inmate using the good time credits earned to expire the first sentence? The inmate starts with a fresh slate on the second sentence.

Frederick Schlottman:

Yes. Once an inmate completes the first sentence, the credits are banked; they are his; he is safe. Those credits are not subject to forfeiture.

Assemblyman Anderson:

Are the program credits also used to expire the first sentence?

Frederick Schlottman:

Yes, that is correct.

Assemblyman Anderson:

I wanted to clarify that point, because there seems to be a misunderstanding on the part of the public. The public wants credits earned during the first sentence applied to subsequent sentences.

Frederick Schlottman:

In fairness to everyone, it should only apply to one sentence. If an inmate had only one sentence and received 30 credits, it would be unfair if another inmate with 2 sentences received 30 credits for each.

Chair Parks:

Is there anyone else who would like to speak in favor of A.B. 38?

Lee Rowland, Staff Attorney, American Civil Liberties Union (ACLU) of Nevada:

I would like to express cautious support for this bill. I think the text of the proposed amendments is excellent. I am heartened that this Committee seems to be moving in the direction of taking seriously the fact that our prisons are collapsing under their own weight. Technical parole violations constitute a high

number of people who end up serving much longer sentences than the statutes require or intend. I think this is a good step. I am concerned that this bill is codifying the changes in the first section, and those changes will be made throughout Chapter 209 of the NRS. I am questioning why the changes need to be made. Fellow advocates have informed me that good time credits are not being awarded at the one day ratio, but instead, a two-thirds of a day ratio is being used. I like the added language that speaks to the good time credits. I want to make sure the changes do not reduce the good time credits inmates are entitled to receive.

Chair Parks:

Thank you for that comment. We will look at that and make sure your comments are reviewed. Does anyone else want to speak in favor of this bill? Not seeing anyone, is there anyone who would like to testify in opposition to the bill? Is there any further comment from anyone relative to A.B. 38? I am closing the hearing on A.B. 38. That concludes our agenda for today, so I am opening the hearing to public comment.

Tonja Brown:

I want to call attention to the medical part of the NDOC operations. The women's prison is in need of medical equipment, such as wheelchairs. It has also come to my attention that family members and friends have offered to furnish and pay for the equipment, but the NDOC has declined their offer. Maybe a program could be established for public donations, so inmates can receive proper medical care. Right now, they are not receiving it. I am aware of a female inmate who is in need of a wheelchair. The wheelchair she was given was broken, so she could not use it.

There are inmates in need of medical care, and the only place they can receive it is at the Northern Nevada Correctional Center. However, they are not receiving the care because they are involved in litigation, or they are on an "enemy list." Therefore, the inmate's health deteriorates. The inmates have grieved this situation month after month. The NDOC acknowledges the need, but the inmates do not get the medical care they require.

Chair Parks:

Thank you for your comments. We are going to Las Vegas for further comment.

Florence Jones, Private Citizen, Las Vegas, Nevada:

I am here today to speak on "front end" sentencing. I will also address "back end" sentencing. I have submitted a prepared statement requesting a draft bill on "front end" sentencing ([Exhibit E](#)). The draft bills discussed on Tuesday

could be used to deal with "front end" sentencing. The issue of "front end" sentencing can be resolved by leaving the length of the sentence to the judge's discretion, rather than making the length of the sentence mandatory. Also, enhancement penalties should use discretionary language to allow the sentencing judges control over the time of incarceration. Putting this discretionary language in the bill would create a rehabilitative prison system. An amendment should be added to allow the submission of extra information, including the pre-sentencing investigation reports, at the time of the "front end" sentencing. It is my understanding that the people putting together the information are not even sworn, so only one side of the information is being presented.

On "back end" sentencing, I would like to suggest the Parole Board be given a specific list of objective criteria. I know this has been discussed, so I put together a list of criteria. For instance, did the inmate receive a high school diploma or GED? Did the inmate achieve a post-secondary college degree? Did the inmate complete long-term substance abuse programs? Did the inmate achieve certification in a vocational skill-training program? Did the inmate violate criminal laws while in prison? This list would be a starting point for the NDOC staff, and provide direction to the Parole Board when considering an inmate for parole incarceration. Parole is just another level of incarceration.

Currently, the Parole Board makes parole decisions on a subjective basis. This current method is "stopping up" the system. I would like to see a codification of regulations for parole standards. The Parole Board calls its current list of the standards, "guidelines." Since truth-in-sentencing became a reality, the list of guidelines has doubled. In fact, the guidelines are being applied retroactively. People, who entered the prison system in the 1970s and 1980s, came in on longer sentences. Now, the parole standards have doubled, so those inmates are looking at a longer waiting period before they can be considered for parole.

I would also ask you to seriously consider amending NRS 213.10885. The Parole Board needs to determine when prisons reach the NDOC's maximum "hard bed" availability. At this point, non-violent inmates need to be placed in other types of incarceration. This amendment would require the Parole Board to release on parole inmates who have 18 months or less to serve on their sentences. We need to do something other than just build new "cement" houses that we call prisons.

Constance Kosuda, Private Citizen, Las Vegas, Nevada:

I have two topics I would like to comment on. I do not agree with the statement, "These people are bad," when referring to inmates. "Bad" does not mean the same thing as having been found guilty by a jury or a judge. As a trial

attorney for more than 20 years, I have seen incredible inequities and injustices taking place in the courts on a daily basis. Most of my practice was civil cases, although I did handle some criminal ones. Even in the civil courts, judges would make remarks such as, "They paid a lot of money for their attorney. They have suffered enough."

"Bad" does not mean the same thing as guilty, and even guilty inmates are entitled to humane, compassionate care, and medical treatment throughout the course of their confinement.

The "presumption of innocence" is not a respected edict in our society. We need only look at police profiling to see that this is so. Innocence cannot be presumed, and is not respected when a person is the target of police profiling. We see disparities in the courts in determining whether inmates get to go home or to prison.

In addition, prosecutorial discretion hides a world of suffering and inequities. We all know of individuals who have pled guilty to something they did not do, because they are being threatened with an even longer prison term for something else they did not do. The prosecutor is confident he can secure a conviction. If one assumes that prior to trial all are innocent, then, after trial, guilt can be equally assured, if the jury so rules. We need to look at our State, and at what is going on around us. We need to face and deal with reality. Then, we can come to the conclusion that this maxim is no longer acceptable.

I want to remark on the statement made by Dorla Salling. The judge in a case generally hears all the facts, as they are alleged, and rules on whether or not they will be heard by the jury. If the facts are prevented from reaching the jury's ears, then those facts need to be removed from the data, which is considered by and made available to the Parole Board. The Parole Board, as it presently functions, is placing itself in a superior position to the judiciary. It is crafting itself into a position of "super judicial" powers, which is not only blatantly unfair, but also a Constitutional violation.

I have presented this following view to our prior Attorney General. All inmates need to have access to outside legal assistance when they are dealing with the Parole Board, the probation department, and the disciplinary "arms" of our prison administrators. This would include guards, who may levy charges that reduce an inmate's good time credits. Doing anything less than this would be placing the NDOC in the position of being a "super jury." This is unacceptable and patently unfair.

Victims, loved ones, and family members need to be allowed to speak in open session, not behind closed doors, when parole and probation hearings occur.

With respect to mental health and drug courts, their intent is to prevent incarcerations. I have been advised that in order to qualify for participation in the mental health courts in Clark County, an individual needs three prior convictions. This restriction belies the intent of the court and limits what good might occur by using the mental health courts.

With respect to our mentally ill inmates, and future ones who will swell the population in our prisons, community-based outpatient treatment is an alternative. This treatment is available nationally. Utilization, in this State, would reduce the cost of incarceration. Historically, Nevada is woefully behind in providing adequate mental health care. Too often, the mentally ill wind up in jail for actions that were only taken as a result of their untreated mental illness. Oftentimes, the absence of treatment can be attributed to lack of money and services available, or to a lack of public awareness of the need. Establishing community-based outpatient treatment programs for mentally ill offenders is a cost-effective way to deal with this ever-burgeoning problem. I have submitted a statement ([Exhibit F](#)), and I thank you for this opportunity to add my remarks to the discussion.

Chair Parks:

Is there anyone else in Las Vegas who would like to speak?

Donald Hinton:

Prison is supposed to be punitive, and it is supposed to improve the behavior of our inmates. When the inmates are released, they should be in a better position to contribute to society. Good behavior should start in prison, and it should be on both sides. We should not have an inmate living in an "unnatural circumstance." An inmate has to listen to as many different interpretations of the law as there are guards in the prison. They run the risk of offending one of the guards and getting themselves a "bad rap." The inmate then goes to a "kangaroo" court—a disciplinary committee—and the inmate is fined two-thirds of his good time credit days. If the inmate goes to the Parole Board and is granted parole, his good time credits do not go to the time served on the inside. They are applied to the end of his parole. If an inmate is serving time for multiple sentences, and he is paroled to his next sentence, the good time credit days are applied to the next sentence.

Once a good time credit is earned, it should not be taken away—that is petty. We are not "Indian givers," we are adults in this society. You do not "giveth" and "taketh" away. The inmate had no legal representation in front of a disciplinary committee. The hearing is handled by a guard, or a uniformed lieutenant, who is not going to go against his fellow guard who wrote the infraction.

I do not bring prepared material to these hearings. I listen to what is said and make notes on a piece of paper. When I came up earlier to testify, the Committee was talking about the money that went into the inmate trust accounts. I wanted to know what happens to the money above the \$1.12 per day food allowance, which is sent in by inmate families. How can that money be taken away by a disciplinary committee as a fine for some indiscretion on the part of the inmate? An inmate is allowed to keep two-thirds of the money sent in, and the remainder goes to pay his fine. This is done without due process. Nobody takes the side of the inmate because he is the only one there to defend himself. An inmate is not allowed to call a witness.

I would like to comment on the medical situation in the NDOC. In 2000, the Spartacus Project submitted a thorough medical review report to the Governor, the Attorney General, and to the NDOC. Nobody read it. One of the items the report mentioned was the fact that two men died under Dr. Bass's care. The NDOC finally fired the doctor, but in the meantime, he served time in prison for first-degree murder. He was not a highly-skilled doctor, nor one of good moral character, but he was hired by the NDOC.

When inmates are working in the prison industries, the money they earn may take months to get posted to the inmate's account. However, if a guard has a payroll problem, it is addressed immediately and corrected. Inmates are charged exorbitant amounts for items they purchase. For example, a 13-inch, no remote control, color television costs \$350. The inmates are charged a special assessment for electronic equipment. This charge is really "ripping off" the families of the inmates. Inmates are allowed to receive a package containing clothing once or twice a year. The NDOC only provides one pair of pants, one pair of socks, one tee-shirt, and one shirt. Is that enough?

The last audit report I received from the NDOC listed the monies that were reverting to the General Fund. The NDOC never made that report available to me again. The families are the ones providing the extra money to the inmates. In this hearing today, we were presented with a laudable list of criteria for parole commissioners to use when hearing cases. How was the Parole Commissioner currently sitting on the Board allowed to serve, when she had a quarter of a million dollars in stolen food stamps under her bed? How about the lack of repayments to the education fund? How about driving State cars for years without drivers' licenses? These are "great" examples for our inmates to follow.

Chair Parks:

I do not think it is appropriate to make broad allegations about an individual based on rumor or speculation.

Donald Hinton:

This is not speculation. The facts are well known.

Chair Parks:

We would appreciate it if you can conclude your remarks.

Assemblyman Horne:

I would like to go on the record that I made the same admonishments to Mr. Hinton during a previous interim hearing on this very topic. Mr. Hinton is aware that his comments are not appropriate.

Chair Parks:

Please conclude your remarks, Mr. Hinton.

Donald Hinton:

We can always ask the Parole Commissioners for the reasons their members are resigning.

Chair Parks:

You need to conclude your remarks at this point.

Assemblyman Anderson:

I want to go on the record that I am insulted that Mr. Hinton is impugning the reputation of a person who has spent a good deal of time working for the State. I will not tolerate the kinds of remarks Mr. Hinton is making. His comments are uncaring and said for spiteful intent. We do not do that. Mr. Hinton is a citizen of this State. He does understand the rules and knows what the proper decorum is.

Donald Hinton:

I am a citizen, but not for long.

Chair Parks:

Is there anyone else who would like to speak? For the record, the Committee has accepted a statement ([Exhibit G](#)) sent in by Lawrence Rider, Las Vegas, Nevada. He did not choose to testify.

[The meeting was adjourned at 5:56 p.m.]

RESPECTFULLY SUBMITTED:

Judith Coolbaugh
Committee
Transcribing Secretary

APPROVED BY:

Assemblyman David R. Parks, Chair

DATE: _____

EXHIBITS

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

Date: February 15, 2007

Time of Meeting: 3:45 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Paul Townsend, Legislative Counsel Bureau	Audit Executive Summaries Corrections and Parole and Probation 1998-2006
	D	Patricia A. Hines, Private Citizen, Yerington, Nevada	Statement
	E	Florence Jones, Private Citizen, Las Vegas, Nevada	Statement
	F	Constance Kosuda, Private Citizen, Las Vegas, Nevada	Statement
	G	Lawrence Rider, Private Citizen, Las Vegas, Nevada	Statement