

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

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

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:47 p.m., on Thursday, March 8, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. 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. Hoffecker, Committee Policy Analyst
Mark Stevens, Assembly Fiscal Analyst
Gayle Miles, Committee Secretary
Olivia Lloyd, Committee Assistant
Sylvia Brown, Interim Committee Manager



OTHERS PRESENT:

Honorable Kathy A. Hardcastle, Chief District Court Judge,
Eighth Judicial District, District Courts of Nevada, Las Vegas,
Nevada
John A. Gonska, Chief, Division of Parole and Probation, Nevada
Department of Public Safety
Captain Mark Woods, General Services Bureau, Division of Parole and
Probation, Nevada Department of Public Safety
Teresa Werner, Private Citizen, Reno, Nevada
Tonja Brown, Private Citizen, Carson City, Nevada
Patricia Hines, Private Citizen, Yerington, Nevada
Mary E. Hester, Private Citizen, Las Vegas, Nevada
Constance Kosuda, Private Citizen, Las Vegas, Nevada
Fred Rogers, Private Citizen, Las Vegas, Nevada
Valerie Galante, Private Citizen, Las Vegas, Nevada
Florence Jones-Crew, Private Citizen, Las Vegas, Nevada
Juli Star-Alexander, Executive Director, Redress Incorporated
Sherry Powell, Private Citizen, Carson City, Nevada
Lori Ann Kearse, Private Citizen, Las Vegas, Nevada
Sharon Samson, Private Citizen, Las Vegas, Nevada

Chair Parks:

[Roll called] We will start our meeting, in an open forum, with comments and recommendations for operational improvements and cost savings related to activities of the Nevada Department of Corrections (NDOC), the Division of Parole and Probation, and the Parole Board.

Honorable Kathy A. Hardcastle, Chief District Court Judge, Eighth Judicial District, District Courts of Nevada, Las Vegas, Nevada:

I understand District Judge John Mosely previously appeared at a budget hearing involving Parole and Probation to inform the Legislature that the Eighth Judicial District agrees that the Division of Parole and Probation, in Clark County, is severely understaffed and underfunded, which directly impacts the District Court, as they are unable to produce the required quality of necessary work.

There has been discussion about hiring three additional employees to assist with and write the Pre-sentence Investigation (PSI) reports. This Committee should be aware that number is not adequate. Several months ago, the Division notified us that they would not be able to provide us the PSI reports in a timely manner due to exhausting their overtime budget completing these

reports. We met with them to develop an emergency interim solution which would allow them to continue doing their jobs and provide us the reports in a timely manner, so that we could sentence in a fair and timely manner. The process was intended only as a short-term solution and did not require PSI reports for gross misdemeanors or non-serious/non-violent felonies if there had been a report written in at least the last five years.

This process has been in place for the last couple of months, and it has put a tremendous hardship on Clark County's District Judges in feeling confident in the decisions we are making regarding sentencing. It cannot be allowed to continue.

The hiring of three additional PSI report writing staff is not the solution to the problem, which has already caused a tremendous backlog. It is not only affecting the inmate population, but it is having a financial impact on Clark County. I want to reemphasize the District Court's support for the addition of adequate staff and resources required by the Division of Parole and Probation to effectively do their jobs.

Assemblyman Horne:

Did the temporary process include an agreement on when it was supposed to end?

Kathy Hardcastle:

Yes, it did. We indicated to them we would be willing to appear before the Legislature to provide support in their effort to acquire additional staff. Originally, they had mentioned ten additional writers, but now we have been informed it is only three. We understand we will not get any financial relief until July 2007 when they will have a new overtime budget. But employees in general, not just those of the Division of Parole and Probation, should never be required to do their regular jobs on overtime budgets. That is one reason we do not understand the final request of three additional staff.

Assemblyman Horne:

If only three staff are approved, what is going to happen? Will the Court continue not requiring PSI reports for gross misdemeanors?

Kathy Hardcastle:

I do not think we will be willing or able to do that. Part of the agreement was that the District Attorney's office and the Defense Counsel would meet and provide us a statement with recommendations and background information on individual offenders. This is "hit and miss" and not providing us enough information to make sound decisions regarding sentencing. We constantly have to request additional or missing information. Currently, it takes 45 days to get a PSI report. If the officer working that case goes on vacation, for example, the PSI report is delayed another 45 days. On occasion, the District Attorney's Office fails to send the file to the Division; this in turn causes another 45-day delay. The process is just one delay after another.

We hope there will be some alleviation of those specific matters as the new Case Management System (CMS) comes online. The District Attorney, Public Defender, and the Eighth Judicial Court, all have the new CMS and are working together to make sure the individual systems work together as one.

Assemblyman Horne:

If you have already received a PSI report on an offender, do you have a statute determining how long until another one is required?

Kathy Hardcastle:

The PSI reports should be no more than two years old, but I prefer to have one that is up-to-date. Since the PSI report impacts how I sentence an offender, the more accurate and current the information, the better.

Assemblywoman McClain:

We understand the original request for additional staff was 14, then 10, and now 3. Parole and Probation told us they do not use sworn officers, but management analysts, to complete the PSI reports. Therefore, do you know if other states have others, such as independent units, completing the PSI reports instead of Parole and Probation, and could we in Nevada possibly look at that?

Kathy Hardcastle:

Some states have court employees completing the PSI reports. There is an organization that provides compliance standards which the different units should comply with in order to ensure adequate information is included, but currently those standards are being rewritten. I will provide you with a copy once they are complete.

Assemblywoman McClain:

Is reassessing the process of the PSI report writing, such as who should be responsible, something our Committee can take a look at and recommend a solution?

Chair Parks:

It certainly is something this Committee, as well as the budget committees, needs to look into.

Kathy Hardcastle:

I would suggest possibly a long-term study of the entire process.

Assemblywoman McClain:

I was thinking of removing the PSI report writing process from Parole and Probation and possibly putting it in the court system. But rather than doing a study, this Committee should determine how to do that and how to pay for it.

Assemblyman Carpenter:

Do you have an idea how many new people it would take to get these reports out in a timely manner?

Kathy Hardcastle:

Initially it was thought ten. But with the population growth we have been experiencing in the last several years, I cannot see that as being adequate.

Assemblywoman Weber:

Do you see an electronic format as a benefit?

Kathy Hardcastle:

Many of our warrants, for example, are electronic. We have our new CMS that has been funded by Clark County. We presently have Justice Traffic Court online and are in the process of getting Family, Civil, and Criminal Courts all online, as well. All of our departments will soon be able to interface with each other, and we envision being able to issue warrants while in court via computer, for example, and notification of all partner agencies will be instantaneous. This definitely will assist in the report writing process but we do not know, at this time, what system Parole and Probation has that can tie in with ours.

Chair Parks:

Was the reduction of requested staff a result of the budget process in the Governor's Office, or was that a recommendation from the Department of Public Safety?

John A. Gonska, Chief, Division of Parole and Probation, Nevada Department of Public Safety:

The reduction in the requested staff came about due to a review of our workloads done by the Legislative Counsel Bureau (LCB). Producing one PSI report was thought to take eight hours, which we knew was inaccurate. Most importantly, we knew the PSI reports being sent to the District Courts, our biggest client, were of poor quality. The length of time was discussed and it was determined that ten hours still would not produce a better quality report. Because we could not justify our staffing request with any recent study proving how time-consuming it is to produce a PSI report, we withdrew our initial request for ten new staff and requested three along with a study of the entire process. We feel a study would determine the need and justify a request for more staff. Quality is the determining factor of an accurate and useful PSI report. My office is failing the District Courts by not providing them with the tools to do their jobs. The initial request for ten staff is still low and will produce only status quo reports, which are barely adequate. That number is still not what the department needs to produce reports with the quality required by the District Courts.

Chair Parks:

Is it your experience that the Federal Court turnaround time for a PSI report is two days?

John Gonska:

That is not correct. The number is closer to 70 or 90 days. Sometimes, a judge might demand a report within a few days; but this is rare and usually we have prior reports or information on that offender.

The correlation here is that the greater time allowed and available, the better the quality. A person's future is hanging on the accuracy of the information in the PSI report, and should not be taken lightly.

Assemblyman Carpenter:

If you had the funding to hire adequate staff, can you find them, and would they be qualified?

John Gonska:

Yes, hiring of specialists is not the problem. Yet, we have included training in our requested budget.

Assemblywoman McClain:

The ultimate answer is going to be the ability to use the Internet to speed up the process. Does Parole and Probation utilize SCOPE or other websites to assist them in the PSI report writing process?

Captain Mark Woods, General Services Bureau, Division of Parole and Probation, Nevada Department of Public Safety:

Yes, individual areas can talk to the repository. However, a problem is that Reno cannot talk to Las Vegas. State agencies currently do not have a single entity we can all use to talk to each other.

Assemblywoman McClain:

Is that problem being addressed?

Mark Woods:

No.

Assemblywoman McClain:

What would it take to fix it?

Mark Woods:

The Nevada Department of Public Safety, Records and Technology Division, under Captain P.K. O'Neill, is addressing that. The bottom line is it will take more dollars and manpower to be able to talk to the other agencies.

Assemblyman Anderson:

I serve on the task force that oversees the Central History Repository. I was under the impression we had finished developing a uniform platform for citations and the sharing of that level of information. Is this a new rubric you are requesting through the technology division and will this broaden the services available to the courts at the expense of the General Fund?

Mark Woods:

I cannot answer that. We at Parole and Probation are depending on an older system that is not able to talk to the different judicial jurisdictions.

Assemblyman Anderson:

Is that because Parole and Probation does not utilize the information or share in protocol that way? Or is it because Correction's system is using a different protocol?

Mark Woods:

I cannot answer that question.

Chair Parks:

We would like the Division of Parole and Probation to submit a report to us regarding that question. In addition, if we added ten staff, would we still be getting a status quo report, and would it cover gross misdemeanor investigations?

John Gonska:

We will give you an honest and candid evaluation recommendation.

Chair Parks:

Thank you. Also include any technology enhancements that might be needed to better use the capabilities of your existing system and any potential future staff.

Teresa Werner, Private Citizen, Reno, Nevada:

I am here for the Friends and Family of Incarcerated Persons (FFIP). I am the wife of inmate Elmer Werner. I have some comments on Assembly Bill 62.

It seems this bill proposes that if there are consecutive sentences, and the minimum is served on the first, and providing the accused has been good, they should automatically roll over to the second sentence without a dump or denial of parole. Is that going to be retroactive, and if so, for how long?

Chair Parks:

I do not know that we could answer that at this time. It certainly is a good question and deserves an answer. We will definitely address that in one of our next meetings.

Teresa Werner:

Thank you. Why is that only including category D and E felonies? I understand those are short-term sentences, most of which are for crimes that usually deal with drugs, or theft, or are sexual in nature. My concern is that those categories are addictive and habitual in nature, and more likely to produce the re-offenders. Unless you have a family of mobsters, being an accessory to a violent crime is not an addictive or habit-forming issue, so how is releasing criminals a few months early going to make that big of a difference? I am afraid those early releases will cause the statistics to be "skewed" and fail.

I would also like to express my concern with parts of Assembly Bill 61. Why do we have judges and the Pardon's Board when the parole officers seem to be in control? The minimum number seems to mean nothing. Every inmate that I know of is denied their first time up for parole, no matter how good they have

been. The officers do not seem to be using the point system that is in place. That issue works against any incentives an inmate might have to positively participate in and complete the offered programs. I have seen some "Likelihood for Success Worksheets" that are time and date stamped prior to meeting with the inmates, which show that the Parole Board has already made their decision prior to meeting with the inmate and that is not right. For example, I know of an inmate who did 32 years and the Pardon's Board said he was eligible to be paroled. When he appeared before the Parole Board though, he was denied parole again, this time for two years, until he could appear before them again. As a taxpayer, if someone gets action at the Pardon's Board, the Parole Board should not be able to override that decision.

The bill also states that the Parole Board can look at the evidence of the crime, including photographs. What is the point of this? That information was looked at by the judge during the trial. The judge has already sentenced the offender; the job of the Parole Board is not to re-try the offender, but review items relevant to the offender's time while in prison.

I want to stress the meaning of "bottom number." When the judge says, "ten years to life," why is that interpreted to mean 15 years? In the earlier example of the offender who served 32 years, that individual did not have a "write up" in 20 years. I have not been good that long. I do not understand why the judge's sentence is not respected. I have provided my testimony in writing ([Exhibit C](#)) along with a letter ([Exhibit D](#)) written by my husband, Elmer Werner, an inmate.

Chair Parks:

Thank you. When we have the hearing on those bills, we will hopefully have some answers we can provide to you at that time.

Assemblyman Horne:

I would like to compliment Ms. Werner. We have many people testify with legitimate concerns, but your statements were sound and reasoned, and appropriately presented to this Committee, giving them weight.

Tonja Brown, Private Citizen, Carson City, Nevada:

Parole and Probation officers carry beepers and give their numbers to their parolees prior to release. The inmate I spoke of last meeting, who cut off his ankle bracelet, was not notified when his parole officer's beeper code was changed. This individual was denied parole and had to wait nine years to appear before the Board again as a result. The officer even testified in front of the Board that the parolee was not responsible. He explained the communication failure was his own fault and the parolee should not be

penalized for the mistake. The Parole Board listened, but did nothing, costing the State and taxpayers nine years of accommodation fees for this inmate.

Litigations are very prevalent in our prisons. Currently, there are two retaliation litigations in federal court regarding the retaliation of wardens toward inmates. Different religious practices within the prison have been shut down and are now in litigation as well. Prisoners in Lovelock, for example, are not receiving their medication as prescribed. In many cases, doses are behind by weeks if not months. Another cause for litigation, which is practiced in many of our prisons, is the intentional withholding of legal mail from inmates pursuing appeals. The paging system at Lovelock is riddled with problems, yet the inmates are forced to depend on it for various daily functions. Lastly, opinions rendered by the courts on any new cases are approximately eight months behind from being put in the law library and available to the public.

The last thing I would like to speak about concerns inmates who are working on appeals being denied parole once eligible. The Pardon and Parole Boards are denying parole to inmates, seemingly because of pending appeals by those inmates. Possibly the nature of the appeals should be taken into consideration, but that should be the only thing. This is needlessly wasting tax dollars.

Patricia Hines, Private Citizen, Yerington, Nevada:

My biggest concern is not putting limitations on the discretionary powers of the Parole Board. The Board should be able to give their decision the same day as the hearing. If the hearing requires deliberation, the Board should meet ahead of time and be ready to give the decision at the hearing. In the past, the Parole Board gave the decision seven days after the inmate's hearing and then it went to ten days. Currently, the Parole Board has the right to delay notification of the decision up to 14 days after the end of the "Month's Hearing Agenda." Many prisoners have made plans for housing, employment, and other provisions in the community and if they are not notified of the decision for a month after their hearing, they could lose everything. With videoconferencing, there is no reason to impede the notification process. Time means money. Many states have taken the initiative of hastening their Parole Board decisions. In Nevada, review and approval of an inmate's "parole plan" takes an additional 90 days, after which the decision to grant or deny parole is made. This process turns into a vicious cycle.

The topic of videoconferencing, which was brought up in your committee meeting of February 27, 2007, is another one of my concerns. Before videoconferencing was in place, the Parole Board asked for comments on whether or not to videoconference their hearings. The Commissioners themselves even said they were going to miss seeing the body language of the

prisoners in person, and yet they started videoconferencing anyway. It appears the only group that is benefiting from videoconferencing is the Commissioners, because the inmates and their families are not.

Another concern I have is in regard to the "Likelihood for Success Worksheet." It should be more than just a paper with a box checked to indicate what the inmate has done. This worksheet comes from the NDOC and then goes straight into the PSI report. There is nothing indicating what the inmate has been doing as far as education, trainings, or certifications.

My biggest concern is getting the NDOC exempted from the Administrative Protection Act. Public Safety and Health and Human Services are two examples of entities that have been removed. If the Parole Commissioners are exempted from the Administrative Protection Act, then the resolutions can become regulations and be reviewed and approved by the Legislative Commission. As it stands, the resolutions are approved by very few people. Then 100 or so are taken to the Board of Prison Commissioners, rubber-stamped, and approved all in one swift motion with very little input. Parole and Probation uses a guideline when they work on a PSI report; after that, they come up with risk factors to make their decision. The PSI report is also used as a comparative at the end when it is time for the inmate's release. In between that time, the Nevada Department of Corrections (NDOC) calculates an intake risk factor, and they also have an exit risk factor. Then Parole and Probation does it again when it is close to the time for the inmate's release. If the charge is a sexual offense, the Criminal Repository calculates a risk factor to determine "tier levels." Many people think the "tier" levels are the severity levels for sex offenses. That is an incorrect assumption.

The Division of Parole and Probation is supposed to coordinate with the Parole Board so releases can be timely and within the limit of the inmate's eligibility date. Just as Ms. Hardcastle stressed the importance of the PSI reports to the judges, it is just as important, if not more important to the inmates. This report follows the inmate all the way from his incarceration to his release. If the inmate sees his PSI report at all, it is only 10 to 20 minutes prior to his sentencing. The inmate does not get a chance to make any corrections or document any discrepancies he might find within the report.

The cost of grocery items within the NDOC is putting hardships on inmates and their families. I know this is a budgetary item, but it needs to be reviewed. Inmates are being charged 32 percent more for items at the NDOC store than outside the prison walls. Income received by the NDOC in 2006 was \$2,768,000 from inmate-initiated collect phone calls. This is a 52 percent kickback from MCI Telephone Company, 50 percent of their total cost. The

Legislature intended that money to fund items within the prisons that would benefit all inmates. The funds should go to indigent medical care to help supplement their medical budget.

The laws restricting those with a felony conviction from applying for and receiving such benefits as Housing and Urban Development (HUD) or Medicare also need to be reviewed.

Lastly, there are three points I would like to make. One is the completion of an interim study on the Division of Parole and Probation, the NDOC, and the Parole Board. I support earlier suggestions that would bring the Parole Commissioners under the NDOC umbrella and their reviewing issues like compassionate release. Secondly, a list should be made of the possible options for releasing inmates, such as rehabilitation centers, release due to terminal illness, or for "good time" credits. I understand there are five states currently reevaluating their inmates, those who have served 15 or 20 years, for possible release options. Thirdly, what is the profitability of prison industries? If the State requires the inmate to work, the jobs and the training need to be provided.

I have provided my testimony to you in writing dated February 15, 2007 ([Exhibit E](#)).

Assemblyman Horne:

Releasing inmates with catastrophic illnesses would shift the burden to outside programs such as Medicaid, or convalescent providers. Would this really save the taxpayers any money?

Patricia Hines:

I am not privy to the dollar amounts, but for those individuals who are low-risk and have a family that still cares enough to have them in their home, we should help them along.

Assemblyman Anderson:

I would like to comment that there is an opportunity to make an appeal to the head of Corrections for a "humanitarian release" for those who might qualify. This process was passed several sessions ago and is presently in place. Are you under the impression that no one is making applications for that?

Patricia Hines:

I believe very few are applying for that. I know of several families who have applied, but have been denied.

Assemblyman Anderson:

I understand certain circumstances and criteria have to be met, including a willingness of the family to provide an economic position for that inmate when they are released.

Mary Hester, Private Citizen, Las Vegas, Nevada:

I am a former employee of the Nevada Department of Corrections. I have 43 years of work experience, 11 months of which was as a Programs Officer at the Southern Nevada Women's Correctional Facility (SNWCC). While employed there I heard and saw many things that disturbed me. I took on the job of trying to get more programs for the women and sought to assist the women inmates with vocational skills they could use to make their transition easier and help them get employment once released.

During my employment at the SNWCC, I was witness to political patronage and racist behavior by top management toward their staff. My attempts at bringing in successful programs were circumvented at every turn with lies and fabrications, and I became the recipient of harassment, bullying, and intimidation. An example of one such program was an interest by the carpenter's union. They were very interested in working with the women in our facility. The only problem was there was not enough room because Prison Industry had just added a new job of "card sorting." Sorting cards is not a skill that you can take with you upon release and apply in your daily life. Thus, my carpenter's union program was set aside.

Another program I would like to speak about is the "Going Home Prepared" program. This was said to have been a successful program. The program was funded with a federal grant, yet no final report, which is required, has been submitted. I have worked a lot in federal programming, and I cannot seem to get any answers to my questions regarding this federally-funded program.

I understand Assemblywoman Weber has put in a BDR regarding an oversight commission or committee of the NDOC. It would be appropriate for a committee to review and recommend changes to the operations of the NDOC. Their administration needs to be held accountable for their actions and decisions which are made outside of the laws and regulations. The Department employs questionable practices in areas such as hiring, promotions, investigations, and terminations. Many of these practices involved previous employees, specifically those of color.

Inmate programs are not an integral part of the NDOC. I see the NDOC simply warehousing prisoners and not showing an interest in their rehabilitation. The person presently heading the Programs Division of the NDOC is not a person

with experience in the programming structure. We need someone with experience in order to offer inmates the type of programming they will need to make themselves successful.

The NDOC and I have reached a mediated agreement about my termination from the Department. That agreement was signed on January 16, 2007. The Attorney General has completed all their requirements of the agreement, but the Department has not, nor will they resolve the items they agreed to with me.

Lastly, I would just like to say I am still called on to testify for the State as a former employee in a case they are prosecuting against an inmate. I find it contradictory that I am good enough to testify for the State, but I am not good enough to work for the State, namely the NDOC.

Constance Kosuda, Private Citizen, Las Vegas, Nevada:

I visited the Women's Prison with Assemblyman Harvey Munford the very day before Ms. Hester was fired, and what I observed was we are at a moral and ethical crossroads in this State. As an attorney, I have seen the effects of bureaucracies, from the court systems, to the Department of Corrections, and Parole and Probation. These types of entities seek justification for all their actions. It is time to see past their very effective lobbying campaigns. A prison's mode of operation has historically been to parcel out punishment and despair. I have provided to you my support for the recommendations presented earlier by Dr. James Austin, Ph.D., President of JFA Associates, and Council of State Governments (CSG), and also Mr. Siegel of the American Civil Liberties Union (ACLU) ([Exhibit F](#)). I petition this Committee to review and correct the operations of the Nevada Department of Corrections. Community-based treatment in lieu of incarceration would cost 5 to 10 percent of what incarceration costs per year. Your Committee has heard many exemplary speakers on behalf of the early release of low-risk offenders and the cost savings in that. We need to start treating people humanely in this State. I would like to close with a quote, "When we visit those in prison, we visit God."

Fred Rogers, Private Citizen, Las Vegas, Nevada:

As a former employee of the NDOC, I was a victim of their intimidations, threats, and investigations. They do not seem to care or even try to hide their behavior and I found the workers to be very arrogant. There seemed to be an unwritten policy that if you do not bend to the "in" group's ideologies, they will conspire to get rid of you and solicit the help of the Attorney General. Being a senior officer, I was second in line for the Lieutenant position in 2000. They hired two people much less qualified than myself, and feeling I had been

discriminated against I filed a grievance. Because of this grievance, I was "blacklisted." I was forced to hire a private attorney. Why can the Attorney General's Office not protect my rights as an employee? They protect the NDOC administrators.

For the past six years, I have been retaliated against by not getting promoted. I retired on the advice of my physician because of stressful conditions at NDOC. There should be some legislation that protects the worker against harassment from the administrator. The administrator should be made to hire his own attorney and I guarantee this would put a stop to a lot of this.

Assemblyman Horne:

How long were you employed with the NDOC?

Fred Rogers:

I was employed for 12 years. I have a total of 31 years in the correctional field.

Valerie Galante, Private Citizen, Las Vegas, Nevada:

I was hired as a psychometrist at the SNWCC. I had the pleasure of interacting with Assemblywoman Valerie Weber on several occasions when she visited SNWCC, addressing correctional issues with her. I had the pleasure of meeting with Chair Parks on a couple of occasions as well. Some years ago the Nevada Department of Prisons changed their name to the Nevada Department of Corrections. That name change was supposed to signify their change in mission, vision, and philosophy. However, the meaning of the name was on paper only because there was no reality of it within the NDOC. I am here to advocate on behalf of the inmates. I will restrict my comments to what I directly observed while at SNWCC.

I started on October 1, 2004, when the NDOC took over that facility. From the first week, I observed many problems in terms of medical and mental neglect and abuse of the inmates, as well as safety violations in terms of the Occupational Safety and Health Administration (OSHA), such as mold in the showers and inmates working on maintenance crawling through rat-infested holes. There were mail violations, as you heard earlier, of inmates not receiving mail, including legal mail. Officers sometimes used this to retaliate against inmates, often those who had filed grievances. In general, these women were forced to endure harsh and inhumane treatment.

At first glance the facility reminded me of a high school with all the uncontrolled movement of the inmates. There was a lot of programming going on, but I was surprised at how orderly things were in such a seemingly free

sort of environment. I was taken aback by that freedom but on close inspection, interacting with the women, and seeing the day-to-day functioning of the facility, I saw it was actually a "therapeutic milieu." After the NDOC took over they imposed restrictions and enforced controlled movement, where inmates were not allowed to leave their cells unless they had somewhere in particular to go. The yard time they received was also severely restricted. New inmates were put into the "intake unit" and kept in their cells for 23 of the 24 hours a day with no justification. Protocols such as this might have made life easier for the correctional officers, but it made life harder on the program staff. We were supposed to be administering programs, conducting assessments, providing education, and providing vocational training; yet we had to battle every day to get access to these inmates. The administrators did not support us either.

I know Ms. Hester, my respected colleague, whom I had the pleasure of working with, did not want to mention names, but I am going to. Dorothy Nash Holmes, Deputy Director, Correctional Programs Division, NDOC, also hindered our efforts. I was hired and expected to perform certain duties, yet she failed to provide me a budget, teaching materials, pencils, time, or administrative support. It was a hostile work environment for staff and inmates alike.

When the NDOC took over SNWCC, they did not consider the fact that women are different than men and there are different budgetary concerns, such as the purchase of required sanitary napkins and hygiene products. I remember one time in October 2004, we ran out of sanitary napkins. This went on for quite some time and many inmates filed grievances through appropriate procedures, and yet they received no response. Finally, the women revolted and deposited their used sanitary napkins in front of the Adult Warrant Officer's (AWO) office. Within a short time, less than an hour, funds were found to go and purchase the sanitary napkins. This is typical of what was going on within the women's prison in terms of neglecting the needs of the women on a regular basis.

The facility was inadequate, as well. The air conditioning would go out in the middle of summer and the women were not provided with ice or allowed to use fans. This is harsh and inhumane treatment to say the least.

I have been advocating for these inmate issues since October 2004, and I am always given this response, "Well, they are inmates. They committed a crime. Who cares? They deserve what they get." But the truth is, they are human beings, and they are someone's mother or father, son or daughter, husband or wife. Sooner or later, the majority of them are going to be released to come

back into our communities and into our neighborhoods. Would it not be more preferential if we treated them humanely by educating them and taking care of their minimal medical, dental, and mental health needs? That way, when they get out they will more likely be productive and a part of the community and not recidivate back into the system. I have documented my concerns regarding their medical and mental health needs.

Shortly after I was wrongfully terminated, the ACLU came into the SNWCC and interviewed over 100 women who came forward voluntarily, despite fear of retaliation from staff, and told their stories of neglect and abuse. Their stories have been documented, as well. The ACLU filed a brief on behalf of the women, and when I last spoke with Lee Rowland of ACLU, their federal department was going to take up that brief. The women inmate's stories had such an impact that the ACLU is making it a part of their national agenda. These women, although they are inmates, have definitely had their rights violated and their treatment needs to be addressed.

The NDOC claims to have a Programs Department, which is an inaccurate title at best. As Ms. Hester said, the majority of the people at SNWCC that were in the Programs Department have either been fired or have lawsuits and/or investigations pending. This is in part because we are labeled as "whistle blowers." We spoke out, went to administrators, voiced our concerns, expressed an interest in improving circumstances, and pointed out deficiencies within the system. Yet, conditions still have not improved.

When any inmate completes a program, they are supposed to receive credits, which go toward time off the back end of their sentence. There is well-documented information about the fact that these credits are submitted and then seem to go into a vast wasteland, because the inmates never see them again. When I first got to SNWCC, an inmate would complete a provided program, and I would provide them with a hard copy of the certificate which they could take to their parole hearing. These certificates meant a lot to these women not only as a personal achievement, but it was proof of what they had accomplished in the event the NDOC messed up on their documentation. Because of the high turnover rate of program staff, the women inmates may not be able to go back to the original staff member who administered a program. We, the staff, were told by Ms. Holmes that we could no longer give inmates certificates for program completion. We were told not to submit anything to the Parole Board on behalf of the inmate, stating they had made good progress or that they had been programming and receiving "good time" credits. It was up to the caseworker to check off what the inmates did on a checklist, which was more times than not completed incorrectly. Inmates

were not getting the credits they earned and deserved and their one shot to appear before the Parole Board often did not go well.

I was an employee at the NDOC for 19 months, wrongfully terminated without any notice or justification, and I filed for a "wrongful termination" hearing but was denied. I support Mr. Rogers and Ms. Hester in feeling the atmosphere of intimidation, harassment, and retaliation. If you are not a "yes" person, and if you do not go along with what the administrators are handing down to you, they will find a way to squeeze you out one way or another. I have been very vocal in reaching out to the Legislature, the ACLU, and the Equal Employment Opportunity Commission (EEOC) to express my concerns. I have gone through the proper channels, and I have filed formal grievances that have been dismissed or denied. I do not know what more I can do. I am hoping that you, this Legislative Committee, will listen to what we are all saying. It seems to me the only solution is to have an independent oversight committee of the NDOC. Even just the externalization of the grievance process of employees would be a plus. These grievances should go to an objective and independent group that can investigate the value of that claim, rather than the current system, where if I file a grievance against my supervisor, the first person it goes to is my supervisor. That hardly seems rational. It is the same thing with the inmates. If the inmates file a grievance against an officer, it goes to the officer first. The system is not working for them either and they most often are retaliated against for speaking out. Their complaints are very valid and easily substantiated. Thank you for listening.

Florence Jones-Crew, Private Citizen, Las Vegas, Nevada:

I am in daily receipt of letters from inmates expressing their concerns as well as their personal experience with the misuse of the credit system. These letters and email ([Exhibit G](#)) indicate how the credit system is being used and abused by the Department of Corrections.

In the statute regarding credits, they are valued as "days," yet the NDOC reworks them into what they call "merit credits." If accounted for at all, each credit has a value of about two-thirds of a day. In 1989, Senator Dina Titus was very specific about the "days" allowed for education. Those, too, are being reworked by the NDOC back to "merit credits." For example, an inmate serving a ten-year sentence would have an additional year added to their sentence, which is the reverse of what the credits are supposed to do. The Legislature's directives were written to govern the NDOC and the Parole Board in releasing inmates in a timely manner and using the parole process correctly. Monitoring the Department and the Board and enforcing the proper usage of these current laws will prove that the existing system does work. From the inmates' letters, their opinion is that the system is not completely broken, but

the way it is being interpreted and then applied by the present NDOC employees and the Parole Board is hindering the end result of being paroled in a reasonable amount of time.

The thing that most disturbs me regarding the use of merit credits in the current corrections population is that work-time credits are not given to inmates who are students taking college courses. The reasoning behind that decision was that college students only go to school six to eight hours a week. The opportunity for an inmate to get college credit and get work credit allows them to live in a better housing environment within the system, and to be able to study and prepare for classes. Although the number of hours per week seems low, there is preparation time for those hours that was not taken into consideration. It seems that a small group of people are making major decisions about a population of 11,000 to 12,000 inmates without following the directions of the Legislature. If there is something that needs to be made more precise in our laws, please do so. If it just needs to be a mandate to these people who head the NDOC and the Parole Board, then please do that. We do appreciate the difficulty of their jobs. Those inmates taking classes may not become senior executive officers, but they are humans and should be treated as such. It is our hope your decisions will work out to be equitable for everyone.

Juli Star-Alexander, Executive Director, Redress Incorporated:

The email Florence Jones-Crew would like to read ([Exhibit G](#)) was sent on Thursday, March 8, 2007, and is titled, "*NDOC Offender Management, Misuse of Sentence Time.*"

I would like to discuss a couple of points about what I am seeing that was not included in the email I read. It appears to me, and I am not an attorney, that there is a practice of selective prosecution which is in direct violation of equal protection under the current laws. I believe this issue should be taken up with the federal courts, and possibly Ms. Jones-Crew can turn it over to them regarding specifically unequal treatment under the laws. Thank you.

Chair Parks:

Can you please have a copy of that faxed up to our Committee?

Florence Jones-Crew:

I have already done that.

Chair Parks:

We will make it a part of our record, thank you.

Assemblyman Horne:

I am torn whether I should share this or not, but my sister is currently incarcerated here in Nevada. Over the years, she has been in and out of the system for a substance abuse problem. She was recently transferred from southern to northern Nevada. The reason given for her transfer was because the law stated inmates are to serve time where they have committed the crime, which for her was in northern Nevada. Prior to her transfer she was told to stop telling other inmates how to file grievances. From the outside looking in, it seems that she was causing problems for the officers by supposedly educating their inmates on how and when to file grievances. I know when my sister is lying to me, and when she told me that she was not telling the other inmates to file grievances, I believed her. I tell you my story, not in hopes of helping my sister, but just to let you know that I do know what many of the people who testify before this committee are going through.

Chair Parks:

Thank you, Mr. Horne, we certainly appreciate that.

Sherry Powell, Private Citizen, Carson City, Nevada:

I, too, have a sister who has a substance abuse problem and was incarcerated in southern Nevada, as well. She has since been transferred up north, and I am not sure what program she has been participating in, but I am thoroughly impressed with how much it has helped her. I just wanted to let you all know that this program does seem to be working for my sister. Thank you.

Assemblyman Anderson:

Is she in a drug diversion program?

Sherry Powell:

I believe it is a halfway house. She was with other inmates and regulated by Parole and Probation, but it was not like living in a cell. She had to go to church, had to maintain a job in order to pay her rent, which was another requirement, and if she did not own a car then she had to take the bus. It is just like they are living on their own in the real world, but they are still incarcerated and serving their time. It is an absolutely wonderful and effective program.

Assemblyman Horne:

I wanted to add one more thing; there is a co-defendant, a Confidential Informant (CI), for my sister's case, housed in the same facility as my sister. By law they are supposed to be separated. The reply my sister received when inquiring about this was if she had a problem to let them know when it arose. I do not see this as a very effective policy.

Lori Ann Kearse, Private Citizen, Las Vegas, Nevada:

Any type of therapeutic programming is only as good as its leadership. And since Dorothy Nash Holmes has been the Deputy Director, for the Correction Programs, there is no good leadership. As a result, outcomes of programs are extremely poor.

While I was employed as a Mental Health Counselor for SNWCC, I was prohibited from providing substance abuse treatment to the inmates because my title was not a substance abuse counselor. I think this is absolutely horrible. I have requested to volunteer in the NDOC with the Parole Program, as well, as a substance abuse counselor, and my request has yet to be answered. I know American Sign Language, and I was willing to teach a class. I was denied. I think this is an atrocity that Dorothy Nash Holmes continues to violate laws to put people at a disadvantage and is never held accountable. I just do not understand this.

Sharon Samson, Private Citizen, Las Vegas, Nevada:

You have been hearing the same complaints—the NDOC does not follow the law, the Parole Board does not follow the laws. There is a grave problem here. If you keep hearing the same things, it is obvious the two departments are out of control and need to be made to comply before it becomes more of an embarrassment for this State.

Tonja Brown:

Are you aware that if the NDOC makes a mistake on their record keeping on Parole, there is no way to verify and/or check? There is a case scheduled for March 21, 2007, which addresses the manner in which the NDOC handles their records. In that case, the NDOC failed to record the inmate's advancement to his second life sentence, of which he had already completed 12 years. The record keeping, especially on this subject of credits, is in need of a major review and the Department needs to be held accountable.

Chair Parks:

Is there any comment from either the Division of Parole and Probation or the Nevada Department of Corrections? Not seeing any, we are adjourned.

[5:55 p.m.]

RESPECTFULLY SUBMITTED:

Brooke Bishop
Committee Secretary

APPROVED BY:

Assemblyman David R. Parks, Chair

DATE: _____

EXHIBITS

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

Date: March 8, 2007

Time of Meeting: 3:47 p.m.

| Bill | Exhibit | Witness / Agency | Description |
|-------------|----------------|--|---|
| | A | | Agenda |
| | B | | Attendance Roster |
| | C | Teresa Werner, Private Citizen | Written Testimony |
| | D | Teresa Werner, Wife of Inmate Elmer Werner | Letter from E. Werner, Purpose and Reasoning to Support Predetermination Parole Dates, Elimination of Parole Board, and Creation of Realistic Points System, March 2007 |
| | E | Patricia Hines, Private Citizen | BDR recommendations and submissions, and written testimony |
| | F | Constance Kosuda, Private Citizen | Testimony to Committee March 8, 2007 |
| | G | Florence Jones-Crew, Private Citizen | Email to Chair Parks, letter from an inmate, and copy of an article in "The Journal of Correctional Education." |