

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

**Seventy-Fifth Session
March 26, 2009**

The Committee on Corrections, Parole, and Probation was called to order by Chairman William C. Horne at 8:23 a.m. on Thursday, March 26, 2009, in Room 3138 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/75th2009/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 William C. Horne, Chairman
Assemblyman Tick Segerblom, Vice Chair
Assemblyman Bernie Anderson
Assemblyman John C. Carpenter
Assemblyman Ty Cobb
Assemblywoman Marilyn Dondero Loop
Assemblyman Don Gustavson
Assemblyman John Hambrick
Assemblyman Ruben J. Kihuen
Assemblyman Mark A. Manendo
Assemblyman Richard McArthur
Assemblyman Harry Mortenson
Assemblyman James Ohrenschall
Assemblywoman Bonnie Parnell

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Allison Combs, Committee Policy Analyst
Nicolas C. Anthony, Committee Counsel
Katherine Malzahn-Bass, Committee Manager
Julie Kellen, Committee Secretary
Steve Sisneros, Committee Assistant

OTHERS PRESENT:

Connie Bisbee, Chair, State Board of Parole Commissioners, Carson City, Nevada
Kathy Thompson, Management Analyst, State Board of Parole Commissioners, Carson City, Nevada
Teresa Werner, Private Citizen, Reno, Nevada
Debra Willoughby, Private Citizen, Carson City, Nevada
James R. Early, Private Citizen, Reno, Nevada
Pat Hines, Private Citizen, Yerington, Nevada
Jodean Chalmers, Private Citizen, Reno, Nevada

Chairman Horne:

[Roll called.] This morning we are going to have a presentation from the State Board of Parole Commissioners.

Connie Bisbee, Chair, State Board of Parole Commissioners, Carson City, Nevada:

I would like to introduce the Board to you, as there are many new members ([Exhibit C](#)). The Parole Board consists of six members and one chairman who are appointed by the Governor to four-year terms. As I said, I am newly appointed as chair of the Board, and I have been a commissioner since January 2003. I have worked in the field of criminal justice and substance abuse since 1986. Immediately prior to coming to the Board, I was with the Nevada Department of Corrections, and prior to that, I was a judicial services director overseeing misdemeanor probation. I have a Master's degree in counseling and healing development, and I have a Bachelor's degree in criminal justice. I have been a licensed alcohol and drug counselor since the year 2000.

Our next member is Commissioner Baker. She has been with the Board since 2008 and has over 30 years experience in the criminal justice system. Commissioner Baker managed the U.S. Pretrial Services Office in Reno for the U.S. District Court prior to joining the Parole Board. She holds a Bachelor of Arts degree in social services and corrections and criminal justice. She also holds a certificate of public management from the University of Nevada, Reno.

Our next member is Susan Jackson. She was appointed to the Board in January 2008. She has an extensive law enforcement and investigative background, having spent 23 years dedicated to public safety. Immediately prior to the Board, she was assigned as an instructor and training consultant for the Commission on Peace Officers Standards and Training. She earned her Bachelor's degree from the University of Nevada, Las Vegas, and she is a graduate from the Federal Bureau of Investigation (FBI) National Academy. She holds a Nevada Peace Officers advanced certification.

Maurice Silva was appointed to the Board in August 2005, and he has worked as a licensed associate in social work for the Southern Nevada Adult Mental Health Services. He has 25 years in the field, and that includes 12 years in forensics social work for Lake's Crossing at the Clark County Detention Center. He completed his Master's degree in counseling at the University of Nevada, Las Vegas, and he also has a Bachelor's degree from New Mexico Highlands University.

Eddie Gray, Jr. has served on the Commission of the Board since July 2007. Immediately prior to that, he served as a parole board case hearing representative for 14 years. He has over 40 years experience in personnel supervision and is retired from the United States (U.S.) Air Force and U.S. Civil Service. He has specifically supervised federal prisoners. He holds a Bachelor of Science degree in postsecondary and adult education from the University of Nevada, Las Vegas.

Michael Keeler has been with the Board since August 2006. He has 17 years of direct mental health care experience; nine of which were spent as a clinical program supervisor. He completed his undergraduate and graduate degrees in social work at the University of Nevada, Las Vegas. He is a licensed clinical social worker by the State Board of Examiners since 1994.

Our brand new commissioner as of this week is Adam Endel. He was appointed to the Board on Monday. He has worked for the Nevada Department of Corrections for the past 18 years, and he truly worked from an entry level all the way up to an associate warden of programs position. He held that position at the Ely State Prison for the past eight years. He has a Bachelor of Science in

criminal justice administration from Central Missouri State University, and he also holds a Master of Arts in organizational management from the University of Phoenix.

Something interesting about the Board is that we do have three native Nevadans on the Board at this time. There is a lot of history with Nevada and the universities in Nevada.

Chairman Horne:

You said that these are four-year appointments. Are these staggered?

Connie Bisbee:

Yes, they are.

Chairman Horne:

Do the members' four years start from their entry date? Sometimes someone will complete someone else's previous term.

Connie Bisbee:

That is exactly how it is. They can complete out a previous term. They all expire at the end of June the year their term ends. Commissioner Endel is a perfect example of someone who accepted a three-month commission.

What is parole? Parole is the conditional release from prison. It is the early release and supervision of offenders who have served time in prison. It is different from probation in that an offender on probation has not served time in prison on that particular sentence. Initial parole eligibility is set by the court based on the sentence imposed. The Nevada Legislature has declared that parole is not a right; however, it is an act of grace.

The Parole Board is an independent body that carefully reviews eligible inmates for possible release prior to the end of the period of incarceration that is mandated by the court. The Board carefully plans a safe return to the community and returns offenders to prison when community safety is threatened. Although situated in the Department of Public Safety, the Parole Board is an independent board, which receives its administrative support from the Department of Public Safety.

Parole is a careful, controlled supervision of offenders after they have earned release from prison while they demonstrate their worthiness to remain in the community. Supervision may include careful monitoring of the offenders' home, job activities, and associates, as well as drug testing, electronic monitoring treatment, no contact with victims, and a requirement to pay restitution.

Parolees are supervised by officers employed by the Division of Parole and Probation.

Parole is the legal framework that empowers judges, prison officials, and parole boards to work together to administer a flexible system for punishing offenders and protecting the public.

I am putting up the organizational chart to show you that the darkened spaces are the nine positions that were developed in order to meet the requirements of Senate Bill No. 471 of the 2007 Session. This is how the staff has grown since the last Legislature met. There are only two positions that are currently not filled, and one is the notification coordinator. We had one, but they went to another department. We also have an administrative aide position that is not filled.

Chairman Horne:

Is there any way you could give the Committee a larger organizational chart? This one is small.

Connie Bisbee:

Absolutely, we would be more than happy to get that to the Committee today.

Next is an overview of the workload for fiscal year 2009, year-to-date. During the first half of fiscal year 2009, the Board made 6,740 decisions. These decisions included discretionary and mandatory parole release hearings and parole violation hearings. Since each decision requires four votes, these hearings equated to over 26,800 votes cast to grant or deny parole. What this means is that each member of the Board was responsible for presenting over 1,000 cases. Each Board member acted on thousands of cases but were responsible, each of them, for over 1,000. What is not reflected in the caseloads are the letters from inmates that commissioners respond to, conferences with victims and other interested persons regarding parole, sex offender tier handle reconsideration hearings, and the regular Board administrative matters.

The next chart shows the caseload of fiscal year 2000 through fiscal year 2011. This chart provides a look at the growth in the Board's caseload since 2000 with future projections. Caseload includes release and revocation hearings. This chart shows that the fiscal year 2008 numbers are lower than expected, and that was due to a decline in hearings conducted because the Board was unable to immediately comply with the new requirements of Assembly Bill No. 510 of the 2007 Session. The specific issue with Assembly Bill No. 510 was that there was an immediate eligibility of a huge

number of inmates. People refer to that as our backlog, or the "bubble" that we had. Senate Bill No. 471 completely changed the parole board hearing process. That is why the nine new positions were needed, to support the new requirements. However, given the high number of hearings conducted during the first six months of this fiscal year, should we continue to conduct the five-year average of 668 hearings per month for the remaining six months, the revised fiscal 2009 year-end projections will exceed over 12,000 hearings.

This next graph illustrates one of the unexpected effects of A.B. No. 510. When we were inundated with the large influx of the immediately eligible inmates as a result of that bill, coupled with the numerous additional hearing process requirements of S.B. No. 471, we started with those inmates that could be heard by two commissioners, or a commissioner and a hearing representative. What that meant is that when we had that huge influx, we started with those who were most likely going to be paroled whom we could see with the minimal number of staff and get them seen and through the system. These were the lighter weight inmates. Once we caught up with those, we went into fiscal year 2008, and that is where we started hearing the three panels that were left over from the previous fiscal year. Three panels are those inmates that must be considered by three commissioners. Three commissioners have to sit in on the actual hearing. Those inmates are sex offenders, those with life sentences, habitual offenders, et cetera. Those are the high profile criminals. We started seeing those after the lower weight offenders were out of the system.

That resulted in a low grant rate. These are the ones who are less likely to be granted. We were down to as low as 32 percent in grant rate. When we got over the "bubble" in October, we started seeing the normal mix of people. I asked Ms. Thompson to pull up the current statistics, and this has all been averaged in. As of January, we were back to normal and seeing the normal caseload, and we have a grant rate of 51 percent. The grant rate should go up throughout the rest of this fiscal year.

The next slide shows the comparison of releases from prison: parole versus discharge. It depicts the number of inmates who have expired their sentence in prison and discharged, the number of inmates who were released on parole, and the average prison population for calendar years 2002 through 2008. The chart shows that while the inmate population has been growing, the gap between the number of inmates expiring and discharging their sentence, and those released on parole, in fiscal year 2009, appears to be shrinking. This has a lot to do with A.B. No. 510. We are still seeing the same number of people go out of prison, but more are going out by expiration versus parole. The reason for this is because on those lighter and shorter sentences, inmates are earning a

tremendous amount of credits. There are also many who are going after meritorious credits, which means they are behaving correctly in prison. The sentence may have gotten reduced, and they are coming to see us when they have almost completed their reduced sentence. The inmates are saying that they do not want to go out on parole, so they are requesting to expire the case. This is a large group of inmates who may have only two to four months left. It could be a case that the Department is investigating the plan they want, but it does not come to fruition before they expire the case, or they want to go to an out-of-state family member, but they have to have at least six months for an interstate compact, so they just expire the case. The inmate may come to us and say that they do not want paper, which means they do not want someone supervising them for a number of months. Inmates, as a result of A.B. No. 510, are getting out before they would normally. They are expiring and paroling early.

The next chart illustrates a comparison of the past four fiscal years of parole consideration hearings by offense type. The first time I saw this chart, I asked what happened to sex offenders and violent offenders between 2007 and 2009. This is where we talked about having dealt with the "bubble" first with the lower cases. In fiscal year 2008, we saw 238 sex offenders whereas we saw 569 the year before. We have already seen 679 cases in this fiscal year. That is an illustration of those inmates who did not get heard at the end of fiscal year 2008 but were heard at the beginning of this fiscal year 2009. Violent offenders would end up in the three panel situation as well. There is not a huge jump in average of any particular category of offender; it is just when we saw them.

The Parole Board was recognized in the recent study and report presented to Nevada's Advisory Commission on Administration of Justice by Dr. James Austin on November 21, 2008. To paraphrase Dr. Austin, the increase in the length of stay for an inmate would have been far more significant had the Parole Board not adopted new guidelines and significantly increased its parole grant rate to over 50 percent. The Nevada Board of Parole Commissioners was also one of four paroling entities nationwide selected to participate in developing a training curriculum by the National Institute of Corrections, and the Board successfully resolved the backlog of parole consideration hearings that resulted from the changes in the laws. We have always had a high parole success rate in Nevada. The last numbers we ran put it at about 77 percent. I spoke with Dr. Austin on Tuesday, and he told me that in recent history, our parole success rate now tops 85 percent, which is astronomical compared to other states.

Assemblyman Anderson:

For some reason, people believe that legislators can reach in and fix the prison, the Parole Board, or cases. Of course, we cannot do that. One of the criticisms we hear is that when the Parole Board meets, it reviews not only the success rate of the inmate but also the underlying crime that the inmate committed. In reviewing these factors, the Parole Board makes some kind of judgment that does not reflect the nature of the crime or the behavior of the inmate.

There were several discussions about the need for an inmate to be fully informed of why they failed to meet parole guidelines. If they had been notified, they could have tried to change their behavior in some meaningful way, so that the next time they came up for parole, they would be successful.

Could you elaborate on those two questions because they seem to be the bulk of complaints that I get.

Due to the legislation passed last session, we made a determination that there was no need to see an inmate who the Board was going to grant parole. Do your statistics include those movements of inmates?

Connie Bisbee:

The first question you had was about the sentence structures. To my knowledge, we have never had a judge write to us, and we would certainly be responsive to it if they did, to say that they had intended the inmate to be paroled at the end of their minimum sentence. There is a misconception with inmates who think that they have served their minimum sentence, and then they should be up for parole. That is where the Board uses its discretion to determine whether or not it is the appropriate time to parole them. We will have huge differences in sentences; for example, five years to life or two years to four years. At some point during that sentence structure, there is an expectation that almost all inmates will get paroled. When we look at the minimum, we are not necessarily considering that the judge had intended the inmate to be out at the minimum.

Chairman Horne:

In my practice, I would always tell my clients, after they had been convicted and sentenced, they would become eligible for parole after they had served the minimum time. I would tell them that they had some obligations and hoops to jump through while they were in prison to make it more favorable. Also, I was honest when I told them whether the likelihood of getting paroled on that minimum was good or not. From my time in the Legislature, I could tell them when they would probably get a dump the first time they come up for parole

and to be ready for that. I do not know if that practice has changed or my perception is incorrect.

Connie Bisbee:

You are accurate when you are talking about serious crimes. I can only speak as one voter, that when I consider an inmate who committed a horrible sex offense, chances are that inmate will probably not get paroled at the minimum. The opposite are the, for example, the property offenses or first time drug offenses, and in those situations, there is a good likelihood to get paroled at the minimum.

As to the second question, one of the good things that came out of S.B. No. 471 is the requirement that lots of information be given to an inmate. The way that we are doing that is during the hearing itself, the risk assessment, which is the objective tool, is gone over with the inmate. This includes the risk level. At the time of the hearing, we go over every one of those items and the reasoning behind it. The risk assessment was developed by Dr. Austin. It makes a recommendation of when the inmate should be considered for parole, if at all. We have gone further with that because of the legislative requirement to give additional information. We list the aggravating and mitigating factors that led to that decision. Technically speaking, if an inmate scores out as a deny parole, we could say that is it, but we will also list the factors that we considered as to the reasoning: long criminal history, violence in the institution, failed psych panel, and we also list the mitigating factors, and it is rare to not have at least one mitigating factor for an inmate. These include completing appropriate programming, having family support, having a good release plan, and having been disciplinary free for over two years. We are physically giving that to each inmate after their hearing. It is connected to their order.

In terms of your question about the recommendations we have made, that is also the result of S.B. No. 471. We have an addendum that makes recommendations to them such as to disassociate from gang activity, watch their disciplinary history, improve victim empathy, or attend an appropriate program. Because of budget and programming issues, we will make recommendations to an inmate that they cannot fulfill at that institution. This is just a recommendation. It does not mean they will be denied parole if a program is not available at a particular institution. We are cognizant of the fact that not everything is available to every inmate. Having completed the recommendations does not guarantee parole, and not having completed them does not mean an inmate will not be paroled.

I believe your last question was about granting parole without a hearing. We are currently seeing everybody. With permission, we think we can get to the

point where we can see about 250 people and grant a good number of them parole each month without actually putting them on an agenda to see the Board. That is something we are anxious to start looking at. It has not been practical in order to comply with last session's legislation.

Assemblyman Carpenter:

Are the extra positions you added due to the backlog still being used?

Connie Bisbee:

There is a misconception that those extra positions were added to take care of the backlog, but they were approved by Interim Finance in November 2007 to comply with the hearing requirements of S.B. No. 471. When you approved Senate Bill No. 4 of the 24th Special Session that allowed us to see everyone to catch up, and that is how we were able to catch up. Senate Bill No. 471 resulted in the staff that are recording the hearings, complying with the notification requirements, and are assisting the commissioners on working up the cases because there was not time to do everything and hold the hearings in accordance with that bill. We still have those bodies except for the two positions that are not filled yet, and we do use them on a daily basis.

Assemblyman Carpenter:

One of the things that I keep hearing is that the Parole Board does not consider the work the inmates have been trying to do, for example, going to classes, et cetera. When they get a low risk assessment, it does not seem to make a difference because the inmate still does not get parole.

Connie Bisbee:

We rarely deviate from the recommendations in the risk assessment. If an inmate is a low risk and low offense, and the assessment says to parole at initial, first, or second hearing, it is rare that the inmate is not paroled. I know that since December, we have not had more than eight or nine deviations from those recommendations. There is a possibility of being a low risk but having a very high severity offense. The risk assessment does not assess for sex offenders. It would say that if the inmate was not a sex offender, he would be a low risk to reoffend. When we consider factors on someone like that, we are looking at the fact that maybe they failed the psych panel, this was not a first offense, or there were multiple victims involved. That would result in a denial. It would not be a deviation from the guideline, but that would be an example of someone with a low risk but with a high severity offense. Most low risk inmates will get parole.

Assemblyman Carpenter:

You mentioned the psych panel. What is your opinion of the psych panel? Does it have value and should it be continued?

Connie Bisbee:

I would not want to be the one determining whether or not a sex offender was a high risk to reoffend sexually. They are the experts and are the ones telling us whether or not an inmate is likely to reoffend as a sex offender, and we do not have anyone on the Board who has that ability or expertise. It is absolutely necessary for us. As a citizen, I would like to know that there was a professional who had looked at an inmate that the Parole Board was going to let back into society.

Assemblyman Kihuen:

Are the commissioners paid?

I understand that there is a points system to which the inmates are considered for parole. How does that points system work before they are granted parole?

Connie Bisbee:

I could not imagine anyone doing this job without being paid. We are a full-time board. The commissioners put in 40 hours a week or more. We have commissioners who have been in their offices on Saturdays and answered phones.

When you are talking about the points system, you are probably referring to the risk assessment. If an inmate is a 4 or below, he is a low risk, and if an inmate is a 5 to 10, he is a moderate risk, and if an inmate is an 11 and above, he is a high risk. That is the closest we have to a points system. Points are assigned for particular, statistical reasons. These could include an arrest under the age of 19, being unemployed for a year before an offense, a serious substance abuse problem, a failed supervision in the past and a revocation on that supervision, male or female, age, educational or vocational level, disciplinary problem while in the institution, and custody level. Those are the elements an inmate is scored on.

Assemblyman Kihuen:

In essence, the better-behaved they are, the more points they get and the closer they get to parole, correct?

Connie Bisbee:

An inmate wants the fewest points. No one can change the static elements, for example, failing a prior supervision, a history of substance abuse, or being under

19 years old at the first offense. However, an inmate can control the other factors, for example, being disciplinary free or having a high school diploma or vocational training. Half of the scoring system is under the inmate's control.

Assemblyman Ohrenschall:

My question has to do with the role that your staff plays in supporting the Board of Pardons and sentence commutations, when they try to get a prisoner's record ready for an upcoming hearing. I have been told that it is a burden, and that maybe you need more staff so that the Board of Pardons can meet more regularly to consider those requests. Can you explain that a little bit?

Connie Bisbee:

Many people are not aware that the Parole Board provides the administrative support to the Pardons Board. We have one member of our staff, David Smith, who is the executive secretary to the Pardons Board. He does a tremendous amount of work. We did get approval for a program officer who also supports the Pardons Board. We can always add more staff to make that process go smoothly. It costs a lot to have a Pardons Board meeting. The Division of Parole and Probation gets involved because they have to do background histories, they have to investigate and the local district attorneys (DA) will be asked for their comments. It is a costly and time consuming process.

The Pardons Board consists of the Governor, Attorney General, and the Supreme Court justices, so their ability to meet is an issue. It is difficult to get this group of officials together to have a meeting due to their other duties and time constraints.

Assemblyman Ohrenschall:

Do you feel that if you had one more full-time employee devoted to the Pardons Board, the Board might be able to meet more frequently, and there would not be such a backlog of requests?

Connie Bisbee:

I do not feel that I have the expertise to answer that question. I will pose it to Mr. Smith and have him get back to you.

Assemblywoman Parnell:

You said that the inmate population is increasing, and your PowerPoint presentation showed 13,558 inmates currently. I am troubled because when Director Skolnick was presenting to this Committee, we were under the impression that the inmate population has been decreasing. Could you explain how within a month to six-week period of time there could be a conflict?

Connie Bisbee:

That particular number is for calendar year 2008. He is correct. We are in a new year.

Assemblywoman Parnell:

Since calendar year 2008, have you seen a decrease in the inmate population?

**Kathy Thompson, Management Analyst, State Board of Parole Commissioners,
Carson City, Nevada:**

I believe that they are accurately reporting that there is a decline. This particular slide was prepared to show the calendar year 2008. It does not show current data. It was to illustrate the gap between the releases for discharge or expiration versus parole, and that was shrinking. I do believe that the Department of Corrections is accurately reporting a decrease in inmate population.

Assemblyman Manendo:

Could you walk me through how an inmate goes about getting a hearing? Are they notified?

Connie Bisbee:

The Department of Corrections produces an eligibility list, and that is typically done about two months in advance of who is going to be eligible. So we will have an eligibility list, and it will list all the inmates at all of the institutions who are eligible for parole for that ensuing month. That list is sent to local law enforcement and any interested parties, and then the list is turned into an agenda. We determine what day of that month we will be able to see those people at the particular institution. The institutions and such are notified of that agenda about 30 days in advance. The inmate is called into the caseworker's office to do their board report. They participate in the report that comes to the Parole Board from the institution.

Assemblyman Manendo:

When I hear from families that the inmates are not getting notified at all, is the problem with the prison not telling the inmates after you have given the prison an agenda? I get emails and phone calls from family members, and they say that the inmates are not being notified.

Connie Bisbee:

I am not sure how I would answer that. The inmate is physically in the caseworker's office doing the board report.

Assemblyman Manendo:

Perhaps they are not in there because they are not being told. I am trying to figure out the problem.

Connie Bisbee:

The inmate has to sign their board report, and they are part of the board report process, and that happens several weeks before they come before the Parole Board.

Assemblyman Manendo:

They are not coming before the Board because they are not notified.

Connie Bisbee:

They are coming before the Board.

Assemblyman Manendo:

They are not, and I can give you an inmate's name that was not notified.

Connie Bisbee:

Did he show up on an agenda?

Assemblyman Manendo:

I do not know.

Connie Bisbee:

An inmate will not be notified if he is not on an agenda.

Assemblyman Manendo:

This inmate may have been on an agenda, but was not told.

Connie Bisbee:

The inmate participates in the report that comes to the Board from the institution. The agenda is posted, and if a family member calls and knows that an inmate is going to be heard, we can tell them exactly where and when.

I would be more than happy to look into that particular case if you want to pass that number onto me.

Assemblyman Anderson:

The risk assessment document has been an ongoing discussion. I was here in 1995 and 1997 following the tragic death of Officer Johnson in Sparks. We were terribly concerned about how people were being assessed, and we worked diligently on a risk assessment document. In listening to presentations by

Dr. Austin over the last year and a half, I was under the impression that you were in the process of reexamining the risk assessment document to see if it accurately reflected what the current practices are, and best practices are, of the penal systems as a whole. What is the current status of the risk assessment document?

Connie Bisbee:

I would be happy to send you one.

Assemblyman Anderson:

Do you have a new one?

Connie Bisbee:

The risk assessment that we are using now is a result of the last legislative session. Yes, it is new. It is validated. The only issue with it is that Dr. Austin developed it using the Nevada Inmate 1999. We are in the position now that it should be revalidated because of A.B. No. 510. There are some sentence structures that have changed and eligibility duties move up quite a bit. We have asked for funding to have the risk assessment revalidated. This is not the old assessment that resulted from the Cameron case. That was quite lengthy and it made a recommendation of a particular set of months that an inmate should serve under a particular situation. As a result of legislation that passed in 2007, it would not work anymore. There would be inmates whose recommended months to serve would be past their expiration date. The risk assessment that we use now takes that into consideration, but it does need to be revalidated.

Assemblyman Anderson:

What happens if there is a denial for an inmate, and one of the reasons for the denial was because he did not participate in a program, yet that program was not available at the institution he was placed in by the Department of Corrections? You have no control over where the Department of Corrections places someone, nor do we. That is not the inmate's fault, and it is not your fault either if the inmate cannot attend a program that does not exist.

Connie Bisbee:

There is some confusion between the risk assessment and the aggravating and mitigating factors. The risk assessment itself is those ten questions that I discussed with Assemblyman Kihuen. Under aggravating and mitigating factors, we consider the programs they have taken. The fact that they have not been able to go to an anger management course will not be reflected in the risk assessment instrument.

Assemblyman Anderson:

It is not going to reduce their score either.

Connie Bisbee:

If they attended it, it would not reduce their score, and if they did not attend it, it would not reduce their score. The only thing that is remotely similar to that is the minus one point that an inmate can get for having a high school diploma, GED, or vocational training. We could also make a case for someone who went through the Oasis program. Not having a program available is not going to adversely affect them as far as the risk score is concerned. It would mean that they would not have a mitigating factor of having completed that particular program, but that will not make them a higher or lesser risk.

Chairman Horne:

I would like to wrap this discussion up with a couple of my observations from this hearing, and those that I have heard over the years. I appreciate your presentation, especially on the portion of the eligibility and likelihood of parole. It is a delicate balance. Rarely, but sometimes, I have heard a judge tell somebody, "You are going to prison for a little while, but at the end of your four years, if you do everything you are supposed to do in there, you will be out and hopefully get your life back together." The inmate is then disappointed that he does all of that but does not get out and has to do a couple more years. Those are the types of emails we receive, that say, "I did everything I could. I got my GED and took many other courses, and I had a good assessment." One that stands out to me is a gentleman whose assessment had a score of negative three, and he was denied parole. The only explanation he received from the Board was that they did not believe that the score adequately represented the risk posed to the community. I can see how that can be frustrating to him and his family. In their eyes, they wonder what else could he have done. My concern is the environment that situation could create in a prison setting if the prisoners start getting a feeling that it does not matter. If a model prisoner gets dumped, the other inmates feel like they do not have a chance. That is not an environment that we want to foster.

I cannot imagine being on the Parole Board. A portion of that deals with a gut assessment, and there are those who would love for you not to look at the underlying crime. I can appreciate the difficulty in your efforts. In going forward, I hope that we can have a greater balance.

Connie Bisbee:

Thank you. I appreciate that. Assemblyman Anderson, I will send you a risk assessment.

Chairman Horne:

We will have some public comment, but it will be very brief. This is not a time to ask us questions.

Teresa Werner, Private Citizen, Reno, Nevada:

I sent you a handout yesterday ([Exhibit D](#)). I will not go over it in detail because you all have it. I mention that there are many inmates who have a low risk assessment but have gotten two- to five-year dumps. I want to point out how much that costs the state. Each three-year dump costs the state one teacher basically. It is about \$20,000 a year per inmate to be in prison. A three-year dump costs \$60,000, and that costs a teacher his or her job. If an inmate has served the minimum sentence and has programmed positively, he should be granted parole.

Many of the people I listed on the handout are going to consecutive paroles, so they are not paroling to the street. That is one question that I wanted to hear today. Of the parole grant rate, how many of those grants were institutional paroles and not paroled to the streets? While we may have a high parole grant rate, these inmates are not necessarily getting out, but are going to institutional paroles. The Parole Board is denying paroles that are just institutional paroles. Chairman Horne, when you talk about fostering an environment, it is frustrating for someone who is going from one life sentence to another life sentence, and they cannot even get to the second life sentence.

I would also like to point out the accuracy of the information. I have heard Ms. Bisbee and other parole commissioners say that they ask the inmates if their information is correct; however, that is not true. My husband's risk assessment showed that he was at a women's facility. A lot of the inmates' information is not accurate, and they bring proof to the hearings to show that the information is not accurate, but the parole commissioners do not care. In my husband's case, they said that he refused to sign his paperwork because it was not accurate, and they yelled at him for not signing it. They said that they did not care if his information was accurate or not. It is very frustrating.

One last comment I would like to make is about property crimes. Ms. Bisbee mentioned how, if an inmate is in for a minor property crime, they get out on parole. My brother is a career criminal, and he stole 200 gallons of diesel fuel from a farmer in Minnesota. We cannot prove that he did it even though we are trying hard to find that proof. It bothers me when these so-called petty criminals are released from prison when some are career criminals, and the inmates who do their minimum sentences and work hard to get released, are denied.

Debra Willoughby, Private Citizen, Carson City, Nevada:

I would like to comment that my husband is a lifer. He was returned to prison last year on a violation of driving a vehicle without a license, but with no new felonies. He was told that he would be seen in 8 months but was seen in 11 months, and he was given a 2-year dump.

As for the risk assessment and psych panel, it was cited that he had been denied because he did not complete the psych panel, and his score was too high because his crime was gang-related. None of that was true. My husband had no requirement to complete a psych panel, and he has never been gang-affiliated. The Parole Board corrected that, yet they refused to give him another chance at a hearing.

[Spoke from prepared written testimony ([Exhibit E](#)).]

Chairman Horne:

I know that it is difficult. One of the primary functions of the Committee is policy in nature. We do not have the authority to intervene in any particular person's matter between the Parole Board or the Department of Corrections or anything like that. Presenting your matter here gives us an insight on what policy changes could be implemented in order to affect some positive change in the process. Your letters and testimonies are not falling on deaf ears. We can start looking into how things can be done better if that is what is needed.

James R. Early, Private Citizen, Reno, Nevada:

I am here on behalf of my friend, Ron Chalmers. I want to say that the inmates are confused. My friend's feeling was that, if he did the ten years and had perfect behavior and met all of the qualifications, he would be paroled. He did not get the chance to appear before the Board and got dumped five years.

Unfortunately, he falls into the category of a sex offender, but he was low risk. The judge alluded to the fact that there was no middle ground. It was either probation or ten years to life. The judge's comments reflected that there was no place in between for him. For the judge, probation was not a possibility, so the sentence of ten years to life was all that was left. Ron went to prison and was a model prisoner. He is a responsible father and has skills that he can use when he gets out. He is an architect. He would not be a threat to society and has a low risk of reoffending. He reflects the position of many men and women in the prison system. After serving the minimum sentence, he should have been out of there. How is dumping an inmate after he qualified for the minimum sentence justified? I think that reflects the position of many inmates. They start to lose hope after being a model prisoner, but not even being considered for parole at the minimum sentence.

Chairman Horne:

I am confident that Ms. Bisbee will do her best as chairwoman and find a better balance. They do have a difficult job, but I have confidence in her. There will be mistakes and disagreements because there is a human element involved.

Assemblyman Anderson:

In 1995, when the Victims of Crime came forward dealing with the minimum sentence, that forced the court to determine what the minimum sentence would be. The Legislature laid down a strict set of guidelines as to what they could do for a series of crimes depending on the level of severity. The purpose of that was to reflect what had taken place over the previous time. The court could not go below that level. As a result, the inmates thought that this was a guarantee for them to be paroled, but it was not. Parole is a grace that is given by the state.

A bill that we will be discussing next week deals with giving judges a certain level of discretion in certain kinds of cases. This would give the judge the ability to give an inmate a lesser sentence than the minimum. There is a misconception about the minimum sentence. It is a range that we set, and it was a policy change done by this body.

Pat Hines, Private Citizen, Yerington, Nevada:

I am glad that Ms. Bisbee talked about the risk assessment. I was happy to hear her say that the risk assessment needs to be revalidated. The risk assessment does not incorporate parole violators. Parole violations need to be added into it, or a separate risk assessment should be created for those who come back with parole violations. There is no credit given to a parole violator who goes back to prison on his first parole violation when he has been out 11 years, violation-free. There is a misconception that all parole violators have committed a new crime, and that is not true.

I must say that I know you are not clear on why inmates are getting a high severity level. I have done a lot of research on it. The Parole Board is using an old severity document. On the back page, it refers to different crimes, and it does have a severity level for parole violations. I think the Parole Board is carrying that to extremes by basing their decision on the original crime and not basing the severity level on the position the offender is in now. They do not take into account all the good he has done in the community and while he was incarcerated. These people are coming back on minute violations. There was one young man who came in three years ago on a violation for a dirty urine test. He was on medication for an illness he had, and he could not get anyone to understand that. He got a three-year dump, and he is now on his third three-year dump for a minor parole violation. There are many cases like that. I

hope that you will consider that some changes need to be made through changes in the law.

Jodean Chalmers, Private Citizen, Reno, Nevada:

My understanding is that an inmate cannot go to the Board unless he passes the psych panel. I could be wrong on that. My question is if that is the case, and the psych panel is an important factor to the Parole Board, it does not seem like the Board is listening to what the psych panel is saying. My husband was a low risk, but the Board thought differently.

The way the risk factor is calculated is challenging to me. Because my husband is a male, he scores one automatically. Years and years ago he had an alcohol problem, but he quit drinking, and he was not drinking at the time he committed the crime, yet he scores another two. That makes him a three, and he is now a higher risk. He accomplished giving up alcohol years ago, and he cannot help being a male. He is a minus three on the dynamic risk assessment though. The Board making decisions in absentia really bothers me because a Parole Board member cannot look him in the eyes and see the remorse or talk to him about his crime, and who he is now. He has completed all the programming. He is 61 years old and has 5 years before he can go back before the Board. If it were a year, I would accept it, but five years is a real issue. He has a blood condition where he is on chemo medication, and I do not even know if he will live another five years to prove that he is not the same person as when he committed the crime.

There are many people in this predicament, and they need to be looked at on a case-by-case basis. When the judge sentenced my husband, he did not want him to serve those ten years. We had a friend who was a senator, and he called and talked to the judge. The judge told the senator that he would not serve the ten years, but the senator said he would because that is the minimum sentence. I plan to write the judge and ask him myself. The judge said that he would not order lifetime supervision, which went along with the sentence. He has done everything that he can to be a model prisoner. He has even done work for the State of Nevada as a favor, and that may have played against him. I do not know what to do. It has been rough.

Chairman Horne:

[Meeting adjourned at 9:50 a.m.]

RESPECTFULLY SUBMITTED:

Julie Kellen
Committee Secretary

APPROVED BY:

Assemblyman William C. Horne, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Corrections, Parole, and Probation

Date: March 26, 2009

Time of Meeting: 8:23 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Rosters
	C	Connie Bisbee, State Board of Parole Commissioners	PowerPoint presentation
	D	Teresa Werner, Private Citizen	Handout about "wasteful spending."
	E	Debra Willoughby, Private Citizen	Written testimony.