

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

**Seventy-Fifth Session
April 2, 2009**

The Committee on Corrections, Parole, and Probation was called to order by Chairman William C. Horne at 8:18 a.m. on Thursday, April 2, 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:

Assemblyman Harvey J. Munford, Clark County Assembly District No. 6

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:

Pat Hines, Yerington, Nevada, representing Friends and Families of
Incarcerated Persons, Las Vegas, Nevada
Peggy Maze Johnson, representing League of Women Voters, Las Vegas,
Nevada
Don Hinton, Founder, Spartacus Project, Las Vegas, Nevada
Dorothy Wesley, Private Citizen, Las Vegas, Nevada
Florence Jones, Private Citizen, Las Vegas, Nevada
Maureen Flansburg, Private Citizen, Las Vegas, Nevada
Connie Bisbee, Chair, State Board of Parole Commissioners, Department
of Public Safety
Mark Woods, Deputy Chief, Division of Parole and Probation, Department
of Public Safety
Kristin Erickson, representing Nevada District Attorneys Association,
Reno, Nevada
Howard Skolnik, Director, Department of Corrections
Gayle Farley, Victims' Rights Advocate, Carson City, Nevada
Ron Cuzze, President, Nevada State Law Enforcement Officers
Association, Las Vegas, Nevada
Steve Barr, representing Local 4041, American Federation of State,
County and Municipal Employees, Carson City, Nevada
Kevin Ranft, Region 1 Vice-President, American Federation of State,
County and Municipal Employees, Carson City, Nevada
Sam Bateman, Las Vegas, Nevada, representing Nevada District
Attorneys Association, Reno, Nevada
Ronald Dreher, Government Affairs Director, Peace Officers Research
Association, Reno, Nevada
Dennis Mallory, Chief of Staff, American Federation of State, County and
Municipal Employees, Carson City, Nevada

Chris Ferrari, Las Vegas, Nevada, representing Corrections Corporation of America, Nashville, Tennessee
Rebecca Gasca, representing American Civil Liberties Union of Nevada, Reno, Nevada

Chairman Horne:

[Roll called.] We will open the hearing on Assembly Bill 424.

Assembly Bill 424: Makes various changes to provisions concerning parole.
(BDR 16-1037)

Assemblyman Harvey J. Munford, Clark County Assembly District No. 6:

My district is in the heart of urban Las Vegas. Since I took office in 2005, I have heard many complaints about things in the government not working. Some of the more serious complaints tend to relate to the state penal system, in particular, the State Parole Board. Assembly Bill 424 is a continuation of the effort I made last session to address some of the problems currently in the system.

There are many people who are wishing to speak on this bill, so I do not want to take too much of the Committee's time going over the bill section by section. I have provided the Committee members with handouts explaining the most important changes to the law in A.B. 424 ([Exhibit C](#)).

I would like to explain to you why this bill is needed. The decision to grant parole to a person should concentrate on one main question: will a person be likely to reoffend if released? For too long, the focus has been on punishment. Under A.B. 424, low level offenders who are determined not to be great risks to the public's safety will be able to come home to their families and become successful, productive members of society. This may even help our budget situation by moving offenders from costly incarceration to parole supervision.

I would strongly urge the Committee to give favorable consideration of A.B. 424.

Chairman Horne:

This bill is voluminous. Are you going to walk through the bill or do you have certain sections you wish to highlight? Is there someone else who is going to do that?

Assemblyman Munford:

Did you all get the handout? I was going to open it up to the Committee if you want to address those particular sections.

Assemblyman Carpenter:

Why do you believe that the Director of the Department of Corrections is in a better position to grant parole rather than the Parole Board?

Assemblyman Munford:

I think the Directors are able to better gauge and judge what is going on. They have that direct day-to-day contact with the inmate and are more aware of his behavior. They see how the inmate has participated in the various programs that are available to him, and that his participation in these programs could make him eligible for parole. The Department of Corrections would be in a better position to determine the behavior of a particular inmate since they have daily contact with the inmates.

Chairman Horne:

On that line of reasoning, would it eventually become problematic if an inmate's jailer has the keys to the jail cell and also gets to say when they leave or do not leave? It becomes open for abuse. Do you not think that would be problematic?

Assemblyman Munford:

On the other hand, if they are the ones to determine when an inmate leaves, the inmate might be on his best behavior and demonstrate that he is going to do whatever is necessary to be that model prisoner in order to be released.

Many of the inmates who I have talked to feel that when they go before the Parole Board, the Board has a tendency to expedite the case, and they do not study them as critically as they should. I am sure there are statistics on this, but I understand, the Parole Board looks at 300 to 500 cases a week. How can they give an inmate a just hearing with that kind of a caseload? I have sat in on a couple of hearings, and they do go pretty fast. The Board needs to examine the cases in more detail.

In my bill, I focused primarily on the Parole Board and how they should focus on cases dealing with category A and B felonies. These are sex offenders and the more violent offenders. Category C, D, and E felonies should be considered by the Department of Corrections. Those categories are the nonviolent crimes, so to speak. I feel the Parole Board should still see the violent crime cases, and they should look at where the inmate is now rather than looking at their past. Some inmates have been able to rehabilitate themselves. Generally, a person is not the same after a long incarceration as when they first got there.

Chairman Horne:

I also receive the letters, phone calls, and emails since chairing the Interim Committee.

What about the argument that some of those category C and D felons have been pled down to that level? While you might be looking at a convicted category D felon serving a one- to four-year sentence, the underlying offense that brought them into the system to begin with may have been first charged as a category B, but it got pled down. If you just go by category of conviction, it does not always reflect the offensive conduct for which they were brought into the system.

Assemblyman Munford:

You are right. I am very much aware of that.

I want to share an article with you even though it does not directly connect with my bill. I happened to see the *Parade* section in the newspaper earlier this week, and it is very interesting. The headline says, "What's wrong with our prisons?" In America, there are 756 inmates per 100,000 residents. The rate is nearly five times the world's average. One out of every 31 adults in this country is in jail or on supervised release. Either we are the most evil people on Earth, or we are doing something very wrong. This is something that has captured the attention of the entire nation. Something has to be done with our system. We know that it has caused a great deal of economic stress. This means that we need to either expand our current prisons or build new facilities. We have overcrowding conditions in the prisons that leads to stress and uneasiness in the inmates, which could lead to many internal problems.

This article is saying that something must be done to fix our prisons. I am a firm believer that people should pay for their crimes, and based on the nature of the crime, violent criminals should be locked up for the rest of their lives. The public needs to be protected from these violent offenders. With regard to nonviolent offenders, 37 percent of the incarcerated inmates are in for minor offenses such as drug possession. The number of violent offenders is low, only 10 percent of the prison population.

These are the things that I feel should be looked at and addressed. This bill is like an alert or a red flag, and we need to scrutinize it more thoroughly.

Assemblyman Segerblom:

The system is completely broken, and we are incarcerating too many people. We are taking a whole segment of our society and making them unemployable or underemployable. When they come out of prison, they have not learned

anything and have no skills. If they had a drug or alcohol problem, they have not been treated for that. I agree with you that our system is broken, and we need to rethink it.

I applaud you for coming forward with this bill and addressing this issue. I think that is why this Committee was formed two years ago, and this problem will take a lot of work over many years. Your heart and mind are in the right place because this is something that we must attend to. Obviously, it impacts the minority communities most severely. There is something wrong when people of color are in prisons at a higher percentage rate than they are in the population.

Assemblyman Ohrenschall:

I, too, hear from many constituents who have family members incarcerated. You want to be tough on crime, but when you see what incarceration does to a family and meet a child who has grown up without a parent, it is heartwrenching.

My question has to do with sections 6 and 10 where you remove the requirement that the Board consider the severity of the crime committed, and you instruct the Board to look at whether the offender will reoffend or live peacefully in society. Could you tell the Committee a little bit more about that?

Assemblyman Munford:

I focused on that because many of the violent crimes are committed when the inmate was a teenager or in his early twenties, and they have been incarcerated for 20 years or more. In that period of time, there should have been some rehabilitation in the behavior and attitude of that particular inmate. If the correctional institution has been doing their job helping the inmate become productive and able to reenter society, that inmate should be ready to be released after 20 years of incarceration.

If a judge sentences someone to 20 years to life, that means that the person would be eligible for parole after 20 years. Sometimes the Parole Board does not even take that into consideration. In that period of 20 years, there should have been some change in the inmate's behavior. If the inmate was incarcerated when he was 20 years old, he would be 40 years old and almost middle-aged. I am sure there are figures that show the recidivism rate is down after a person has been in prison for 20 years.

Assemblyman Ohrenschall:

Your intent with sections 6 and 10 is that the Parole Board should not look at the original crime in terms of meting out punishment but should just look at whether the offender could live as a peaceful, functioning citizen in society?

Assemblyman Munford:

I would say that is probably my feeling. I have empathy for the victims, and I know that they are there during the parole hearing. It is hard for their concern to be overlooked, but this is our system. It is founded on the principle of paying your debt to society. I think you should be given a second chance.

Assemblyman Mortenson:

I echo the words of Assemblyman Segerblom. I think that when we have the highest rate of incarceration in the nation, there is something wrong with our system. I also applaud you for bringing this bill to us.

I was looking at section 10, subsection 2, paragraph (c), and section 23, subsection 2. One says do not consider the seriousness of the crime, and the other one says do not forward pictures of the victims. I was going to object to those, but after hearing what you are trying to accomplish by saying that 20 years may make a difference, I am not sure anymore. The recidivism rate of people who have been in for 20 years would be an interesting statistic.

Assemblyman Munford:

I will try to acquire that information.

Assemblyman Anderson:

In section 4 of the bill, on your handout, I notice that the Director of the Department of Corrections would deal with category C, D, and E felons. Having spoken to you several times about the underlying issues, I think that the bottom line is that you would like to do away with the Parole Board in its entirety. I think that is where you are headed since many states have done that already. This is a partial step in that direction.

One of the issues for me is that this does not take into consideration the different programs available at the institutions. That is not one of the things the Director is supposed to take into consideration. From the correspondence that I receive, this seems to be a factor that is not weighed in the decision of the Parole Board. The accuracy of the reports and the fact that not all programs are available at all institutions is also not taken into consideration. You have excluded that entirely from what the Director should take into consideration. To me, that is a critical element of putting someone up for parole. Would we not be putting the Director into the exact same position as we are putting the Parole Board in currently?

Assemblyman Munford:

I heartily agree with you. I did not take into account all of the programs that are or are not available, and they should be considered.

When I spoke to the Director regarding him taking on this new responsibility, his biggest concern was that he might need to hire more staff. It would then be a cost factor.

As you said, the programs are an essential part of determining the ability of an inmate to make that transition, and I did neglect that.

Assemblyman Anderson:

One of the other ongoing complaints that we have heard about for some time is the responsibility of restitution to the victims of crime. It is hard to raise money while sitting in a prison cell. It seems that this plan would be determinate on the staffing ratio of Parole and Probation to make sure that there would be a follow-up with the inmate. If this were to go into effect, how do you anticipate payments to victims? Is that not a factor?

Assemblyman Munford:

That is a good question. I know that there are programs in our correctional facilities, and maybe we could increase the number of programs. Inmates can earn money while in prison by working various jobs. An inmate needs to be eligible to work these jobs so they can earn wages. That money will be used for restitution payments to the victims. That is part of the transition into readiness to be released. Being able to pay that restitution would be a critical factor in determining release.

Is there a cost for increasing the number of programs available for inmates? This could be a critical factor.

Pat Hines, Yerington, Nevada, representing Friends and Families of Incarcerated Persons, Las Vegas, Nevada:

I am neutral on this bill. I would like to say that whoever does the granting of parole for category C, D, and E felons needs to remember that the judge has already made a decision on these people. It is my understanding that in our land of democracy that people are not supposed to give out more severe sentences than the judge has.

There are some things in this bill that I would like to point out to you. In section 4, subsection 1, paragraph (b), it talks about "if released." This is one place where we need to get across that these decisions are made on objectivity and not the subjectivity of the decision maker. In subsection 2, it talks about if

the Director decides not to grant the parole, he must notify the Board of that. I think that if there is an action taken on any kind of an offender, the offender should also be notified in that situation.

On page 8, section 6, I want to point out that there are standards for each type of conviction. On line 38, there needs to be an explanation because it states "any previous parole violations or failures." I do not understand what is meant by "failure." We also need to clarify the difference between the different types of parole violations.

Section 10, subsection 4, paragraph (e) again mentions the word "failure." It is used in regards to Parole and Probation work release or similar programs. Severity needs to be clarified as well as the word "failure." I do not think that the same failure should be given to someone who absconds as to someone who has failed to register or could not pay their supervision fee.

In section 23, subsection 4, it refers to the Board being able to deliberate in private. It says, "The Board may deliberate in private after a public meeting held to consider a person for parole." This was changed in the late 1990s. It used to be that the Parole Board would deliberate before the hearing and give the decision on the day of the hearing. I think that we should consider going back to that because it would be time-saving, staff-saving, and money-saving.

Chairman Horne:

The Committee has your handout ([Exhibit D](#)). It will be admitted to the record for the hearing.

Pat Hines:

That does not allow the people who do not have the handout to know what I am proposing.

Chairman Horne:

I am sorry. You said that you were not going through the entire document, and there was a long pause, so I thought you were done.

Pat Hines:

I have one more concern that I would like to bring up. On section 23, subsection 10, my concern is on the word "meeting." I think that this has been taken out of context when it was put into the *Nevada Revised Statutes* (NRS). In section 23, subsection 3, it says that the Board fixes the date of the meeting. There and on the next page on line 3, it talks about a "meeting." In both of those places, my observation is that you are talking about Parole Board hearings. The recommendation is that there would be a differentiation between

when the conclave of people getting together is a Parole Board hearing and when it is a hearing of all Board members or a public meeting. It is confusing.

Chairman Horne:

When we put these documents in the record, the public will be able to have access to them. I would like to add an email from Tonja Brown to the record ([Exhibit E](#)). It outlines proposed amendments for A.B. 424.

Peggy Maze Johnson, representing League of Women Voters, Las Vegas, Nevada:

The League of Women Voters Criminal Justice Committee has some real concerns about what is going on in the state prison system. I, like Assemblyman Munford, read the article in Sunday's paper, and I agree with Senator Jim Webb that something has to be done. I have been involved in the criminal justice system for about 25 years in Washington State and here in Nevada. I lobbied for the prisoners at the Monroe Reformatory to get an independent ombudsman because of the problems we are having in the state penitentiaries in Washington State. When I moved here, I became involved in the Spartacus Project, and currently, I am on the Committee for Criminal Justice with the League of Women Voters.

We would like to work with your Committee on making some of the changes in here. I do not think that we agree with Assemblyman Munford in regard to having the director of prisons making determinations. I deal with many families who have relatives within the system, and they are afraid to make any comments for fear of retaliation, and that starts at the top with Director Skolnik. When you talk about pleading down on category C, D, and E felonies, maybe there should not be any pleading down if that is going to be a problem as far as letting them out.

We also need to talk about restitution. When people work within the system, much of it goes back into paying that system so that nothing is left. I think that we need to take into consideration that when someone in this state goes to prison, they cannot get a job when they get out; how are you going to pay restitution? They may be on parole for the rest of their lives, so they probably could not get their civil rights restored, and I think that is unfair and something we need to take a strong look at.

We look forward to working closely with you and making the changes that need to be made. We applaud Assemblyman Munford for bringing this up and to start talking about changes in the system.

Donald Hinton, Founder, Spartacus Project, Las Vegas, Nevada:

I compliment Assemblyman Munford for bringing this forward. This is a problem that needs to be addressed by our Assembly while they are in session. The Parole Board has recently lost its chairperson. That was no loss to the State of Nevada or the inmates in the system. We need no Parole Board, period. We need to go to what some of the other states have gone. Some states have gone to where a person enters the prison system, all of the information is current and fresh, and within 90 days, he has a sentence that is firm. If he screws it up, he must suffer the consequences. Within 90 days, he knows what he has to work towards in order to get out.

The system that we have in the State of Nevada is foul and corrupt. I receive letters every day from people who are asking for help for their families, for themselves, and sometimes to save their lives in prison. This prison system under Director Skolnik's command is probably one of the worst that we have ever had. We are going to ask at the Prison Commission meeting later this month, along with the guard's union, that this man be taken out of this position.

We talk about pleading down on cases. According to the federal records, 18 to 20 percent of these men in prison are not guilty. They want to get out of jail, so they will plead guilty to anything in order to be released. We have a system where inmates do not have an opportunity to be released on bail but instead, the bail is raised so they cannot afford it. The world has a 10 percent bail fee, and the State of Nevada has a 15 percent fee. I wonder why Nevada is so special and how it came to be that the legislators gave their okay on this request by the bail bondsmen. This does not do the State of Nevada any good. We are wondering why we have so many people in prison, but the answer is to let them out.

Prison systems have been a failure for thousands of years. It is time that someone took a look at them and fixed them, and the time is now.

Dorothy Wesley, Private Citizen, Las Vegas, Nevada:

I want to piggyback off what Mr. Hinton said. The prison system is awful in the State of Nevada. I think that the Parole Board should be done away with; I feel that they have made a business out of it. I do not know why they are so strict on sex offenders. An offender is an offender, and it is a double standard, biased, and unfair. We need to do away with lifetime parole. If someone does 20 years on parole, that should be sufficient. My son's father is in prison, and his crime was committed 30 years ago. He is on lifetime parole, and they just locked him up again on September 25, 2008 for no new crime. Now the taxpayers must pay \$30,000 for him to be housed there for a year. We need to

fix how the Parole Board is being run. Money talks, and if someone does not have that money, he is out to the dogs.

Florence Jones, Private Citizen, Las Vegas, Nevada:

I am in favor of A.B. 424. I would like to speak on section 10. It leaves out the group of "life with." It calls for adjustments on the 20-year cap for someone who has had their sentence commuted from "death" or "life without," but there is not a cap listed for the "life with" inmates. It would seem to me that they would fall under that 20-year cap as well. I would like for that consideration to be taken.

I would also like to speak to the issue that the Parole Board does not seem to follow the good laws that this legislative body passed in 2007 in regard to NRS 213.1215. The Parole Board did not like what was passed in 2007 and managed to get a Governor's emergency regulation to keep them from having to follow it from December 17, 2007 to April 17, 2008. They then slid through an administrative regulation R018-08, on April 17 through the Legislative Commission. This changed the NRS that had been put in place. Through R018-08, they created a new *Nevada Administrative Code* (NAC) 213, which is important because it takes away the reporting issue of NRS 213.10885, subsection 7. This has been on the books for some time. I sent emails to the members of this Committee, and I also checked with Craig Hoffecker of the Legislative Counsel Bureau (LCB) as to why we do not have a report back from the Parole Board on their standards and how many paroles they have granted over and above their standards. David Smith replied that they did not need to report to you anymore because they are at 100 percent compliance. Through R018-08, they have managed to change the law to consider anything. They are now omnipotent and do not have to answer to anyone, including yourselves.

I hope that you will take a look at R018-08 and the amendments that are being presented. Mr. Smith is in charge of the Parole Board, and we should remove the Parole Board, which does duplicate work of what the Department of Corrections (DOC), the judge, and the jury do. We are paying \$2.5 million for those members for two years, and if you take into consideration the inmates who they either deny or keep in parole at their discretion, we are talking another \$60 million to \$120 million every year. We have a budget deficit, and these people are stopping up the prison system and making it impossible for this system to function.

There is also an issue on whether a person is innocent or has his sentence appealed. The Parole Board is not supposed to ask about an appeal or take it into consideration. I listened to a parole hearing held on January 26 of this last year, and I heard Commissioner Baker question an inmate twice about the

possibility of a pending appeal. The inmate told her both times that he did not want to talk about anything but his instant case. What you pass is good law, but the Parole Board thumbs their noses at you and the taxpayers. It must stop.

Maureen Flansburg, Private Citizen, Las Vegas, Nevada:

I am in support of A.B. 424. I have a son who was released from a correctional institution in May 2008 by expiring his sentence. This happened even though, according to the previous law, he should have been released the year before. Because of inmates who are sitting in prison even though they should be released, the taxpayers are paying a tremendous amount of money compared to what they would be if these inmates were paroled. I am in favor of all aspects of this bill.

Chairman Horne:

We are going to move to those opposed to A.B. 424.

Connie Bisbee, Chair, State Board of Parole Commissioners, Department of Public Safety:

One of the major concerns we have with this particular bill is found in section 25, which addresses those who are denied parole but must not be denied more than six months. This would have a huge impact by increasing caseloads and would impact the ability of the Board to hear people. I have not put a fiscal note on that at this point.

The other thing of grave concern is the inability to consider the severity of the crime among other aspects of the crime. There is no way to determine whether it is safe to put someone out on parole if we cannot consider the crime. It requires completely redoing the risk assessment because severity is built into any risk assessment along with a criminal history. That could be a major budgetary issue because that would require an entire new study rather than revalidating the existing risk assessment. Revalidating is somewhere between \$25,000 and \$50,000, and I am not sure how much it would cost to start over at the beginning. Those are the major concerns.

The other concern I have is that we have gone a long way in developing the system to become compliant with Assembly Bill No. 510 of the 74th Session and Senate Bill No. 471 of the 74th Session. As of yesterday, we are in full compliance with S.B. No. 471, which is a couple of months before Senate Bill No. 4 of the 24th Special Session required it. It seems that with all of the efforts put out by this panel, the Parole Board, the Department of Corrections, and the Division of Parole and Probation to come into compliance with all of the hard work that resulted from the last meeting of the Legislature,

we would be taking a step backwards if we have to start reinventing some wheels based on the requirements of A.B. 424.

Assemblyman Anderson:

I appreciate the hard work of the Parole Board. One of the things that I heard this morning dealt with what you are doing with your time. How long does it take, in terms of preparation for a Parole Board hearing, to deal with this particular group of category C, D, and E felons since these are predominantly recidivists who have returned to prison, and who may have more extensive files than others? I do not even want to think about how much paperwork that is involved and must be reviewed before you hear a typical case.

Connie Bisbee:

For someone experienced in reviewing the crime and doing the risk assessment and mitigating and aggravating factors, some of the lesser crimes with no past criminal history could probably be done in an hour. That is work that takes place before the hearing. Sometimes there are criticisms because it seems like decisions are made in a matter of a few moments, but there is always a great amount of time that is spent before we ever get into the hearing. If an inmate does not have much he wants to say, it can be a short hearing.

When you are talking about recidivism and the number of files for a particular case, which can be as many as six, it can take hours to review those. I would guess that once information is gathered from the Division of Parole and Probation and the Department of Corrections and the actual file work starts, we are spending a minimum of an hour with that file before we ever come before the inmate.

Assemblyman Anderson:

You have to make sure that all of the materials are there, including the risk assessment and the rest of the paperwork done by the various agencies. You may reject individuals because not all of the paperwork is there that is needed for consideration, even though their timeline may be up. Is that done by another staff member?

Connie Bisbee:

It is rare that it happens. There have been circumstances where the paperwork was not done, but that is rare. We have the Division across the street, and the Department of Corrections is a phone call or email away. The process slows when we do not have a particular piece of information we need, but it is rare that we have to continue on a later date an inmate's hearing because one of those items is missing.

Assemblyman Anderson:

Do you hear 10 or 20 people at a Parole Board?

Connie Bisbee:

I wish it were 10. I think the average is 18 people for any panel.

Assemblyman Anderson:

Every member of the Board must review the same packet of materials.

Connie Bisbee:

A minimum of four members of the Board must review it. Once four commissioners have recommended a grant, it can stop at that point.

Mark Woods, Deputy Chief, Division of Parole and Probation, Department of Public Safety, Carson City, Nevada:

You have heard testimony, and there are two issues that I would like to add to those. Category C, D, and E felons coming out without a plan do not do the Division or the offender any good. They need to have some sort of established plan to work. We have heard several times this morning that category C, D, and E felonies are nonviolent crimes, and that is not true. There are some dangerous people who are category C, D, and E felons.

I would like to give a brief example. I have a friend, P.K. O'Neill, who was in a fight for his life a year ago. He wrestled with three people who had a gun to his head. If one of those people knew how to take the safety off of that gun, my friend would not be here today. These people are in on category C felonies now. It was very violent. The idea of not looking at the history of a situation and the crime of an individual is dangerous. That needs to be looked at.

Kristin Erickson, representing Nevada District Attorneys Association, Reno, Nevada:

Although we appreciate the intent of Assemblyman Munford's bill, we also appreciate the hard work of the Parole Board and the difficult decisions that they must make in balancing the freedom of an inmate with the safety of the community. In making such an important decision, the more information a person has, the better a decision can be made. In this instance, knowing an inmate's criminal history is extremely important. Are they a career criminal that shows they have only been out of prison a short time before they reoffend? Just as that would work against an inmate, so would a lack of criminal history assist the inmate in gaining parole. The severity of the crime is also an important factor. A violent criminal who committed a violent crime needs to be considered in this assessment. Likewise, an inmate up for parole who has a nonviolent, victimless crime should also be relevant. That would assist them in

gaining parole. That type of information is important and should be considered in making these important decisions.

The Parole Board members are professionals. They make these important and difficult decisions on a daily basis. That discretion needs to be maintained. By making parole mandatory, you are essentially rendering the Parole Board meaningless in those situations. In addition, you are rendering the victims powerless by not giving them a voice.

Finally, although I have great respect for Mr. Skolnik, he has enough on his plate right now in dealing with the budgetary concerns and managing the numerous prisons throughout the state. Adding this huge responsibility would be too much for any person.

Howard Skolnik, Director, Department of Corrections:

We are opposed to this bill for a couple of reasons. Ms. Erickson spoke eloquently about one of them. I really do have a lot to do. We also do not have the staff to take on the responsibilities that are outlined in section 4 of this bill, especially given the fact that what we need to do, we need to do within five business days. Our staffing patterns in the Department of Corrections for our caseworkers are 1 caseworker to every 125 inmates. They handle all aspects of the needs of those inmates while they are incarcerated. Throwing in the additional responsibility of analyzing enough information to make a rational decision as to whether someone is dangerous or not would be too much for my office.

As pointed out by a number of individuals, we have a number of category C, D, and E felons who are violent offenders. A category D felony includes stalking and domestic violence. To take away the ability of the victims of those crimes to pursue their own safety in the future is troubling. We have a regulation, Administrative Regulation (AR) 537, which specifically prohibits our staff from making recommendations regarding the likelihood of an inmate's success on parole. Our staff is geared towards success inside of an institution. The skills that are required by an individual to succeed in prison are not the same skills that are required by an individual to succeed in the community, and for that reason, we have told our staff that they provide factual information to the Parole Board, but the Parole Board will make their decision, and our staff will not make recommendations.

Finally, I will point out that much of the criticism that our Department has taken this morning is shared by the members of this Committee. We do not fund us; we do not determine who goes to prison; we do not determine how long an inmate is in there; nor do we determine what programs are available.

We are currently fourteenth in incarceration rate, and not first, according to the recent Pew report. We have done much in this state to reduce the rate, or the rest of the country has caught up and passed us. We are no longer the highest incarcerating state in the United States and have not been for a number of years.

I recognize there are a number of people who have concerns about the Department. We have almost 13,000 inmates, and almost 3,000 staff. The staff of this Department do an extraordinary job with the resources that you have provided us in terms of managing our population.

Assemblyman Carpenter:

Do you have the latest population figures in your establishment?

Howard Skolnik:

As of two days ago, it is 12,711.

Assemblyman Carpenter:

We are staying pretty flat.

Howard Skolnik:

We were climbing for a while but have begun to slide back down. I think that we are still okay.

Assemblyman Carpenter:

Past and current legislation have helped that situation.

Howard Skolnik:

It has tremendously.

Assemblyman Carpenter:

We are not climbing like we used to be.

Assemblyman Segerblom:

Is rehabilitation part of your mandate?

Howard Skolnik:

The mandate in the statute is to provide for a safe and secure environment for the inmates and staff of the Department of Corrections. Rehabilitation is part of what we do, and it is a significant part. The reason we do it is because 94 percent of our inmates will be back in our community, unlike 20 years ago, when they may have left the state when they were released. More of them are staying in Nevada upon release.

Assemblywoman Parnell:

Do you have a list of each of the institutions and what programs are being offered at each of those?

Howard Skolnik:

We will be happy to provide that to you.

Assemblywoman Parnell:

I have received a few emails in the past couple weeks about the elimination of one of your programs; I believe it is an Alcoholics Anonymous (AA) program. Are you familiar with that?

Howard Skolnik:

I am not familiar with the elimination of any of our programs. Our programs are divided into two categories. We have a group of programs that we have reviewed and, in essence, internally accredited as valuable for time credits. We have other programs that are truly voluntary and do not carry credits with them. That program may have been in the second group, and I probably would not have been informed about that. I will follow up and get back to you.

Gayle Farley, Victims' Rights Advocate, Carson City, Nevada:

I am a survivor of my daughter's murder. I sit on the Advisory Commission for the Administration of Criminal Justice. I was hoping that some of my fellow advocates would be with me, but they were not able to be here today.

I would like to hit on a few points. I have a concern about who is going to supervise these inmates who are going to get out because Parole and Probation is up to their ears in work right now. I think they are doing a pretty good job and work very hard. They take their jobs seriously and try to make the right decisions. They are not the judge and jury, but they are the people who listen to the inmates and make the decision on whether they should be paroled or not. Those decisions are based on reports and information that they get. Please do not pick on these people. They are just doing their job.

My biggest concern with this bill is that the victims are not going to be notified. Category C, D, and E felons are not just drug dealers or someone who has received their second driving under the influence (DUI) offense. Some of them are very violent, and there was a victim at the other end of that. My daughter was murdered nine years ago. Many of you have heard my story. She was shot with a 50-caliber gun. I am not the only one who has gone through this. There are many victims of crime. Many families of inmates come in here to ask you to release these inmates. They can still talk, write, and visit their family

member who is incarcerated. As a survivor, I do not have many family members to come in here. My daughter was it for me.

Many victims work for a living and pay their own bills and housing. I think you need to look at the victims more seriously than you are. We do not even know the consequences of Assembly Bill No. 510 of the 74th Session. These inmates are being let out of prison, and we do not have enough money for programs to help with reentry. Where are these people going to go when they are released? There is no money. There are people who have not broken the law and still cannot find work because this economy is so bad. Where are the inmates going to work or live?

To me, this bill is the biggest slap in the face that I have seen in nine years. This bill is so disrespectful. For the victims to be forgotten is a regrettable fact. We are people and must go on every day. It does not get better; it gets different. To think that these inmates are going to be paroled, and the victims are not contacted, is a travesty.

**Ron Cuzze, President, Nevada State Law Enforcement Officers Association,
Las Vegas, Nevada:**

We believe that the intent of this legislation is good, but the legislation itself is bad. We have heard a lot of testimony, and perhaps the Parole Board should be done away with. That is not for me to say. This piece of legislation does not get it. This is going to put the criminal justice system, Parole and Probation, Department of Corrections, and the offenders at a disadvantage. I am not saying that the intent is not right, but there are problems with the bill. A law is probably needed, but the way this is written will not get the job done. We cannot support it in its current form. The system is broken, and we have to change it.

Chairman Horne:

I will close the hearing on A.B. 424.

[Recessed and reconvened.]

Chairman Horne:

We will open the hearing on Assembly Bill 385.

Assembly Bill 385: Makes various changes concerning the maximum caseload of parole and probation officers who supervise convicted persons.
(BDR 16-523)

The Vice Chair will chair because this is my bill.

Assemblyman William C. Horne, Clark County Assembly District No. 34:

I am here to present Assembly Bill 385. In section 1 of the bill, it outlines the suggested minimum standards that should be in place for supervising offenders by Parole and Probation. The reason I asked for this bill is because of the results of the current financial crisis the state is in, and the number of cuts that we have been making over the past year or so. It became apparent that certain agencies were at risk of being cut to a level where they would no longer be able to protect the community. I thought that we should put some minimum standards in statute because it becomes too dangerous if we go too low and we are no longer protecting the community.

I also ask for an amendment to this bill. It will include correctional officers as well. There will be persons here to testify about that.

Vice Chair Segerblom:

Currently, there are no requirements internally or in statute?

Assemblyman Horne:

Not in statute.

Vice Chair Segerblom:

Does the Department have internal goals?

Assemblyman Horne:

They will be able to come up and tell you what their current levels are. For instance, Parole and Probation has a varied staffing level depending on the category of offender. A caseworker can handle more minimum risk offenders as opposed to the high risk offenders.

My reasoning for this bill was that I did not want us to get to a place where budget cuts would become so severe that the directors of these departments would be forced to cut staffing to a point where it would no longer be safe, and they could no longer perform mandated functions.

Assemblyman Carpenter:

In subsection 3, it states that if they cannot make the caseloads, they must make a report to the Interim Finance Committee. It seems to me that there should be a report anyway. This will make it so we know where they are at.

Assemblyman Horne:

If I understand your concern, you believe they should make a report regardless of where their staffing levels happen to be?

Assemblyman Carpenter:

Yes.

Assemblyman Horne:

If that is the way the Committee would like it to work, that should not be an issue. This subsection was included for the possible situation of falling short on staff because of money and having to report to the Interim Finance Committee.

Assemblyman Carpenter:

If we reach the level we should be at, it would be good to have that information out there.

Assemblyman Cobb:

How did you come up with the numbers that are in this bill?

Assemblyman Horne:

I spoke with Parole and Probation, correctional officers, and Director Skolnik. In disclosure, the correctional officers were represented by American Federation of State, County and Municipal Employees (AFSCME). There is some discrepancy on what current staffing is in prison facilities. I understand and recognize those differences. Those are the people I spoke with in order to get an idea of where they are currently and what would be a minimally safe staffing number.

Assemblyman Cobb:

The Director was consulted to come up with these numbers? They are trying to meet these numbers already?

Assemblyman Horne:

Yes. These are not fixed numbers but general numbers given to the Legislative Counsel Bureau (LCB) to draft the bill.

Assemblyman Hambrick:

You may want to defer this question to one of the witnesses later on. Is there a national standard that may affect potential funding or adjunct funds that may be coming in? With the numbers that you are coming up with, does that go along with the Bureau of Prisons, and could that increase or decrease funding that we get from the federal government?

Assemblyman Horne:

I will defer that because I do not know. I know that there are some federal grant monies.

Steve Barr, representing American Federation of State, County and Municipal Employees, Carson City, Nevada:

We are in support of this bill. Currently, we are working with the Director to come to a consensus on the numbers. We feel that this piece of legislation is important and are thankful to the Chairman for addressing this issue.

Mark Woods, Deputy Chief, Division of Parole and Probation, Department of Public Safety:

We support this bill. In conversation with the sponsor, we were looking at one amendment in section 2 to change the number 75 to 70.

To answer a few of the questions raised by the Committee, what we have done in the past is use JFA Institute projections. They project how many different types of offenders would be on supervision. There was a time-study done by the National Archive of Criminal Justice, and they came up with the ratios of 30 to 1, 45 to 1, and 70 to 1 on regular supervision caseloads. The Nevada State Legislature has consistently funded us according to that ratio through the JFA Institute.

In regard to the question on national statistics, it is hard to do that because in many states, probation is run by the counties, and parole is run by the state. Each county will have its own different rules, and different areas will have different levels of supervision. They fall into categories similar to ours but not identical. To find a national average is extremely difficult to do.

Assemblyman Cobb:

You are already trying to roughly match these numbers in this bill in terms of your daily practices, correct?

Mark Woods:

That is correct.

Assemblyman Cobb:

That is my concern with the bill. You may have some people transitioning out of the system and coming in, so you may have an overlap of a week where you have 72 people rather than 68 people. My concern is that we do not want to be so stringent that we do not give you the leeway when you are already trying to match these numbers. Can you see that scenario happening?

Mark Woods:

Yes, it happens on a regular basis. I know that this Committee has heard about the bank in Las Vegas. Right now, there are over 2,000 people in that bank, and they are being supervised by 4 people. One of the biggest reasons for that

is the economy. We do not have the money to fill those positions. But even in the best of times, when we do have the money for the positions, there might be 10 people in the academy learning to be a Parole and Probation officer. At 70 to 1, that is 700 offenders being supervised at a high ratio until those 10 people come out of the academy. There will never be the perfect ratio because people are retiring or quitting.

Kevin Ranft, Region 1 Vice-President, American Federation of State, County and Municipal Employees, Carson City, Nevada:

I am a correctional officer of nine years with the Department of Corrections. We have been working with the Department on some numbers. The biggest concern is the safety and security of the staff, the inmates, and ultimately, the public. Currently, at Southern Desert Correctional Center there are sometimes over 200 inmates to 1 officer. That is a standard, everyday practice for the day shift and the swing shift. On graveyard, the inmates are asleep, so there is less concern. There are many facilities that are understaffed because of the fact that they cannot hire, or they are limited by frozen positions.

We would like to come up with a solid number that works with Director Skolnik and this Committee and to get that set in stone. There has been some case law in place where it is taken out of our hands and the Department's hands. When that happens, it goes to federal court. I have a lawsuit from Robert Stickney, and we call it the Stickney Rule. That has been set by a federal judge. We do not want that to happen, but rather, us coming together and not putting that regulation into a federal judge's hands. Currently, the ratios are so bad that we need to put something in place.

Sam Bateman, Las Vegas, Nevada representing Nevada District Attorneys Association, Reno, Nevada:

We are in support of the concepts in this bill. Sometimes the Committee does not realize how often district attorneys (DAs) and prosecutors agree to probation. It is often the case that we think probation is an appropriate punishment and appropriate remedy for any particular defendant and case. When we put someone on probation, it is important that they have good supervision. When these staffing levels go down, it creates logistical issues in the system and diminishes the importance of the probation period. It is important to make sure the individuals who get probation are receiving the type of help that they need while they are on probation so we do not have them come back into the system on revocation hearings. We support the concept, and it is an important bill.

Ronald Dreher, Government Affairs Director, Peace Officers Research Association, Reno, Nevada:

We are in support of this bill for one reason: officer safety. By doing this, it creates officer safety, or at least continues it. Too many cases creates what we had two years ago when Trooper Kara M. Kelly-Borgognone was involved in a shooting at the Reno parole office. Keeping the standards the way they are with this bill, you create minimum staffing and minimum caseload.

Pat Hines, Yerington, Nevada, representing Friends and Families of Incarcerated Persons, Las Vegas, Nevada:

I have four quick things I would like you to consider. First, I would like to expand on Assemblyman Carpenter's idea of reports. The bill says that they should report to the Interim Finance Committee (IFC) annually, but I would like to see them report to the IFC quarterly to show where they are and what they need.

Secondly, there are things that probation officers are required to do by law. These include record keeping, helping the inmates, and giving them encouragement. They do not have the time to help them do it, and record keeping is a big problem that is not done appropriately and as often as it should be. I would like to see the parole officers include things on their reports that are positive, as well as the negatives.

If this body includes additions to this bill, I would like to see it happen differently from the way it happened in 2007. Parole and Probation was supposed to get seven social workers in 2007, and it was not funded. Social workers in Parole and Probation would relieve some of the problems these inmates face when released on parole.

Like the gentleman before me said, new officers need more training before they are put out on their own with released inmates. I have had some bad situations with new probation officers. Sometimes just giving them a sponsor does not work.

Howard Skolnik, Director, Department of Corrections:

We are in favor of this bill. We are working with AFSCME in the development of numbers. We established a minimum staffing pattern many years ago, and in the course of budget cycles, we have also established what we call pull and shut down positions. For example, we have two officers scheduled to be in the cell house, and if one of the mandatory posts is not manned, we would pull that second officer out and place him in a mandatory post. That has evolved over many years and has not been looked at, and I think this bill will give us the opportunity to do that.

**Ron Cuzze, President, Nevada State Law Enforcement Officers Association,
Las Vegas, Nevada:**

We are for the bill for a reason that has not been stated yet. I would like to make your Committee aware of it. One of the biggest problems, and we continually talk to Chief Curtis about it, is turnover. It is costing the state a lot of money since it costs a lot to train a Parole and Probation officer. When they start getting caseloads in the hundreds, they leave. If there is no caseload management and maximums, it is a vicious cycle. If maximum caseloads are set, it might appear that more officers are needed, and it will cost money. In the long run, if the maximum caseloads are stuck to, it will save money because they will not be putting as many people through the training system only to lose them to different agencies.

Chairman Horne:

For clarification for Assemblyman Cobb, while the prisons work hard to maintain standards, the purpose of this bill is, if budget cuts were to happen and the number of intensive supervision offenders went up, they would have to maintain that until the next budget cycle in two years. That would be problematic. We need something in statute that does not say they have to maintain 30 offenders every day. We do understand the fluctuation. This is a floor that they are to maintain, not for a period of two years. I am trying to avoid those severe cuts that could create a long lasting problem.

Dorothy Wesley, Private Citizen, Las Vegas, Nevada:

I am concerned about the parole officers and how they go after those who have jobs. That is costing us money. It would be good if they could find a better way.

Chairman Horne:

This bill only has to do with staffing levels, and there must be so many parole officers per number of persons they are supervising.

Dorothy Wesley:

My honest opinion is that Parole and Probation needs to be done away with.

Chairman Horne:

We will close the hearing on A.B. 385.

Assemblyman McArthur:

I had a quick question for clarification on this last bill.

Chairman Horne:

We will reopen the hearing on A.B. 385.

Assemblyman McArthur:

In subsection 3 of section 1, it talks about submitting a report if "maximum caseloads were not achieved." Do I assume that we really want to say "in which the maximum caseloads were exceeded?" Is that what we are talking about there?

Chairman Horne:

I will take a look at it.

Chairman Horne:

We will again close the hearing on A.B. 385.

We will open the hearing on Assembly Bill 502.

Assembly Bill 502: Makes various changes concerning private prisons.
(BDR 16-1129)

This is a Committee bill. As the bill states, it deals with certain sanctions of private prison facilities. The bill was requested by the Committee in response to reports that private prisons were talking with officials at state and local levels to establish facilities in Nevada that would house prisoners from out of state. The Committee discussed the importance of the state having the ability to oversee these operations, to a certain extent, in order to ensure the safety of our state citizens.

As drafted, Assembly Bill 502 provides that the provisions in Nevada law governing escape from prison, including the penalties, would apply to an escape from a private prison as well. The bill also provides that the private organization operating the facility must reimburse the state for expenses incurred when a prisoner escapes from a private facility.

What was missing in the draft of the bill, and is probably my fault, is if a county is going to contract with a private prison to build a facility, there should be some guidelines and parameters in place on how that prison is going to be operated and staffed, et cetera. If a private prison wants to build a facility in a county, they must comply with the state laws. We are not interfering with the contract with the county, but there are parameters that need to be complied with.

Passed out to the Committee members is a mock-up on the proposed amendment ([Exhibit F](#)). It is in green on the first page.

Steve Barr, representing Local 4041, American Federation of State, County and Municipal Employees, Carson City, Nevada:

We would like to state that AFSCME does not support private prisons; however, it is a reality that we have to deal with. As a result of that, we have given the Committee proposed amendments ([Exhibit G](#)). I have also provided the backup *Nevada Revised Statutes* (NRS) for the amendments.

Additionally, it is the desire that we make this additional recommendation. Given the fact that the Department of Corrections is sorely understaffed in this area, we would like to make the recommendation for the creation of a full-time equivalent (FTE) regulator so the Department of Corrections can monitor and ensure that the operators are in compliance. That position should be funded by a yearly licensure fee on that private institution, for each institution.

Additionally, the proposed amendment specifies that the staff, for the safety of the public, be trained to the same level of the state correctional officers. They would not receive a category 3 peace officer certification, but they would be trained to that level. Being a nongovernment employee, they cannot receive the certification.

This is imperative, and I think the Committee is wise in bringing this at this point before we get too far down the road, and we have some private institutions that are in operation without any regulation or control.

Assemblyman Cobb:

What is the board that is referred to in section 1 of the amendment?

Steve Barr:

That would be the Board of Prison Commissioners.

Howard Skolnik, Director, Department of Corrections:

The Department is in favor of this legislation. We had an incident take place where an individual who had left our Department 12 years previously was arrested for having child pornography on his home computer. The headline read "Correctional officer arrested for child porn." We feel that these facilities will be a reflection on our Department whether or not we want them to be. As such, they should be held to the same standards as the Department of Corrections.

Assemblyman Anderson:

We have had private institutions here for some time now. We did not give them access to the Central Repository for Nevada Records of Criminal History (CHR), did we? The Parole Board is going to have to deal with these people as well.

Howard Skolnik:

They were on our computer system because those inmates were Nevada inmates. The inmates that we are talking about now will more than likely not be our own inmates, unless we run into crowding problems. They will probably be federal inmates or inmates from other jurisdictions, and they would not be part of our repository.

Assemblyman Anderson:

They will have access to the various systems through the web?

Howard Skolnik:

I do not believe they will, but I am not certain. My suspicion is that they will have access online to whatever system the jurisdiction has that their inmates are from.

Kevin Ranft, Region 1 Vice-President, American Federation of State, County and Municipal Employees, Carson City, Nevada:

This is a serious concern for the communities. We have to look at how close these prisons are to the communities. Unfortunately, in Nye County, there is construction starting on a private prison. That county commission actually took some language out so that prison can be moved closer to that community. It is mind-boggling. We do not want private prisons here, but they are here. Our community needs to be number one. Department of Corrections (DOC) policies over the years have proven to be safe. There have been a few incidents, but the staff safety has been pretty good.

We need to tighten this up and make it to where they are regulated because right now they are not.

Mr. Hinton stated earlier that there is going to be a call for the termination of Director Skolnik at the Board of Prison Commissioners. I want to correct that. That item has been removed from the Prison Board of Commissioners, and it will not be taking place.

Dennis Mallory, Chief of Staff, American Federation of State, County and Municipal Employees, Carson City, Nevada:

We do support this bill and think it is very important. Again, I would like to stress what Mr. Barr said. We do not support private prisons, but we now have to deal with them, so we think this bill will address some of the issues we have about private prisons.

**Ron Cuzze, President, Nevada State Law Enforcement Officers Association,
Las Vegas, Nevada:**

We support this bill, but we believe that there must be safeguards as to a level of training.

**Ronald Dreher, Government Affairs Director, Peace Officers Research
Association, Reno, Nevada:**

We do not support private prisons as well. We do understand that they are here, and we do support the proposed amendment by AFSCME.

**Chris Ferrari, Las Vegas, Nevada, representing Corrections Corporation of
America, Nashville, Tennessee:**

Corrections Corporation of America (CCA) is the largest provider of private corrections services in the country. We have 17,000 employees and 65 facilities in 19 states and Washington, D.C. Last year, CCA was named by *G.I. Jobs* magazine as a top 50 military-friendly employer. Roughly 10 percent of CCA's employees are ex-military. Additionally, CCA was named a top 100 corporate citizen by *Corporate Responsibility Officer* magazine. They were among names like Disney, Gap, IBM, Target, and Starbucks.

We are neutral on A.B. 502. It is common practice for states to establish a procedure by which we can work with the Department of Corrections should an incident occur. We are fine with that provision. However, we have not had time to review the amendment proposed by AFSCME today, but we plan to do so shortly.

For the record, construction has not started on the facility in Nye County. This has been a 2.5-year process that has undergone intense scrutiny. The Office of the Federal Detention Trustee, which is a division of the Department of Justice, issued this request for proposal (RFP) about 2.5 years ago. Several private providers responded, and CCA was the winning bidder. The facility, as it stands now, looks to incorporate 1,072 beds. It is roughly an \$80 million construction project. All employees will be paid federal prevailing wage, which we anticipate to be about \$25 per hour plus full benefits. It received a 5 to 0 selection in the Nye County Commission after undergoing 17 public hearings at which we were able to address many of the concerns raised here today.

With regard to the amendment, we have this proposed facility coming forth to Nye County at some juncture. Director Skolnik is looking to lease the Jean facility in which three private providers have expressed interest. If a full-time employee is incorporated, how would the fee be assessed? Would CCA, as operating a facility in Nye County, pay for that? Would the people who operate

the Jean facility pay part of that as well? That is something that will have to be addressed.

Additionally, the facility in Nye County is in direct contract with the federal government. Therefore, any level of monitoring would have to go through the federal government. They have strict controls over how CCA operates, including reporting and training. These are some of the concerns we have with the amendment.

Chairman Horne:

We will close the hearing on A.B. 502.

We will open the hearing on Assembly Bill 473.

Assembly Bill 473: Revises provisions relating to medical and dental services for prisoners. (BDR 16-1128)

This bill was requested by the Committee based on an audit of the Department of Corrections conducted by the Legislative Counsel Bureau (LCB) during the interim.

One of the principle findings of the audit dealt with inmates at the Florence McClure Women's Correctional Center (FMWCC) and the Southern Nevada Correctional Center (SNCC). They did not receive onsite dental treatment for more than six months because the institutions were without a dental chair. The FMWCC went without a dental chair from October 2006 until April 2007, and SNCC went without a dental chair from September 2006 until April 2007. The lack of adequate equipment caused delays in dental treatment and created unnecessary security risks when inmates were transported to other facilities for treatment.

The audit also found that information on emergency response times was not always complete or accurate.

As presented, Assembly Bill 473 does two things. It requires the Director to establish regulations governing staff training in medical emergency response and reporting, and it requires the Director to establish standards for maintaining an inventory of essential medical and dental equipment.

Rebecca Gasca, representing American Civil Liberties Union of Nevada, Reno, Nevada:

We are here today in support of A.B. 473 with two suggested amendments (Exhibit I). As the Chairman mentioned, the lawsuit filed by the American Civil

Liberties Union (ACLU) of Nevada was recently granted class status in order to address the prison and medical conditions at Ely State Prison. Through some of our work with the National Prison Project of the ACLU, we have investigated prison medical and dental conditions in the State of Nevada. We have found serious issues of gross negligence, and we think that this bill will help address some of those concerns statewide. We believe this bill is good on its face, and we are hoping that you will be amenable to strengthening some of the language that will do two things. First, it will establish an objective standard with which the Department of Corrections can measure their work in regard to medical and dental care. Second, it would require that the Department of Corrections seek an outside agency to review the work that the Department of Corrections has done with regard to medical and dental care. We think that the second part is particularly important because through our work, we have found that the internal self-regulation practices of the Department of Corrections have been inadequate and have resulted in unconstitutional levels of medical and dental care, which is why we sought a class action suit against the Ely State Prison and why we investigated these conditions in the first place.

The language is fairly simple. Proposed amendment 1 suggests that the Board comply with the American Public Health Association standards. That is a national organization that our National Prison Project has indentified as being the best in standards nationwide. Proposed amendment 2 reiterates that, and a subsection 3 would be added, which ensures that the Director will seek outside, independent audits of the medical and dental conditions in Nevada's prisons on an annual basis.

Chairman Horne:

You said that the American Public Health Association was chosen by the ACLU as the standard. Were there other associations that we are not aware of that could also have been chosen as the standard? Do you know if the Department of Corrections uses any type of health association standards currently that the ACLU may think are adequate?

Rebecca Gasca:

The American Public Health Association was identified by our National Prison Project because they deal with prison regulation across the nation. These standards are the best practices that have been identified by our National Prison Project. That is why we use them.

If the Department uses some other level of standards they believe might be adequate, we would be happy to look at those and consider them, but from what I understand, our National Prison Project identified this precisely because

the regulations and standards which the Department of Corrections is operating are inadequate.

Chairman Horne:

Do you know how many jurisdictions comply with the American Public Health Association standards?

Rebecca Gasca:

I do not offhand, but I would be happy to follow up with that information.

Chairman Horne:

I would appreciate that. It would be good to know who complies with which standards.

Assemblyman Hambrick:

I am not sure if I heard Ms. Gasca's response as to whether there are other organizations. I am sure, for example, that the Bureau of Prisons has standards that are required to be met. Could you let me know if there are other federal associations or groups that mandate minimum standards?

Rebecca Gasca:

There may be other associations that I am not particularly aware of. I was not involved in the litigation of this case. This was an association that was identified by our National Prison Project as having the best and highest standards that would meet constitutional requirements for medical practices. I would be happy to consider any other associations that the Department of Corrections has identified.

Pat Hines, Yerington, Nevada, representing Friends and Families of Incarcerated Persons, Las Vegas, Nevada:

I do have one addition ([Exhibit J](#)). This bill is great and very much needed, but I would like to add a paragraph (d). I think this is one of the most important issues that the Department of Corrections needs to keep statistics. The statistic most of the families are interested in is the number of requests for medical or dental help that are not granted and the reason why they were not granted. We all shudder to think that our loved ones may be the next Patrick Cavanaugh.

Howard Skolnik, Director, Department of Corrections:

The Department of Corrections opposes this legislation on a number of grounds. As you pointed out, I cannot speak of specifics because of pending litigation. I will point out that the audit that precipitated this found that the access to medical and dental care in the Department of Corrections met or exceeded the national averages in Corrections. I would point out that Corrections is not a

hospital, and we do not operate hospitals. When we have someone who needs care, we take them to hospitals.

The standards that are required for medical care are set in the *United States Constitution* and not by any other group, although there are other groups, including groups that set standards specifically for Corrections.

This is the first time that I have seen an audit result in legislation. I have seen a number of audits come out of the Legislative Audit Division on the Department of Corrections and other agencies. In this particular case, if you look at our response to the audit, we have accepted all of the findings and recommendations. In fact, many of them have already been implemented.

Candidly, I feel somewhat insulted, on behalf of our agency, that the Legislature would feel that we are not going to comply with our commitment to the Legislative Audit Division without statutory pressure.

Finally, in terms of the amendments that were posed, Prison Industries is the only division within the Department of Corrections to ever pursue national standards. It pursued accreditation by the American Correctional Association a number of years ago at an internal cost of approximately \$100,000. This Legislature has never authorized the expenditure of funds for complying with national standards and certification in the past because it is very expensive. Were you to require us through statute to comply with a set of standards set by another organization, please be prepared to also provide us with the funds to meet those standards because they will be fairly excessive.

Again, I would point out that our requirements are set in the Constitution, and we are, in my opinion and in the opinion of our attorneys, constitutionally compliant with our medical care.

Chairman Horne:

I am sorry that you feel offended. However, as per review from the Legislature to craft legislation to put into statute, perhaps they feel it may be needed. While the Department of Corrections under your watch may be running very well and meeting constitutional standards, you will not always be the Director of the Department of Corrections. One day there may be someone else in as Director who may not have the same attention to detail that you have. The staff will be different as well. You can make that same argument on why we do an audit. This is done to bring things to your attention to correct what is needed. The Committee was within its rights to request this and felt it was important enough to put it in statute.

Howard Skolnik:

That was not my intention when I made my comments. I in no way question the authority of the Legislature nor your ability to pass legislation that controls what we do. I feel that in this particular case it is not necessary.

Assemblyman Anderson:

I have a strong feeling about audit reports. I know that they are done for a purpose. It has been my policy for the last several years that the Audit Committee reports not only to the money committees but also to the policy committees. I want this done so that all committees will understand the relationship of what we do.

I presume that your reference to the constitutional guidelines are those set under "cruel and unusual punishment." It is a conceptual approach set legislatively as to what constitutes "cruel and unusual punishment." This is not a new issue to the legislative body. In fact, I viewed this piece of legislation as a "sanding of the block," that it more clearly articulated the role and responsibility of the Director. I am not surprised that you might be upset about it, but I see it as a legislative prerogative. We are upset by the audit, as I am sure you are as well.

Howard Skolnik:

I understand what you are saying, and in fact, we do not mind, and look forward to audits as a vehicle to help us identify those things which we need to address. The question I raise is whether once the audit has identified those things, do we need legislation immediately following the audit without an opportunity to implement the recommendations the audit had? Were we to have a secondary audit down the road that showed we did nothing, I think then legislation would be extremely appropriate. We have not had an opportunity to demonstrate whether or not we can implement the findings and recommendations of the audit. That is what I reacted to.

Chairman Horne:

We will close the hearing on A.B. 473.

Because of the lawsuit, I am going to meet with Mr. Anthony and see if there are any problems we need to be aware of if we are inclined to process this bill. We do not like to get in the middle of lawsuits legislatively.

[Meeting adjourned at 10:56 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: April 2, 2009

Time of Meeting: 8:18 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance rosters
A.B. 424	C	Assemblyman Harvey J. Munford	Explanation of sections of the bill.
A.B. 424	D	Pat Hines, private citizen	Proposed amendments.
A.B. 424	E	Chairman William C. Horne	Email from Tonja Brown to Committee with proposed amendments.
A.B. 502	F	Chairman William C. Horne	Mock-up of proposed amendment.
A.B. 502	G	Steve Barr, AFSCME	Proposed amendments.
A.B. 502	H	Steve Barr, AFSCME	Articles about private prisons.
A.B. 473	I	Rebecca Gasca, ACLU of Nevada	Proposed amendments.
A.B. 473	J	Pat Hines, private citizen	Proposed amendment.