

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Sixth Session
February 10, 2011**

The Committee on Judiciary was called to order by Chairman William C. Horne at 8:02 a.m. on Thursday, February 10, 2011, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/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 James Ohrenschall, Vice Chairman
Assemblyman Steven Brooks
Assemblyman Richard Carrillo
Assemblyman Richard (Skip) Daly
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Jason Frierson
Assemblyman Scott Hammond
Assemblyman Ira Hansen
Assemblyman Kelly Kite
Assemblyman Richard McArthur
Assemblyman Tick Segerblom
Assemblyman Mark Sherwood

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Nick Anthony, Committee Counsel
Jean Bennett, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

James G. Cox, Acting Director, Department of Corrections
Jeff L. Mohlenkamp, CPA, Deputy Director Support Services, Department of Corrections
Bernard W. Curtis, Chief, Division of Parole and Probation, Department of Public Safety
Mark Woods, Deputy Chief, Northern Command, Division of Parole and Probation, Department of Public Safety
Rick Gimlin, Administrative Services Officer III, Division of Parole and Probation, Department of Public Safety
Connie S. Bisbee, M.S., Chairman, State Board of Parole Commissioners, Department of Public Safety
Pamela K. Del Porto, Inspector General, Department of Corrections
Kevin R. Ranft, representing American Federation of State, County and Municipal Employees, AFL-CIO, Local 4041

Chairman William C. Horne:

The Assembly Judiciary Committee is called to order. [The Chair reminded Committee members, witnesses, and members of the audience of Committee rules and protocol.] [The roll was taken and a quorum was present.] Today we are going to begin with Committee bill draft request (BDR) introductions, the first of which is BDR 16-634.

BDR 16-634—Revises provisions governing credits for offenders sentenced for certain crimes. (Later introduced as [Assembly Bill 136](#).)

Chairman Horne:

This BDR comes out of the Advisory Commission for the Administration of Justice. I will entertain a motion to approve BDR 16-634.

ASSEMBLYMAN OHRENSCHALL MOVED FOR COMMITTEE
INTRODUCTION OF BDR 16-634.

ASSEMBLYMAN DALY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

BDR 14-806—Revises provisions governing probation. (Later introduced as [Assembly Bill 135](#).)

Chairman Horne:

I will next entertain a motion to approve BDR 14-806.

ASSEMBLYMAN OHRENSCHALL MOVED FOR COMMITTEE
INTRODUCTION OF BDR 14-806.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Horne:

The last bill draft request for today is BDR 14-655.

BDR 14-655—Prohibits the imposition of a sentence of life imprisonment without the possibility of parole upon a juvenile offender convicted of a non-homicide crime. (Later introduced as [Assembly Bill 134](#).)

Chairman Horne:

Bill Draft Request 14-655, prohibits the imposition of a sentence of life imprisonment without the possibility of parole upon a juvenile offender convicted of a non-homicide crime. This BDR is under consideration because of a United States Supreme Court case. I will entertain a motion.

ASSEMBLYMAN FRIERSON MOVED FOR COMMITTEE
INTRODUCTION OF BDR 14-655.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Horne:

We will have two presentations today, beginning with Greg Cox, Director, Department of Corrections (DOC). When the witnesses are at the witness

table, please state your name and spell it for the record. Also, when you alternate speaking, restate your name so the secretary will know which gentleman is speaking.

James G. Cox, Acting Director, Department of Corrections:

I am Greg Cox, Acting Director of the Department of Corrections, here today to discuss the Department and to give you background on what the DOC does. You have been provided with a handout ([Exhibit C](#)), concerning our mission, our vision, our philosophy and our goals. For clarification purposes, I am currently reviewing and refining the mission statement to include in future handouts the issues of reentry, transitional housing and other things that we do at the DOC. We expect to finish that within the next two to three months.

The page following the mission statement will give you a picture of where the DOC is located throughout the state. [Read from prepared presentation ([Exhibit C](#)).] Managing a correctional facility is like managing a small city. As you can see from [Exhibit C](#), our intake facilities are the High Desert State Prison, Southern Desert Correctional Center in Indian Springs on Cold Creek Road, Northern Nevada Correctional Center in Carson City, and intake of female inmates at Florence McClure Women's Correctional Center, in North Las Vegas.

As I referenced earlier, the DOC operates major business activities in our facilities, besides intake and incarceration. We operate adult basic education, general education development, high school and other education programs for our inmate population. Very little is heard about transportation, which is a key component of what we do. Reentry and release are critical programs for our Department and very significant to the system as a whole. There are approximately 12,800 inmates in our facilities and the DOC releases 4000 to 4500 inmates per year.

We operate intermediate sanction programs and diversion programs, such as the program at Casa Grande Transitional Housing Center. The Opportunity for Probation with Enforcement in Nevada (OPEN) program is an intermediate sanction program modeled after the Hawaii Opportunity for Probation with Enforcement (HOPE) program. The goal of HOPE is to provide probation violators a second chance and to divert offenders away from a return to jail or prison. Another intermediate sanction program is Purpose, Respect, Integrity, Determination, and Excellence program (P.R.I.D.E.), which is in its infancy. These programs allow us to work closely with the courts. The OPEN program works with Judge Glass, in Las Vegas. The Department has been working with the Department of Employment, Training and Rehabilitation (DETR) and with P.R.I.D.E. The P.R.I.D.E program provides prerelease and post release assistance to inmates and felons by incorporating intensive case management,

transitional housing, employment training and placement, life skills training, mental health services, substance and drug abuse counseling, mentoring, and other comprehensive transitional services. The P.R.I.D.E. program works with Judge Kerns, Judge Voy, and others in Las Vegas. The funds for P.R.I.D.E. come from federal grant programs such as those authorized by the Second Chance Act of 2007.

The male and female inmate population has remained relatively flat. [Read from prepared statement ([Exhibit C](#)).] The JFA Institute (JFA) projects less than 1 percent population growth. Intake into our jails is monitored very closely by me and JFA. We also communicate with the large counties in Nevada to look at their intake, which is a good indicator of where the Department is going. At a recent meeting, Sheriff Gillespie indicated that major crime was down in Las Vegas, except for sexual assault. Sheriff Gillespie's detention center staff and I recently discussed relevant issues such as increase in population. There is a decrease of about 6 to 7 percent in some of the minimum-security custody levels, which is a reflection of Assembly Bill No. 510 of the 74th Session, which reduced our minimum custody.

The slide entitled, "Population Demographics" on [Exhibit C](#) shows a breakdown of female and male inmates, listed under the type of offense. In the past, "security threat groups" were referred to as "gangs." We now refer to them as "security threat groups" because that is the definition used by the court system. This demographic helps us define disruptive groups and how they impact our operation. Security threat groups have grown slightly and inmates coming into the system are monitored constantly in order to validate these groups. An increase in security threat groups is shown on [Exhibit C](#). We believe these offenders will increase by 1 or 2 percent going forward. The instrument we use to validate security threat groups looks at offenders' tattoos, their presentence investigation (PSI) reports, and the crimes for which they were convicted. These factors allow us to identify these inmates at the time of intake, as well as to follow those we already have in our system. This data is also used to determine if a particular security threat group comes into the system which places current inmates in our system at a significant risk level.

The Priorities of Government activities with which both I and Deputy Director Mohlenkamp are involved is shown on [Exhibit C](#). Deputy Director Mohlenkamp can explain some of the issues with the core functions.

Jeff L. Mohlenkamp, CPA, Deputy Director, Support Services, Department of Corrections:

When we began the Priorities of Government process, it was on top of all other budget building. The process was a valuable one, and a step forward in the

way we prepare for the state budget. [Read from prepared presentation ([Exhibit C](#)).]

Speaking directly to core activities, the Department's mission is to safely and securely confine convicted felons. [Read from prepared testimony ([Exhibit C](#)).] Inmates in our minimum security facilities leave for scheduled activities such as forestry and work assignments during the day and then return to the facility. As a result, the cost to house a minimum security inmate is significantly less. [Read from prepared testimony ([Exhibit C](#)).] Medical service is separated into its own activity because providing medical services to inmates is costly and will become even more so going forward. Support services are necessary for the core activities to function properly and provide a successful operating prison system.

The last category, infrastructure activities, includes fiscal services, payroll, personnel and training, information technology, and general administration, comprise approximately 5 percent of the entire department budget and 4 percent of the General Fund allocation. The DOC is very lean in these areas when compared to other prison systems in the United States.

James G. Cox:

Our presentation has addressed the many challenges the DOC faces. Our staff has commented that they are satisfied we are bringing these issues to the forefront of the discussion. Over the next one to three years we will lose many key management personnel to retirement, including four wardens. The warden at Florence McClure has retired and Deputy Director Helling at Northern Nevada operations is up for retirement. There are long-term challenges in recruiting and retaining staff, partly because of our fiscal responsibility to the state. When Nevada's economy improves, it is my intention to return and seek the level of pay that our personnel had in the past.

The deterioration of physical plants is a major concern of ours. Prisons in general require extensive maintenance, very much like school buildings might require, with respect to the doors, windows, heating, ventilation, air conditioning, and all of the physical structure maintenance. These are challenges with current funding, and I anticipate that there will be more of an emergency mode as these items deteriorate and need repair and replacement. The preventive maintenance program is a key aspect to continue going forward and will present a significant challenge to the Department.

Potential legal concerns are important. Medical treatment for inmates is a key component, and there will be a great deal of discussion in the future. The California Department of Corrections and Rehabilitation (CDCR) is currently

under an intensive federal court Consent Decree with regard to medical services provided to inmates. It is our goal to learn from California's mistakes, so we do not experience California's very significant and ongoing difficulties. However, there is always the potential for litigation in this area. Religion in prisons is an area in which a substantial amount of time has been spent in the courts, including religious programs the DOC provides to our inmates, and how we provide these programs. These are constitutional rights and services we are required to provide. Many issues concern food that is served by the prisons, as well as the level of access to food and the amount of time the inmates have access to food. These issues are not peculiar to Nevada. All states face the same challenges in these areas.

We deal with the Prison Rape Elimination Act of 2003. The DOC has investigators who deal exclusively with that specific issue. The federal Department of Justice and other entities are looking at how departments of correction throughout the country operate, how these incidents are reported, what services are provided, and what is done when those instances occur.

Connecting inmates to community services is a critical component of corrections. These are services that I feel should have been addressed for many years. There is an emphasis on these programs now. These services can prove very costly, such as when we did site and plan a prison that was not opened, which cost the taxpayers \$283 million.

The long-term diversion of offenders away from jail and prison will provide dividends to the taxpayers and allow us to provide community services in areas where those funds are needed. I would ask for your support on those programs as we continue to roll them out because they are a key to successful reintegration. When an inmate is released, the reentry programs are a major factor in that inmate not returning. The inmates are helped in many ways through these diversion programs including preparing them for interviews, helping them with writing resumes, obtaining identification cards, birth certificates, social security cards, and other items. The team of people providing these services in the DOC is doing a very good job. In addition, it is critical that inmates connect to community-based services, such as a continuum of care through mental health and substance abuse services provided in our facilities that will continue upon release from our facilities. Aftercare is critical to substance abuse issues. It provides a great benefit by reducing recidivism. We partner with the Substance Abuse Prevention and Treatment Agency (SAPTA) which works to reduce the impact of substance abuse in Nevada. This is accomplished by identifying alcohol and drug abuse needs and by supporting a continuum of services including prevention, early intervention, treatment, and

recovery support. The SAPTA provides regulatory oversight and funding for community-based public and nonprofit organizations.

Our Department does not have the type of technology that other departments have. Our maximum security prisons do not have the cameras that almost every maximum security prison in the country has. There are many areas within our facilities in which we can use video surveillance, such as visitation; and the delivery of telemedicine, which is video conferencing for the use of psychiatrists, and is currently done in Las Vegas and Ely. The staff brings the offender to a video conference room in Ely, and the inmate talks with the psychiatrist in Las Vegas. That is a program we have taken from CDCR. It is an opportunity we feel is worth expanding, and we intend to do so.

We are concerned with what can be done to make energy management more efficient. We are also focusing on preventative maintenance. This is crucial because of our limited budget.

We are eliminating certain food items that we have previously provided to inmates, such as coffee, sugar-based drinks, and other items that provide no dietary significance or nutrition to inmates.

On behalf of the DOC, I invite all of you to visit our facilities. There is a visit scheduled soon for you to tour the Nevada State Prison, and I hope you will continue to visit our facilities.

We have asked for the passage of the three BDRs submitted by the Department. [Read from prepared presentation, ([Exhibit C](#)).]

We have informed the Legislature of initiatives for medical and substance abuse services and partial privatization. We have a request for information out with the Department of Health and Social Services concerning physicians, dentists and psychiatrists. We have had interest from a number of companies who are interested in helping with that. The DOC might gain from the consolidation of services.

Chairman Horne:

I am glad that some of our Committee members have already visited your facility, and it will be a good experience for our Committee to visit Nevada State Prison. Can you explain more on the closing of Nevada State Prison and your anticipation that personnel from that facility will be absorbed into other facilities as well as dispersing inmates to other facilities?

James G. Cox:

First, my goal with regard to staff is to reduce layoffs to zero. If we are allowed to close Nevada State Prison, with the Legislature's approval, on October 31, 2011, I am looking at positions that we can keep vacant to reduce the possibility of layoffs. I think that is critical to our staff. We also have vacancies in Lovelock, and we have camps on Interstate 80 that we are looking at. My goal with regard to movement of inmates involves the two units we have in southern Nevada off Cold Creek Road in Indian Springs. One unit is High Desert State Prison, 22010 Cold Creek Road, Indian Springs. The other unit is Southern Desert Correctional Center, 20825 Cold Creek Road, Indian Springs. These facilities are about 30 miles north of Las Vegas, on Highway 95. There are in excess of 700 inmates at Nevada State Prison. If inmates have family in northern Nevada, we are going to move inmates, as much as possible, so that they can remain in northern Nevada. However, we have to move inmates where we have those beds. Most of the beds are in the Las Vegas area. There are currently 300 beds at Florence McClure that have no inmates in them. There are 712 beds at Southern Nevada Correctional Center in Jean, Nevada, which has been closed. You will hear more in the future about the capacity of beds and what we have done in the past. With the closure of Southern Nevada Correctional Center, we had the opportunity to reduce layoffs. In fact, everybody at the facility was placed in a job, except for four. Those four all retained jobs through University of Nevada, Las Vegas, or other agencies in that area. We intend to model what we did in Southern Nevada Correctional Center with what we will do here, with the help of other state agencies and the Department of Personnel.

Chairman Horne:

You mentioned 300 beds at Florence McClure. That does not really help because it is a facility for women only.

James G. Cox:

That is so. You will be hearing about the capacity and other issues we have at different facilities and what is being done in those facilities. Southern Desert is currently down to approximately 1800 inmates so there are beds there that can be used. The DOC has buildings with no one in them and that have no officers assigned to them because they are unfunded.

Assemblywoman Diaz:

You presented data on the projection of population coming into the prisons in the next few years. How do you come up with those numbers? The numbers do not seem to match the situation of today's economy.

James G. Cox:

The JFA Institute is hired through the Legislative Counsel Bureau to provide the projections. Historically, with a downturn in the economy, an increase in prison admissions is normal. However, we have not seen that across the country. We are keeping a close eye on that issue through Sheriff Gillespie in Las Vegas. We have not seen a significant increase in crime at all. In fact, we have seen a decrease. Historically, there is no way to explain that. We are still looking at this trend. Forty-four states have seen a decrease in prison population. In those states where an increase in population did occur, the increase was based on new statutes and laws regarding sentencing structures.

Assemblyman Hansen:

I believe the Nevada Spending and Government Efficiency (SAGE) Commission talked about privatizing Ely and Lovelock prisons. Have you looked into that issue? What is the percent of nonviolent inmates? Several people have approached me stating we need to release those inmates and free up that money for education. What is the actual percentage of recidivism in the state prison system?

James G. Cox:

The SAGE Commission made recommendations that Ely and Lovelock be privatized. I am not involved in that. Several private corporations have looked at our operation and other facilities, including Southern Nevada and the facility at Jean that is now closed. I will provide the Committee with more information as it is provided to me. Regarding nonviolent offenders, the Department takes what we receive. The percentage of nonviolent offenders is based on the laws in Nevada, and the criminal justice system implements the laws. You will always hear about housing nonviolent offenders. That is where the intermediate sanction, reentry and release programs come into play.

Nevada's recidivism rate is approximately 22 percent, which is a low rate. Recidivism numbers are obtained from a wide array of data across the country. It is sometimes difficult for the average person to understand recidivism rates. Recidivism is usually based on a three-year study. The way these rates are obtained is not consistent throughout the country. Some people believe that when inmates are released into our communities, they leave and go back to other states. That is not true. Inmates released in Nevada generally stay in Nevada and return to the communities they lived in prior to incarceration. The 22 percent is a two-year snapshot. I will be looking at modeling what the National Institute of Corrections does to provide better data. Other states have 52 percent and 56 percent recidivism rates. Some states do not consider a return to jail as part of their recidivism rates. Other states consider both return

to jail and return to prison in their recidivism rates. Some states consider only return to prison because of felony convictions. Other states do not agree.

Assemblyman Hansen:

Can you further explain the percentage of nonviolent inmates?

Jeff Mohlenkamp:

On the slide entitled, "Population Demographics," ([Exhibit C](#)), the percentage of population with violent offenses is explained with percentages for females and males. This means the current offense for which they are incarcerated. If they have violence in a prior offense or some violence while in the institution, that is not captured in that data.

Chairman Horne:

As some history for the members of the Committee, the privatization of prisons in Nevada was considered for the women's facility in southern Nevada a number of years ago. That company abruptly ended its operation due to costs and left the state in the lurch. So you might find that some people will be hesitant to go down that road again. Contracts would have to be tighter if we do choose to privatize once again.

Jeff Mohlenkamp:

I would add that our costs are very low. I am not sure there would be a dramatic cost saving through privatization. There could be some cost savings, but not as significant as some other states might enjoy.

Assemblyman Frierson:

Director Cox, I am looking forward to receiving the information on reentry and diversion programs, the Second Chance Act, and any data you have on the long-term savings associated with those types of programs. I have received communications from people who are concerned with getting rid of presentence investigation (PSI) reports. Can you talk about how challenging it would be for the Department to accomplish what it does without the PSI reports?

James G. Cox:

Presentence investigation reports are critical instruments of intake. They classify and place inmates in our population. The intake facilities at Northern Nevada Correctional Center, High Desert, and Florence McClure use PSI reports. We have met with Bernie Curtis and his staff at the Division of Parole and Probation to discuss the process in looking at the impact PSI reports have. Everyone understands the critical importance of those instruments. In our field, PSI reports are critical tools to safely place inmates in facilities, cells, and units. The PSI reports include identifying security threat groups and victim impact

statements. A PSI report is a very detailed document and is critical to our operation.

Assemblyman Hammond:

I am a teacher at Indian Springs High School. When you refer to High Desert Prison you use the phrase "at Indian Springs." Is it officially at Indian Springs?

James G. Cox:

I will correct that. We want to refer to it as "on Cold Creek Road," and I apologize to the folks at Indian Springs. I have spent time with the leaders of Indian Springs and apologize for using that term.

Assemblyman Segerblom:

The demographics chart in [Exhibit C](#) shows one-fifth of the male inmates are there for sex offenses.

James G. Cox:

That is true.

Assemblyman Segerblom:

So, when they are released, would they register as sex offenders and have to comply with Nevada laws?

James G. Cox:

That is my understanding.

Assemblyman Segerblom:

On an annual basis, how many felons are released from the prisons?

James G. Cox:

On average, between 4000 and 4500 a year. We turn over a little less than one-third of our population per year, which is a significant statistic.

Assemblyman Segerblom:

If this were part of that average, 1000 of those would be sex offenders?

James G. Cox:

Yes.

Assemblyman Brooks:

You stated that you wanted to educate the Committee on reentry and intermediate sanction programs. Who do you currently partner with for the reentry program?

James G. Cox:

We partner with Workforce Connections and DETR; we have the Second Chance Act and we are using that federal funding for our reentry services at Casa Grande. We have reentry staff who work with the Department in our northern Nevada facilities also. Our plan is to eventually roll those operations out in the Northern Nevada Restitution Center. There is a plan to build another facility in Reno, which will be called "Eagle's Nest." We do have a facility at Northern Nevada Restitution Center for reentry and those types of community correctional center services. That facility has 90 to 100 beds.

Assemblyman Brooks:

How exactly does that work? Are there people who work with the inmates before they get out of prison and after they are out of prison?

James G. Cox:

To be done correctly, the reentry component starts the day the inmate comes into prison. It begins with obtaining identification, determining where in the system the inmate will be placed and what education programs the inmate will participate in, and how long the inmate will be in the system. It goes back to the judgment of conviction and other documents that were provided. All of the components are critical, such as developing job skills, helping the inmates with the interview process, developing life skills and parenting skills, providing anger management skills and all of those things that prepare an inmate for release. As an example, there is a very intensive reentry program at Casa Grande, where help is provided with obtaining employment, obtaining proper clothing to reenter the community and interview for a job. We have critically identified what those issues are across the board. In addition, requiring the inmates to learn how to discuss the acts that caused them to come to prison, the crime that was committed, and how the inmates portray their crimes are very critical areas to help the inmate obtain employment and a job.

Chairman Horne:

I see no further questions. I will close the Department of Corrections presentation. We are now going to have a presentation from the Division of Parole and Probation, Chief Bernie Curtis.

Bernard W. Curtis, Chief, Division of Parole and Probation, Department of Public Safety:

I am Bernie Curtis and I work with the Division of Parole and Probation, Department of Public Safety (DPS). With me today are Mark Woods, Deputy Chief, Northern Command and Headquarters; Kim Madris, Deputy Chief, Southern Command, Las Vegas; and Rick Gimlin, Chief of Administrative Services, Division of Parole and Probation. A presentation was submitted to the

Committee ([Exhibit D](#)), which is similar to the presentation we submitted two years ago. Many things have not changed. Assemblyman Kite and I served together in the past as county commissioners. [Read from prepared testimony ([Exhibit D](#)).] We are one of many divisions of the Department of Public Safety. Our sister agency is the Highway Patrol.

We have moved into new quarters, located at 475 Valley Road, Reno, and invite all of you to visit us at our new offices. We are also in the new Campos Building, located at 215 East Bonanza, Las Vegas. Due to the failing economy, the Campos Building also houses the Highway Patrol, Records and Technology, and some personnel. The glossary of terms on pages 9 and 10 of the presentation is self-explanatory.

Assemblyman Hansen:

Do you run the restitution centers?

Bernard W. Curtis:

No, we do not.

Assemblyman Hansen:

I would like to compliment whoever runs those facilities. They are very well run facilities. We have hired people out of those centers as they try to reintegrate into society. It has been a pleasure working with the personnel there and observing how closely they monitor the inmates as they work their way back into society.

Assemblyman Frierson:

If PSI reports were removed, how would you be able to operate? Or, would you be able to operate?

Bernard W. Curtis:

We do not believe the PSI reports will be removed from any department. The proposal at this point is to place them within the jurisdiction of the district courts and the various counties. They will still be done and we will utilize the product as it comes from the courts.

Assemblyman Frierson:

Can you tell us the percentage of your caseload that exclusively involves gross misdemeanors?

Bernard W. Curtis:

I will call on Mark to answer that. He has all the statistical data that we have.

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

Of the 13,000 offenders we supervise within the state, approximately 2700 are gross misdemeanors.

Chairman Horne:

What is the status of PSI reports for gross misdemeanors? The district courts moved away from asking for status of PSI reports on gross misdemeanors and then I have heard the district courts were going back to PSI reports for misdemeanors.

Mark Woods:

We had a staff shortage for a small amount of time and we stopped doing those. The courts were well aware of that. At this point we are accomplishing PSI reports for gross misdemeanors and have been doing so since September.

Assemblyman Segerblom:

Many of us are pushing for an intermediate sanctions bill which would release many nonviolent offenders out of the prisons. It seems like that will increase your workload. Have you thought about how we can increase the number of officers? Do you need a college degree and some type of background to have one of those positions?

Mark Woods:

At this point, we do not require college degrees for our officers, or for a Department of Public Safety (DPS) Officer II, which is the same classification as highway patrol officer, parole and probation officer, or deputy fire marshal.

Assemblyman Segerblom:

Do you conduct the training yourself?

Mark Woods:

No. First, a certificate is needed for graduation from the academy, and then we accomplish training specific to what we do.

Assemblyman Segerblom:

If we dramatically expand the number of people you are supervising, that obviously would require more employees. How long will it take to accomplish the entire training?

Mark Woods:

Generally, it takes 12 to 16 months to get a fully qualified person on the street to work in Parole and Probation. It is the same as for a deputy sheriff in a local agency, or for a Nevada highway patrolman.

Assemblyman Segerblom:

Do you feel there are people out there who are eligible and if you opened the position there would be enough applicants?

Mark Woods:

We have opened up positions in the past. We recruit through the DPS, as does every division in the Department, and obtain a certain amount of applicants who wish to work for the Division of Parole and Probation. We take those if we have the opportunity and the ability to hire at that particular time. We are funded differently than most of the DPS. We are funded through the General Fund and a small amount of grant support.

Chairman Horne:

What about lateral hires from other jurisdictions?

Mark Woods:

We have done that within the Department of Public Safety. Our difficulty is that our people will transfer to other agencies. That is the reverse of what we want. At this point, however, we are very proactive. Based on budget restraints at this time, we have been conservative about hiring new people. I do not want to hire new people and then have to terminate their employment.

Assemblyman Segerblom:

Do you know what the cost ratio is per parolee versus prisoner?

Mark Woods:

A general estimate based upon where the inmate is housed, and other factors, would be at one-tenth or one-eighth. It varies widely because of the cost to house inmates at different facilities within the state.

Chairman Horne:

I would also like to remind the Committee that these money matters, if we are to pass policy out of this Committee, will go to Ways and Means. In that particular scenario, while you may have a cost saving in the DOC, that savings could shift over to DPS, Division of Parole and Probation, but it may not be a dollar for dollar transfer of money.

Assemblywoman Diaz:

Of the people who are released on parole, how many are discharged from parole and how many violate parole and have to return to the prison system? Do you have facts and figures for that issue?

Mark Woods:

We are generally very successful with parolees. The number of people who make it through their parole term and are discharged is in the high 80th and low 90th percentile.

Chairman Horne:

Seeing no further questions, I will close the Committee time for presentations. The Committee will take a five minute recess and reconvene at 9:10 a.m.

Chairman Horne:

It is 9:10 a.m. We will reconvene the Assembly Committee on Judiciary. We have two bills to consider this morning, Assembly Bill 11 and Assembly Bill 12. We will start with A.B. 12, which transfers authority to use the Parolees' Revolving Loan Account to the Chief Parole and Probation Officer.

Assembly Bill 12: Transfers the authority to use the Parolees' Revolving Loan Account from the State Board of Parole Commissioners to the Chief Parole and Probation Officer. (BDR 16-458)

Rick Gimlin, Administrative Services Officer III, Division of Parole and Probation, Department of Public Safety:

Assembly Bill 12 (A.B. 12) proposes to place both the use and control of the Parolees' Revolving Loan Account under the Chief Parole and Probation Officer. Currently this account is for the State Board of Parole Commissioners. However, control of the account is currently under the Chief Parole and Probation Officer. The bill would place both the use and control of the account under the Chief Parole and Probation Officer. That concludes my testimony.

Assemblyman Kite:

The account is currently under the control of the State Board of Parole Commissioners. How often does the Board meet?

Rick Gimlin:

Actually, the control of the account is under the Chief Parole and Probation Officer, Bernie Curtis. The use of the account is for the State Board of Parole Commissioners. I would have to defer to the Chair of the Parole Board, Connie Bisbee, to find out how often the Board meets.

**Connie S. Bisbee, M.S., Chairman, State Board of Parole Commissioners,
Department of Public Safety:**

The Nevada Board of Parole Commissioners is a full-time board and we meet on a daily basis. We have approximately 8500 hearings per year.

Assemblyman Kite:

My reason for asking is, it looks like this bill gives more flexibility. If one of the parolees needs some of this money will this make it easier or quicker for them? In essence, why is this change necessary?

Connie Bisbee:

The history of this particular situation is that approximately \$4500 was put into this account, many years ago during the construction boom. The reason for this account was to allow parolees access to small amounts of money in order to buy tools, work boots, et cetera, so that they could immediately go to work in the construction business. This was sponsored by the unions who asked that this happen. Previously, this was a loan account. The loans were actually paid back when this account was set up. I believe it has been several years since any money that the Chief has allowed these folks to use has come back to the account.

Assemblyman Kite:

Will this make that money more accountable or disbursed quicker?

Connie Bisbee:

In discussing this with the Chief, we are talking about a couple hundred dollars that is currently in the account.

Rick Gimlin:

There is only about \$500 cash in the account. We are two separate entities. The Board of Parole Commissioners is an entity separate from the Division of Parole and Probation. Both entities report directly to the Director of Public Safety. In looking at how this account is structured, the use of the account is for one entity, the Parole Commissioners, while control of the account is with the Division of Parole and Probation. In terms of flexibility, it made sense to have both the use and the control of the account under a single entity. In terms of the question of accountability, it would then rest with one entity rather than two separate entities.

Assemblyman Brooks:

The fiscal note to the state shows there is some type of impact on the state, but when I look at the fiscal, it does not show anything. Is this just a transfer of money, the use of which is already predetermined?

Rick Gimlin:

There is no cost to the state whatsoever. The Division of Parole and Probation currently maintains all the records for the account. The only effect would be transferring from one agency to the other.

Assemblyman Brooks:

Is this money actually coming from Parole and Probation? Do you set aside a certain amount of money to do this for former prisoners?

Rick Gimlin:

As Ms. Bisbee was explaining earlier, initially \$4500 was appropriated to the account, which was set up as a revolving loan account. Currently, that account resides within the Division of Parole and Probation. The current cash balance in the account is \$515. It is a non-reverting account, except if the balance were somehow to exceed \$4500, the excess would go back to the General Fund. At this time that \$515, if unused during the year, would just continue to carry forward.

Assemblyman Brooks:

That \$515 seems to be enough to service only one person, if a parolee receives \$300. How many people are being helped with this money?

Rick Gimlin:

The last significant loan activity was prior to 2001. For such a small amount of money, and to maintain accounting for the fund and to budget for the fund, I believe these funds should revert back to the General Fund at this time.

Chairman Horne:

Any further questions?

Connie Bisbee:

We have talked with the Division of Parole and Probation and there is no issue regarding changing the wording to "for the use of the Chief Parole and Probation Officer." However, as Mr. Gimlin has pointed out, this has been a defunct process since 2001. It may be the time at which you choose to dissolve this particular account. It may cost more to maintain the account than it is worth. For many years there has only been one person who has made an attempt to pay back a loan to this account. I would be more than happy to suggest an amendment that the fund be dissolved and the \$515 be returned to the General Fund.

Chairman Horne:

That is something to consider. This Committee might save money. We might be the first Committee to save money this session. Seeing no further questions, is there anyone in the audience who signed in wishing to speak in favor of A.B.12? [No one responded.] Is there anyone wishing to speak in opposition to A.B. 12? [No one responded.] A.B. 12? Is there anyone wishing to speak as neutral? [No one responded.] I will close the hearing on Assembly Bill 12.

Chairman Horne:

I will open the hearing on Assembly Bill 11 which relates to the Department of Corrections (DOC).

Assembly Bill 11: Revises provisions relating to the Department of Corrections.
(BDR 14-452)

James G. Cox, Acting Director, Department of Corrections:

This bill concerns the ability to perform "trace and trap" with regard to cell phones and an escaped inmate. Pamela Del Porto, Inspector General, will be glad to speak on the surrounding issues and why we are asking for this legislation.

Pamela K. Del Porto, Inspector General, Department of Corrections:

I am the Inspector General for the Department of Corrections (DOC). I am in charge of investigations on behalf of the DOC, of inmates, staff and people inside or outside prison who assist inmates to perform illegal activities. I have submitted this bill because we ran into an incident where I had to sit in the District Attorney's office for five hours in order to obtain a "trap and trace" order because we knew the escapee had a cell phone in his possession. At the end of the five hours, it was recognized that the DOC and the crime of escape are not contained within the statute. Therefore, none of my peace officers could even seek an application to appear before a judge. This impacted me not only for five hours that night, but during the course of the following four months before we apprehended the escapee. Each time we needed to get new cell phone information, we had to involve another agency and bring a person from that agency up to date in the investigation, so that the person from that agency could appear before the judge to have a warrant issued. This would be another tool to protect the public.

James G. Cox:

Cell phones have a huge impact on operations in any department. Some of you may have read recently about cell phones being found in various prison facilities in this country. In North Carolina, a correctional officer was shot and severely injured at his home as a result of the job he was doing at a facility in

North Carolina. The call was made out of the North Carolina facility by a cell phone. That officer had been responsible in eliminating most of the cell phones from that facility. Cell phones are a huge money making device, and are a device used by security threat groups and other criminal organizations, such as drug cartels, in prisons across the country to communicate with the outside.

This bill is only concerned with escape. I was involved in the investigation along with Pam and some of her staff, attempting to capture this individual. If we had been able to accomplish some things in a more efficient manner, we would have been able to apprehend him sooner. The escapee used a cell phone, which he received from a prison employee. The employee ended up in the prison system and the escapee is back in our prison system as well. The escapee managed to stay out for four months. We had to keep going back to the court to ask for a new order. It is not uncommon that these individuals use multiple disposable cell phones. We constantly search for these cell phones inside of our facilities and try to discover how the inmate receives the cell phones. The cell phones are brought in by the staff, during visits, and through deliveries. This is a significant breach of security to our operation because we do not listen to the communications and cell phones are critical. This legislation is about escape.

Pamela K. Del Porto:

I would be more than willing to take any questions, not involving specific names, about the investigations.

Chairman Horne:

Are there any questions? [No one responded.] Is there anyone else either here or in Las Vegas wishing to testify on A.B. 11?

Kevin R. Ranft, representing American Federation of State, County and Municipal Employees, AFL-CIO, Local 4041:

I am Kevin Ranft, representing American Federation of State, County and Municipal Employees, AFL-CIO, Local 4041. We are here in support of the A.B. 11. This is an opportunity to provide tools to the DOC and ensure that our job is easier. This is an opportunity to bring us into the twenty-first century and to help prevent escapes. There are category I and category II peace officers who will be impacted by the passage of A.B. 11. In 2009, the criminal investigators in the Office of the Inspector General are now category II peace officers. The correctional peace officers are category III. This is a statewide issue. We are constantly doing cell searches to ensure there are no cell phones. It is a scary thought when the inmate has a cell phone because their calls are not monitored.

Assemblyman Hammond:

How would this work? If someone does escape, you have to first find out if that individual has a cell phone. Then, how do you do the sweep? Does the sweep have to be specific to that cell phone number? Are some people very cautious because the same technology can be used to find cell phones in the facility? Where is the delineation between using it for the sweep and then after they escape?

Pamela K. Del Porto:

This request for a change in the law is specific to an escape that has occurred. We have other mechanisms in place, such as cell searches by staff and locating contraband items, including searches with a canine. This bill is not for locating a cell phone inside the prison. It is to obtain information when we have a reasonable suspicion or probable cause to believe that the escapee has possession of a cell phone and that the cell phone can lead to the detection and apprehension of the escapee.

Assemblyman Hammond:

When you find out they have a cell phone, how do you locate the cell phone? Do you turn on the technology and locate any cell phone within an area, or do you have to have specific information about a cell phone number?

Pamela K. Del Porto:

We have to have specific information based upon subscriber information, specific to a cell phone number or range of cell phone numbers. All of this is gathered through intelligence development. We do not go out and sweep and capture general information from cell phones being used in the area.

Assemblyman Hammond:

Do you believe this will help you apprehend an escapee faster? Since it takes time to obtain the information, would this really speed up the capture?

James G. Cox:

Yes. There are multiple processes. We listen to other phone calls that are currently monitored, check mail, and perform other activities such as interviewing the escapee's cell partner, and reviewing the visiting room surveillance. This is an intense investigation process. There are many new technologies regarding cell phone detection and cell phone use. The military began using these technologies in Iraq and Afghanistan a number of years ago. Kevin Ranft and my staff do a very good job of searching and trying to find cell phones. We find out about cell phones through the measures of interviewing and then looking at the trail. At times, staff will come to us with information that makes sense to us. We may find the charger for the phone, but we will

not find the phone. There are other critical pieces of evidence the staff will find and quickly bring to us.

In this particular escape incident, the inmate had a charger, but he also had a phone, which we found out about through the investigation process. We learned afterwards that he used that phone to have someone pick him up in the middle of nowhere. If he had not had the phone, he could not have had that communication.

A dog was used in these searches, which is one of the things corrections uses across the country. I have seen that canine work and she does a very good job. We may also receive information from the outside. We often contact individuals outside of prison who might have relationship with the escapee. It is an intensive process. Time is of the essence when there is an escape. That was the case with this particular escape. We had to wait on things, and constantly go back, as he would drop a phone and start using another phone. Through the investigation process, interviewing, and following this individual, we found that people were supplying him with cell phones.

Assemblyman Ohrenschall:

Does each order apply to a single phone? What if you have reason to believe an escapee is going to visit his family and he might use a family member's cell phone. Do you need to get a separate order to get all of the possible phones? Would one order qualify to listen to all of the communications on all of those phones?

Pamela K. Del Porto:

Yes. One order per subscriber or per cell phone number as we discover that information. In the case of this particular escapee, we ended up obtaining an order per cell phone number that was located or discovered or the subscriber. Part of what we deal with, and do not discuss openly, are confidential sources outside the DOC that will disclose information. They provide information and then we take that information and apply for an order. By the end of this particular escapee process, we became very fast at obtaining the information. We would always try to get the same investigative staff member from the Office of the Attorney General to assist us.

Chairman Horne:

If you had an inmate escape, and the inmate's mother and brother were constant visitors year to year, you might start asking for an order for the cell phones of those individuals.

Pamela K. Del Porto:

Yes. That also goes back to the PSI report and how valuable as much information as possible is. I do not care how old the information is. One of the first things we did with this escapee was dispatch staff across the state and then we also began the background investigation on this inmate. Who is this inmate? Who associates with this inmate inside and outside prison? Then people are dispatched both outside and inside the prison. We began listening to phone calls. We considered what motivates the escapee, and where that inmate was likely to go. In the five hours I waited for this order, we had people all over the State of Nevada within two hours, based upon information coming through the investigations underway. Information in an escape like this comes very quickly.

James G. Cox:

We do not often talk about this. There were more victims as a result of this escape. My hope is that with the passage of this bill we will be able to reduce the number of victims resulting from an inmate escape. This individual perpetrated numerous robberies after his escape and conducted other activities that were also part of the investigation. If we had been able to get through the process quicker, we may have been able to reduce those incidents. We need to consider reducing the likelihood of other victims in a community as a result of this.

Assemblyman Brooks:

When this man escaped from prison, you were able to intercept telephone calls he made from the cell phone that you knew he had. My concern comes when we begin to look at the parent or the brother. Is there some civil rights violation by intercepting those phone calls?

Pamela K. Del Porto:

This would come down to probable cause. I need to have probable cause to believe that the crime of escape was done and that the escapee has use of a cell phone. I do not apply for an order for the "trap and trace" unless I have probable cause to believe that a mom, dad, brother, sister, girlfriend, or wife are, in fact, assisting or concealing the escapee.

Assemblyman Brooks:

At that point, can they be apprehended?

Pamela K. Del Porto:

Absolutely, if there is the probable cause to believe that person has committed the crime of conspiracy to harbor a fugitive or escapee.

Assemblyman Sherwood:

I am looking at the text of the bill. It seems very straightforward. At page 2, line 11, there is already precedence. If the interception provided evidence of the commission of "murder, kidnapping, robbery, extortion, bribery," et cetera, instead of escape, an order for "trap and trace" would be made. Is that correct?

Pamela K. Del Porto:

Correct.

Assemblyman Sherwood:

All we are discussing here is adding one more item on a laundry list of much more heinous crimes. Is that correct?

Pamela K. Del Porto:

Correct.

Chairman Horne:

The difference here is that the Inspector would not be seeking an intercept warrant for those other crimes. Other law enforcement officers already have it for those crimes. The Inspector is seeking the warrant for the crime of escape.

Pamela K. Del Porto:

Correct. Under the proposed legislation, beginning on page 3, line 11, our staff would be able to apply for this type of warrant for the charge of escape.

Assemblyman Sherwood:

My point is that there is precedent for enforcement of other laws. We are not doing any groundbreaking here. Correct?

Pamela K. Del Porto:

No, sir, other than helping us.

Assemblyman Brooks:

You can still get to this information, even if this bill is not passed. You have ways such as you just explained to get to it anyway?

Pamela K. Del Porto:

Correct, but through a longer way.

Kevin Ranft:

Our concern here is the speediness of obtaining the warrant. In the one escape we are talking about, there was a home invasion. We want to prevent the

home invasions and prevent the kidnappings. We want to remedy this as soon as possible. We do not want to see these things happen. There was an escape in Arizona where three people escaped. Two people died in New Mexico because of that escape.

Chairman Horne:

Are there any other questions? Is there anyone either here or in Las Vegas wishing to testify in favor of A.B. 11? [No one responded.] Is there anyone wishing to testify in opposition to A.B. 11? [No one responded.] Is there anyone wishing to testify who is neutral? [No one responded.] We will close the hearing on A.B. 11.

Does the Committee desire to move Assembly Bill 12, including the amendment proposed by Chairman Connie Bisbee regarding the Parolees' Revolving Loan Account?

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 12.

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Horne:

I will entertain a motion on Assembly Bill 11, giving the Department of Corrections and Inspector General the ability to intercept cell phone communications and others for the escape of an offender in the custody of the Department of Corrections.

ASSEMBLYMAN HAMMOND MOVED TO DO PASS
ASSEMBLY BILL 11.

ASSEMBLYMAN KITE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Horne:

Is there any further business or housekeeping for the Committee to take care of? [No one responded.] The Committee is adjourned [at 9:46 a.m.].

RESPECTFULLY SUBMITTED:

Jean Bennett
Committee Secretary

APPROVED BY:

Assemblyman William C. Horne, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: February 10, 2011

Time of Meeting: 8:02 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	James G. Cox, Acting Director, Nevada Department of Corrections	Overview Presentation of the Nevada Department of Corrections
	D	Bernard W. Curtis, Deputy Chief, Division of Parole and Probation, Department of Public Safety	Overview of the Division of Parole and Probation