

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-sixth Session  
March 23, 2011**

The Senate Committee on Judiciary was called to order by Chair Valerie Wiener at 8:03 a.m. on Wednesday, March 23, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Valerie Wiener, Chair  
Senator Allison Copening, Vice Chair  
Senator Shirley A. Breeden  
Senator Mike McGinness  
Senator Don Gustavson  
Senator Michael Roberson

**COMMITTEE MEMBERS ABSENT:**

Senator Ruben J. Kihuen (Excused)

**STAFF MEMBERS PRESENT:**

Linda J. Eissmann, Policy Analyst  
Bradley A. Wilkinson, Counsel  
Kathleen Swain, Committee Secretary

**OTHERS PRESENT:**

Pamela Del Porto, Inspector General, Department of Corrections  
Julie Butler, Records Bureau Manager, Records and Technology Division,  
Department of Public Safety  
Brian M. Campolieti, Executive Secretary, State Board of Pardons  
Commissioners

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CHAIR WIENER:

I will open the hearing on Assembly Bill (A.B.) 11. Thank you, Acting Director Greg Cox, for allowing members of the Committee and staff to tour Nevada State Prison yesterday.

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

PAMELA DEL PORTO (Inspector General, Department of Corrections):

Assembly Bill 11 would permit peace officers and criminal investigators in the Inspector General's Office to apply for a wiretap. If an inmate escapes and we have reason to believe the inmate or someone facilitating him has a cellular telephone, we could get the records necessary to track him.

CHAIR WIENER:

Section 2, subsection 1 of the bill references a pen register or trap and trace device. Please explain.

MS. DEL PORTO:

Those are investigative tools where we use equipment to grab the telephone numbers called or the area called.

CHAIR WIENER:

Both the pen register and trap and trace devices allow you to do that?

MS. DEL PORTO:

Yes.

SENATOR MCGINNESS:

You mentioned an escaped prisoner. Was that just an example?

MS. DEL PORTO:

Section 1, subsection 1 of the bill includes the offense of escape. This is based on a real-life scenario. Unfortunately, we did not apprehend the escapee for approximately four months. During that time, he obtained a weapon and committed robberies. When we apprehended him, he had taken an elderly couple in their home. We want to prevent this. Early in this scenario, we discovered he had a cellular telephone that a compromised staff member introduced into the institution. We had to apply for a wiretap through another

agency the next day. If we had been able to apply for this, we would have had him in 4 hours rather than 12.

CHAIR WIENER:

We received an e-mail in support of A.B. 11 ([Exhibit C](#)). I will close the hearing on A.B. 11 and open the hearing on A.B. 66.

**ASSEMBLY BILL 66**: Revises certain provisions concerning the restoration of a person's right to bear arms. (BDR 14-465)

JULIE BUTLER (Records Bureau Manager, Records and Technology Division, Department of Public Safety):  
I will read from my written testimony ([Exhibit D](#)).

CHAIR WIENER:

Section 2, subsection 5 of the bill refers to inspection of sealed records. Why is that not permitted now?

MS. BUTLER:

We do not have the statutory authority.

CHAIR WIENER:

How often are full unconditional pardons granted?

BRIAN M. CAMPOLIETI (Executive Secretary, State Board of Pardons Commissioners):

The State Board of Pardons does not have the authority to inspect a sealed record. When an individual applies for a pardon, we send information to the Division of Parole and Probation (P&P), which conducts a background investigation. The Pardons Board must know all it can about that individual's criminal history if a pardon is contemplated for him or her. From the investigation, P&P compiles a report for the Pardons Board and makes a recommendation. If everything looks good and the recommendation is good, that individual is placed on the Pardons Board agenda for review.

However, if an individual's records are sealed, we cannot access them, and the investigation cannot be done. In that circumstance, we ask the applicant to request the court to grant us access to those records, which may take a matter of months. Once we get those records, we can start the investigation.

CHAIR WIENER:

How often do you grant the full unconditional pardon?

MR. CAMPOLIETI:

We see between 30 and 45 applicants a year. We grant approximately 90 percent of those. For example, last year we saw 30 cases, and we granted 24. Most of those are unconditional.

CHAIR WIENER:

What is the difference between a full unconditional pardon and a conditional pardon?

MR. CAMPOLIETI:

For example, a pardon would be conditional if all civil rights were restored except the right to bear arms. The Pardons Board has the authority to do this. If offenders are convicted of a crime related to elections, they may be granted pardons restoring all their rights except their right to vote. That would be a conditional pardon. An unconditional pardon restores all rights, including the right to bear arms.

Section 3, subsection 3 of the bill says, "... must explicitly state that the person is restored to the right to bear arms." The Pardons Board has been doing this on its orders for the last 15 years—indicating the right to bear arms has been restored. The laws have changed over the past few years. Before the Brady Handgun Violence Prevention Act, the individual could go to the federal government and have firearms rights restored. Any older pardons would just say all rights are restored. That is considered an unconditional pardon.

CHAIR WIENER:

Would a person be granted a conditional pardon not including restoration of the right to bear arms because he or she used a weapon to commit the crime?

MR. CAMPOLIETI:

Yes. It depends on the Board's decision at that time. If a person's right to bear arms was not restored, it would be a conditional pardon and would have something to do with violence.

When the Pardons Board grants a conditional pardon—regarding restoration of the right to bear arms, for example—that individual may apply later on in an

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attempt to restore that right. It is not as if that individual would never regain the right to bear arms.

CHAIR WIENER:

What crime would warrant a conditional pardon not restoring a person's right to vote?

MR. CAMPOLIETI:

For example, if someone was convicted of voter or registration tampering, the Pardons Board may not restore that right. That makes the pardon conditional.

CHAIR WIENER:

I will close the hearing on A.B. 66. I will open the hearing for public comment. There being nothing further to come before the Committee, we are adjourned at 8:18 a.m.

RESPECTFULLY SUBMITTED:

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Kathleen Swain,  
Committee Secretary

APPROVED BY:

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Senator Valerie Wiener, Chair

DATE: \_\_\_\_\_

<b><u>EXHIBITS</u></b>			
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 11	C	Senator Valerie Wiener	E-mail from Nevada Association of Public Safety Officers
A.B. 66	D	Julie Butler	Written Testimony