

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session  
May 21, 2013**

The Senate Committee on Judiciary was called to order by Vice Chair Ruben J. Kihuen at 9:24 a.m. on Tuesday, May 21, 2013, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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 Tick Segerblom, Chair  
Senator Ruben J. Kihuen, Vice Chair  
Senator Aaron D. Ford  
Senator Justin C. Jones  
Senator Greg Brower  
Senator Scott Hammond  
Senator Mark Hutchison

**GUEST LEGISLATORS PRESENT:**

Assemblyman John C. Ellison, Assembly District No. 33  
Assemblyman Jim Wheeler, Assembly District No. 39

**STAFF MEMBERS PRESENT:**

Mindy Martini, Policy Analyst  
Nick Anthony, Counsel  
Lynn Hendricks, Committee Secretary

**OTHERS PRESENT:**

Steve Yeager, Office of the Public Defender, Clark County  
John T. Jones, Jr., Nevada District Attorneys Association  
James G. (Greg) Cox, Director, Department of Corrections  
John Wagner, State Chair, Independent American Party  
Juanita Clark, Charleston Neighborhood Preservation

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Duncan Rand Mackie, Nevada Firearms Coalition  
Eric Spratley, Lieutenant, Washoe County Sheriff's Office  
Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Chuck Callaway, Las Vegas Metropolitan Police Department  
Daniel Reid, National Rifle Association

**Senator Kihuen:**

We will open the hearing on Assembly Bill (A.B.) 91.

**ASSEMBLY BILL 91 (1st Reprint)**: Revises certain provisions relating to programs of regimental discipline. (BDR 14-740)

**Steve Yeager (Office of the Public Defender, Clark County):**

Assembly Bill 91 deals with the regimental discipline program—also known as the Three Lakes Valley Boot Camp program—run by the Department of Corrections (DOC). The Boot Camp is at the Three Lakes Valley Conservation Camp in Indian Springs. The facility opened in 1991. The Boot Camp lasts 150 days, plus 40 days for intake and processing, for a total commitment of inmates for 190 days, as per the *Nevada Revised Statutes* (NRS).

As they do in all boot camps, trainees participate in strenuous physical activities, including hard labor and military-style drills to instill discipline. Inmates are also offered classes in life skills like overcoming substance abuse, anger management and increasing employability. The concept is to give inmates skills to be successful after leaving the program. Trainees also perform community service projects for various organizations.

Assembly Bill 91 came out of the Advisory Commission on the Administration of Justice. Testifiers before the Commission estimated the daily per inmate cost of Boot Camp at \$42.30. It costs about \$58 per day to house State prison inmates and \$114 per day for detainees at the Clark County Detention Center. Boot Camp provides substantial savings.

Boot Camp capacity is 75 trainees, and it currently has 62. The DOC is considering implementing aftercare programs because sometimes released trainees will go out into the community without transitional housing. The DOC is looking into sending them to the Casa Grande Transitional Center. Defendants are ordered to complete Boot Camp after trial when they accept plea

negotiations prior to sentencing. If an offender violates his probation, the judge can send him to Boot Camp.

Assembly Bill 91 seeks to change who might be eligible for Boot Camp. The original bill draft would have allowed more people to go there. However, Assembly members were uncomfortable with that, so amendments were made. Before A.B. 91, there was a categorical exclusion from Boot Camp of offenders guilty of violent offenses. In the bill's section 1, subsection 2, if the district attorney stipulates violent offenders are otherwise eligible for Boot Camp, they could go there. No one has a right to be assigned to Boot Camp; it is at the judge's discretion. For a violent offender, the district attorney would have to agree with the judge that an individual was an appropriate candidate.

The bill's section 1, subsection 1, paragraph (d) amplifies the Boot Camp program. Subsection 1, paragraph (e) used to state that if an offender had spent more than 6 months of his life incarcerated, he was ineligible, but that has been stricken. Subsection 1, paragraph (d) extends the eligibility incarceration time to 365 days. The reasoning was if an offender had served time under a gross misdemeanor, under the new provision, he would be eligible for Boot Camp. Subsection 1, paragraph (e) also removes the word "jail." As the statute stands now, anyone who has been to jail for any amount of time would not be eligible for Boot Camp. That excludes all felons.

I heard about a man who had been in jail for 9 months for a gross misdemeanor sentence, and the judge really wanted to send him to Boot Camp but could not under the current NRS. Assembly Bill 91 would give judges more leeway in that decision. Section 1, subsection 2 outlines the documents the DOC director must review in making the determination of Boot Camp eligibility. Before someone goes to the Boot Camp, the Division of Parole and Probation, Department of Public Safety, prepares a presentencing investigation report that details the offender's history.

Typical offenders excluded from Boot Camp are on the fringe. Several of my clients have attended Boot Camp. Some did not complete the program; others were successful. Some prisoners are just not the same people when they come out of Boot Camp. They are the kind of people who need "Yes, sir/yes, ma'am" structure in their lives.

**Senator Ford:**

What are the post-Boot Camp recidivism rates in Nevada versus those in other states with similar programs?

**Mr. Yeager:**

I have not found national Boot Camp recidivism rates. The Nevada program has not tracked that rate in a meaningful way. Improving the recidivism rate was the impetus behind the aftercare effort by DOC. Men would come out of the Boot Camp structure and be back in court for sentencing within a month or two.

**Senator Ford:**

Assembly Bill 91 only applies to inmates over age 18. Is there a juvenile program that compares to Boot Camp?

**Mr. Yeager:**

I do not know, but I think there is a comparable program for juveniles. Generally, offenders over the age of 24 or 25 are not ordered to Boot Camp. Participants are usually quite young.

**Senator Hutchison:**

In the bill's section 1, subsection 2, paragraph (a), subparagraph (1), existing NRS would be amended to require the DOC director to "make all reasonable efforts to accommodate the defendant in the program." Was the director not doing that already?

**Mr. Yeager:**

There was a perception that inmates were ordered to Boot Camp because judges and attorneys thought their offenses were not violent. The DOC had a different view after reviewing the facts and presentence reports and sent the offenders back to jail as ineligible. The subsection 2, paragraph (a), subparagraph (1) language was drafted with the stipulation that the DOC director make reasonable accommodations if all agree that an inmate is eligible for Boot Camp.

In NRS 209.481's subsection 1, violent offenders could not go to Boot Camp because of a categorical exclusion for minimum-security facilities. We changed the bill language in section 2, subsection 1 to "Except as otherwise provided in NRS 176A.780 ... ." The idea is that perpetrators who committed crimes on the minor end of the violence scale could benefit from Boot Camp's discipline.

**Senator Hutchison:**

If we say that offenders who have been involved in violent crimes or have served prison time could now go to Boot Camp, what kind of eligibility expansion would A.B. 91 allow?

**Mr. Yeager:**

It is hard to say for certain. Based on my experience, a client or two per year would qualify for Boot Camp. New people entering the program could total 12 to 15 annually, depending on judges and the facts of cases. Some judges like Boot Camp more than others. Whether you go to Boot Camp depends upon which department hears your case.

**John T. Jones, Jr. (Nevada District Attorneys Association):**

The Nevada District Attorneys Association supports A.B. 91. There are no State-run, Boot Camp-like regimental discipline programs for juvenile offenders. We use private providers such as Yerington's Rite of Passage program. It is a structured environment with some military aspects, like getting the youths up early every morning to run.

**James G. (Greg) Cox (Director, Department of Corrections):**

The DOC information system allows us to analyze post-Boot Camp recidivism rates. Historically, offenders under the age of 25 recidivate at a higher rate than do adults. We have modified the Boot Camp with aftercare housing at Casa Grande during the 10- to 30-day window before offenders return to court. It also gives them the ability to obtain services to help with substance abuse, housing and education.

Many states do not have Boot Camp-like programs with life skills and substance abuse counseling in a highly structured, military-like environment. Expanding Boot Camp to include the Casa Grande aftercare program is the right thing. We already have the beds and capacity to expand.

**Chair Segerblom:**

We will close the hearing on A.B. 91 and open the hearing on A.B. 195.

**ASSEMBLY BILL 195 (1st Reprint):** Revises provisions governing applications for the renewal of permits to carry concealed firearms. (BDR 15-446)

**Assemblyman John C. Ellison (Assembly District No. 33):**

Assembly Bill 195 would authorize the holder of a permit to carry a concealed weapon (CCW) issued on or before June 30, 2011, to submit an application for renewal.

**Chair Segerblom:**

The \$2,671,175 fiscal note for this bill ([Exhibit C](#)) is off the charts.

**Assemblyman Ellison:**

That fiscal note was removed after it was reviewed by the Assembly Committee on Ways and Means. We do not anticipate an influx of people renewing their CCWs. The bill is based on A.B. No. 282 of the 76th Session.

The fiscal note was based on sheriffs obtaining permittees' fingerprints for the FBI, firearms fees and personal expenses. However, all of those fees are included in the price of a CCW application and not borne by the State.

An agreement was made prior to the drafting of A.B. 195 for no fiscal note if the CCW renewal processing date was extended from 120 to 180 days. The fiscal note was released before that.

**Chair Segerblom:**

Does the bill allow for early applications to renew CCWs?

**Assemblyman Ellison:**

Assembly Bill No. 282 of the 76th Session passed with language that CCW holders would have to submit to the National Instant Criminal Background Check System established by the Brady Handgun Violence Prevention Act. Permittees who renewed before June 30, 2011, would not have to pay the \$25 fee for the check. If a buyer was trained in the use of revolvers and semiautomatic weapons, he or she could get permits for those weapons. Assembly Bill 195 would allow people to reapply for CCWs up to the current date within 180 days versus 120 days. The bill's provisions would expire on June 30, 2016.

**Senator Hutchison:**

Does the bill seek to correct the situation in which when a person's CCW is set to expire, the sheriff has only 120 days to authorize its renewal? Would the bill extend that period to 6 months so applicants' rights are not lost under their

expired CCWs? Gun owners would have to be more proactive and apply for renewal 6 months in advance.

**Assemblyman Ellison:**

Correct.

**Assemblyman Jim Wheeler (Assembly District No. 39):**

Senator Hutchison's analysis of A.B. 195 is correct. The bill simply allows people to apply for renewed CCWs earlier to ensure their permits do not lapse.

**Assemblyman Ellison:**

Most of these permits are issued to "snowbirders" who go back and forth to Arizona and are gone from Nevada for several months.

**Senator Ford:**

Would the bill have any unintended consequences that should concern the Committee?

**Assemblyman Wheeler:**

No.

**Assemblyman Ellison:**

The biggest concern would be if the permit renewal period were too long. Just because the time is extended from 120 to 180 days does not mean that people cannot renew their permits sooner than 180 days.

**Assemblyman Wheeler:**

The original bill's deadline was 120 days. It was extended to 180 days to remove the huge fiscal note mentioned by Chair Segerblom. Then we found that 120 days did not require a fiscal note. The bill could be amended back to 120 days, but that is probably unnecessary.

**Chair Segerblom:**

Do you want the Committee to do so?

**Assemblyman Ellison:**

Yes. Sheriffs told us they try to get the permit renewals done within 30 to 90 days. The number of CCWs issued has dropped.

**Chair Segerblom:**

We will ask that an amendment be prepared for A.B. 195 that we will consider in a work session.

**John Wagner (State Chair, Independent American Party):**

The Independent American Party supports A.B. 195. I have renewed my CCW permit several times. It is easy to forget to do that, so the bill makes sense. The last time my permit was renewed in Carson City; it took 30 days. The renewal process should be simpler than applying for a CCW permit because of initial background checks. When I renewed my permit, I was just fingerprinted, and the whole process took less than a half-hour. Thirty days later, they called me to say it was ready for pick up.

**Juanita Clark (Charleston Neighborhood Preservation):**

The issue of 120 versus 180 days has not been adequately addressed, with the assumption that the Committee would hear the 180-day bill, but changes would not be made.

**Duncan Rand Mackie (Nevada Firearms Coalition):**

You have a copy of my written testimony ([Exhibit D](#)) and a letter of support ([Exhibit E](#)) for A.B. 195 from Don Turner, President of the Nevada Firearms Coalition. Reducing the CCW renewal time to 120 days is a good idea.

**Eric Spratley (Lieutenant, Washoe County Sheriff's Office):**

If the proposed 180-day limit is lowered to 120 days, the Washoe County Sheriff's office opposes A.B. 195. Our fiscal note still stands at \$72,000 to add a position to our CCW permitting unit. The NRS mandates that we renew CCW permits within 120 days, and we try to get them out as quickly as possible. The bill has an expiration date of June 30, 2016, and while we do not anticipate a last-minute renewal rush, that could happen. The financial strain on the counties seems to be lessening, but Washoe County is still hurting. We cannot fund another CCW position in order to comply with the bill's provisions.

**Chair Segerblom:**

Why would passage of A.B. 195 create a last-minute rush of renewals?

**Lt. Spratley:**

Crazy things happen at a State or federal level that cause people to suddenly buy ammunition and make sure their CCWs are valid to get through the next

sessions of Congress or the Nevada Legislature. If so, we need to be able to comply with the NRS.

**Chair Segerblom:**

Do you think your workload would increase because CCW holders who would normally prefile by a certain date will file sooner?

**Robert Roshak (Executive Director, Nevada Sheriffs' and Chiefs' Association):**

The Nevada Sheriffs' and Chiefs' Association approached Assemblyman Ellison when A.B. 195 was drafted and asked for the CCW permit-processing extension. As written, the bill allows people with CCW permits issued prior to June 30, 2011, to renew early. They could participate in the Brady Act exemption, to which CCW permits issued after that date are subject. By not going through the Brady check, gun owners can save money. We do not know how many people would take advantage of the loophole. Maybe no one will show up at our door; maybe everyone will at once.

We are trying to establish a buffer because the Washoe County Sheriff and the Las Vegas Metropolitan Police Department are feeling pressured by their counties' higher populations. Rural sheriffs are meeting the earlier deadline more easily. After permit renewals are submitted, all requests and documents must be funneled to the Department of Public Safety. The regular CCW registration period of 120 days would not change under the bill's provisions.

**Senator Ford:**

The Washoe County fiscal note would be based on contingency because you have no idea of the number of applicants. Is your only objection to the bill its cost, not the proposed extension?

**Lt. Spratley:**

Correct.

**Senator Ford:**

As law enforcers, in regard to the entire bill, you do not object to anything else in the bill?

**Lt. Spratley:**

Correct.

**Senator Hutchison:**

If the 180-day extension were not in the bill, would you support it?

**Lt. Spratley:**

Yes.

**Senator Hammond:**

Are you asking us to base legislation on a fear that you believe exists about the actions of Congress, session syndrome and people's irrational behavior?

**Lt. Spratley:**

You could put it that way. However, we need to be diligent in the use of Washoe County's resources. We support firearms use and CCWs, but we are at the threshold of not being able to get permits renewed by 120 days. If something happens like a scarcity of ammunition, and many people suddenly want to renew their CCWs, we would have to take officers off the street to issue the renewals within the statutory time frame. If that time frame drops back to 120 days, that could happen.

**Chuck Callaway (Las Vegas Metropolitan Police Department):**

If the proposed amendment drops the 180-day period to 120 days, I oppose A.B. 195. From Metro's standpoint, there are more than 30,000 CCW permit holders in Clark County. If just one-quarter of them decided to renew their permits early, our workload would significantly increase. Just a handful of people work in Metro's CCW section.

The CCW permit renewal process is virtually identical to the application process. During the 5 years of a permit, a holder could have committed a crime that makes him or her ineligible for renewal. We must do a thorough background investigation that equals the one we do for issuing a permit. Metro's CCW section processes about 8,000 permits annually, which is a significant workload. If people are eligible to save background check money every time they buy guns, they will renew their CCW permits early to save on those purchases. When A.B. No. 282 of the 76th Session passed, Metro unsuccessfully reached out to the Bureau of Alcohol, Tobacco, Firearms and Explosives to grandfather in people who had obtained CCW permits before the June 30, 2011, exemption.

**Senator Hutchison:**

If it were not for the 180-day period, would you support the bill?

**Mr. Callaway:**

I am neutral on the bill and have no issues about dropping the limit to 120 days.

**Chair Segerblom:**

Does Metro lose money on CCW renewals?

**Mr. Callaway:**

We break even. The fees we collect pay for the cost of doing business. However, the extra resources that would have to go toward a potential onslaught of early renewals could be a strain.

**Chair Segerblom:**

What if the processing period were 150 days?

**Mr. Callaway:**

The 180-day limit gives Metro extra time to process CCW permits. If my permit is up for renewal but Lt. Spratley still has 2 years left on his, if we both go in to renew them on the same day, is it fair that my renewal is delayed because he is there to save \$25 by not doing the Brady check? The 180 days allows Metro extra time to process initial and renewing permits. The limit is 120 days for a normal renewal. We would have 60 extra days to process Lt. Spratley's renewal and concentrate on getting renewals done within the 120 days. Otherwise, we may not get any permits processed within that limit.

**Chair Segerblom:**

The reality is if someone is cheap enough to save \$25, he or she probably can afford to wait 60 days.

**Daniel Reid (National Rifle Association):**

Is there a proposed amendment to restore the 120-day limit?

**Chair Segerblom:**

A conceptual discussion did not result in changes. The accepted amendment is included in the bill's first reprint we have before us.

**Mr. Reid:**

We supported that conceptual amendment, but if the limit is 180 days, the National Rifle Association is neutral on A.B. 195.

**Assemblyman Wheeler:**

Regardless of whether the limit is 120 or 180 days, this is a good bill. When the limit was 120 days, Clark County had no fiscal note, but now it does. Clark County has 30,000 CCW permit holders. Washoe County has nowhere near that number, yet it says it will cost \$72,000. Let us leave the limit at 180 days and make everyone happy.

**Assemblyman Ellison:**

We will work with police and sheriff's associations to expedite the permit renewal process. Next session, an audit should be done because it takes about 5 minutes to issue a CCW permit. Testimony that it takes a long time is untrue. When law enforcers told the Assembly Committee on Ways and Means that fingerprinting fees were \$3,528,000, they do not pay for that; it is included in the permit cost. They also do not pay for the \$1,176,000 for the Brady check. Agencies are not supposed to make a profit, just break even. The FBI background check fees are also included in the permit cost.

Counties submitted their fiscal notes to implement A.B. 195 before the 180-day limit was proposed. It was zero for Carson City, Churchill, Clark, Douglas, White Pine, Elko and Lander Counties. Washoe County's fiscal note was \$12,000 annually.

**Chair Segerblom:**

We will close the hearing on A.B. 195 and open the hearing on A.B. 422.

**ASSEMBLY BILL 422:** Requires an autopsy under certain circumstances when an offender in the custody of the Department of Corrections dies.  
(BDR 16-1143)

**Mr. Cox:**

Assembly Bill 422 would authorize the DOC to conduct autopsies on inmates after consulting with the DOC inspector general and our medical director. The bill includes language about preautopsy notification of next of kin and procedures if they have objections. The bill would not prohibit the DOC from requesting an autopsy if an alleged criminal act were carried out in our facilities.

Historically, best practice autopsy standards across the Country have allowed for this. Much litigation has been filed over autopsies after inmates have died in custody because of a belief we did not provide adequate care. Assembly Bill 422 is supported by inmate advocates and other groups.

**Senator Hutchison:**

Will inmate autopsies be automatically requested and performed unless the next of kin objects?

**Mr. Cox:**

Correct.

**Senator Hutchison:**

Are these best practices based on those in other states? Would the bill bring Nevada more in line with those practices?

**Mr. Cox:**

Yes. The bill would also protect and reduce the State's and taxpayers' lawsuit liability through the Office of the Attorney General if an inmate dies in custody.

**Senator Brower:**

Would the bill require the DOC director to request autopsies? Does it not address how coroners would have to respond to that request?

**Mr. Cox:**

It does not address that, but the State's coroners have worked closely with the DOC when we request autopsies. Historically, the DOC has not been denied autopsies we have requested. The bill's fiscal note is within the Governor's recommended budget.

**Senator Hammond:**

The bill's section 1 states, "The Director, in consultation with the designated medical director and the Inspector General of the Department ... ." If the autopsy is mandatory, what do those two people discuss?

**Mr. Cox:**

As the DOC director, I have always had those consultations with my peers nationwide anytime anyone dies, whether that occurs in a regional medical facility or in any other part of our operations. I then contact the appropriate

coroner's office and follow established procedures. The medical director determines if the inmate had medical issues or was on medications. The inspector general investigates any irregularities within the DOC administration or criminal activities among the inmates. My Deputy Director of Operations, E. K. McDaniel, and wardens understand all of this.

**Senator Hammond:**

Is there nothing in the bill that would have you say, "I consulted with the inspector general and medical director, and they told me not to do the autopsy"? Are you required to request autopsies?

**Mr. Cox:**

That is a fair question. Best practices and standards dictate that the DOC's medical director and inspector general would ask for an autopsy, regardless of the initial reports or activities surrounding the death. According to my experiences as an internal affairs investigator and observations of inmates, sometimes in initial reports on what happens in prisons, autopsies become critical evidence. They may reduce liability or provide information that leads investigators in new directions toward other inmates' criminal activities or misconduct. Cellmates may be potentially liable if one of them dies. Cellmates are investigated every time there is a death.

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**Chair Segerblom:**

We will close the hearing on A.B. 422. Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 10:15 a.m.

RESPECTFULLY SUBMITTED:

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Patricia Devereux,  
Committee Secretary

APPROVED BY:

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Senator Tick Segerblom, Chair

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

<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	1		Agenda
	B	2		Attendance Roster
A.B. 195	C	1	Chair Tick Segerblom	Fiscal Note
A.B. 195	D	1	Duncan Rand Mackie	Written Testimony
A.B. 195	E	1	Nevada Firearms Coalition	Letter of Support from Don Turner, President