

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eighty-first Session  
March 26, 2021**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:03 p.m. on Friday, March 26, 2021, Online. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Melanie Scheible, Chair  
Senator Nicole J. Cannizzaro, Vice Chair  
Senator James Ohrenschall  
Senator Dallas Harris  
Senator James A. Settelmeyer  
Senator Ira Hansen  
Senator Keith F. Pickard

**GUEST LEGISLATORS PRESENT:**

Senator Pat Spearman, Senatorial District No. 1

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Pat Devereux, Committee Secretary

**OTHERS PRESENT:**

Jessica Adair, Chief of Staff, Office of the Attorney General  
Nick Shepack, American Civil Liberties Union of Nevada  
Frank De Palma  
Mary Buser  
Denise Bolanos  
Kendra Bertschy, Office of the Public Defender, Washoe County  
Jennifer Henry  
Jim Hoffman, Nevada Attorneys for Criminal Justice  
Tina Megason  
Ashley White

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Jodi Hocking, Founder, Return Strong  
Christine Saunders, Progressive Leadership Alliance of Nevada  
Jameelah Lewis  
Mercedes Maharis  
Tami Irvine  
Eric Garcia  
Nicole Williams  
Ayanna Simmons-Oglesby  
Aurelia Rodriguez  
William Gittere, Warden, Ely State Prison  
Brian Williams, Deputy Director, Operations, Department of Corrections  
David Greene, Mental Health Director, Department of Corrections  
Harold Wickham, Deputy Director, Programs, Department of Corrections

CHAIR SCHEIBLE:

Anyone intending to testify today may submit written comments. Each person will have two minutes to testify; you may also simply state you agree with a former testifier. When the hearings for the bills are concluded, there will be time for public comment. To submit written testimony during or after the meeting, the email address is [SenJUD@sen.state.nv.us](mailto:SenJUD@sen.state.nv.us).

We will open the hearing on Senate Bill (S.B.) 161.

**SENATE BILL 161**: Eliminates the Advisory Committee to Study Laws Concerning Sex Offender Registration and transfers its duties to the Advisory Commission on the Administration of Justice. (BDR 14-514)

SENATOR PAT SPEARMAN (Senatorial District No. 1):

Senate Bill 161 was requested by the 2019-2020 Interim Session Sunset Subcommittee of the Legislative Commission, of which I was Chair. The bill would eliminate the Advisory Committee to Study Laws Concerning Sex Offender Registration. It would transfer that committee's duties to the Advisory Commission on the Administration of Justice (ACAJ). Both Committees are under the auspices of the Office of the Attorney General.

In a meeting on January 10, 2020, Subcommittee members chose 15 entities, including the Advisory Committee, for review during the Interim. The Advisory Committee was never used by the Subcommittee and had not met since October 2, 2018, despite being required to meet at least twice per year. On

February 21, 2020, the Subcommittee reviewed the Advisory Committee. Jessica Adair, Chief of Staff, and Kathleen Brady, Deputy Attorney General, Office of the Attorney General, testified before the Subcommittee on behalf of the Advisory Committee. They recommended the study of sex offender laws should take place within the ACAJ.

Under *Nevada Revised Statutes* (NRS) 176.0123, the Department of Sentencing Policy declined to rule on the change for several reasons. Members said the Advisory Committee's narrow scope leaves out many critical issues, and its membership lacks certain necessary stakeholders. The Attorney General is a member of both the Nevada Sentencing Commission, Department of Sentencing Policy, and ACAJ.

On August 31, 2020, the Subcommittee voted to recommend to the Legislative Commission a bill draft request to eliminate the Advisory Committee and transfer its duties to the ACAJ, the Sentencing Commission or both entities. The Subcommittee asked that the Office of the Attorney General not express a preference between transferring the duties to either entity. Senate Bill 161 has no fiscal impact.

JESSICA ADAIR (Chief of Staff, Office of the Attorney General):

The Subcommittee was unable to meet in 2019 and 2020 due to a lack of quorum. The Advisory Committee has been in NRS for more than ten years. While members have thoroughly examined federal and State adult sex offender registration laws, the Committee never sought to substantially alter or repeal the Adam Walsh Child Protection and Safety Act of 2006, codified in Nevada with A.B. No. 579 of the 74th Session. The Advisory Committee's narrow scope leaves out other critical issues: lifetime supervision for offenders; presentence psychosexual evaluations conducted by the Division of Parole and Probation (P&P), Department of Public Safety (DPS); analyses of recidivism rates; prevention of sexual offenses; victims' and offenders' services and others.

Another important feature of the Advisory Committee is the lack of certain stakeholders in its membership. *Nevada Revised Statutes* does not require a representative from DPS, the Central Repository for Nevada Records of Criminal History, the Department of Corrections (DOC), P&P or the State Board of Parole Commissioners. These agencies play a critical role in implementation of sex offender registration requirements. The statute also does not require judges or court representatives.

The Office of the Attorney General recommended a continued study of sex offender registration laws within the ACAJ. The DOC and DPS are required to assist the Advisory Committee on collection of necessary data, and ACAJ includes relevant stakeholders and a broader scope that would incorporate registration requirements into a more comprehensive discussion of how to best address sex offenders.

CHAIR SCHEIBLE:

We will close the hearing on S.B. 161 and open the hearing on S.B. 187.

**SENATE BILL 187**: Makes various changes relating to the solitary confinement of offenders. (BDR 16-170)

SENATOR PAT SPEARMAN (Senatorial District No. 1):

Senate Bill 187 seeks to refine S.B. No. 402 of the 79th Session to reduce and perhaps someday eliminate the use of solitary confinement, also called disciplinary segregation. The bill would require collection of relevant data unavailable until now. It would implement recommendations made by the Vera Institute of Justice, Center on Sentencing and Corrections, based on the findings of a multiyear study ([Exhibit B](#)). The study was conducted in conjunction with DOC on the use of solitary in our State.

Solitary is a form of isolation in which an inmate is deprived of human contact, except prison staff, often for up to 22 to 24 hours per day. This isolation can last for one or two days or up to several decades. The psychological and physiological effects of solitary have been exhaustively documented since the 1800s. Solitary can cause several mental disorders: enhanced existing disorders, negatively impacted rehabilitation efforts, increased depression, suicidal ideation. Physical effects range from increased headaches, heart palpitations and hypertension to muscle pain and weight loss.

After S.B. No. 402 of the 79th Session passed, DOC was prohibited from imposing solitary unless an offender is found guilty of a prison infraction, is provided with written notice of the charges against him or her, an investigation of the alleged violation is held, and a hearing is held. Senate Bill No. 402 of the 79th Session prohibited DOC from putting offenders with serious mental illness or impairments into solitary unless an offender poses a safety threat to himself or herself, staff or other inmates. A psychological evaluation of inmates with serious mental illness or impairment was required before a hearing is held.

The DOC was required to provide certain accommodations for offenders in solitary. Its use was limited to the shortest time possible to address the disciplinary or infraction issue. Inmates could petition their wardens for early release from solitary if they demonstrate improved behavior.

That was 2017; where are we today? We have virtually no data to tell us how or if S.B. No. 402 of the 79th Session was implemented. The Vera Institute study, [Exhibit B](#), indicates the use of solitary continues unabated, and there are concrete steps we may take to understand how it is being used and to eliminate this harmful, inhumane practice.

Section 2 through section 10 of Senate Bill 187 provide clarifying definitions relating to solitary not defined or implemented with consistency. This makes it difficult to gather meaningful data and hard for offenders who are subject to a dizzying array of definitions of solitary. Section 11 requires the DOC Director, with approval of the Board of State Prison Commissioners, to adopt regulations to ensure solitary is used only as a last resort in the least restrictive manner and shortest time possible.

Senate Bill 187 would also limit use of disciplinary segregation to serious class A offenses, as defined in DOC Administrative Regulation 707, and prescribe alternate and new responses to less serious offenses, which may not include loss of visitation or telephone privileges. The DOC must create individual plans and strategies in consultation with offenders placed in solitary to get them into less restrictive housing as soon as possible. The plans are to be holistic and take into account offenders' programming needs, behavioral history and other contributing factors.

The DOC must not release an offender from solitary directly into the community by requiring placement into the general prison population at least 30 days before release. The DOC must prioritize offenders subject to solitary for more than 30 days for entry into the step-down reentry program at least 1 year ahead of release.

Senate Bill 187 would ensure offenders released from solitary spend no more time than necessary awaiting rehousing in the general population. The conditions and means of disciplinary segregation must be evaluated for vulnerable populations such as offenders with mental illness or physical disabilities and for youth and female offenders. Such evaluations must include

an analysis of efforts to eliminate the use of solitary for offenders with severe mental illness and prioritized placement of offenders in behavior modification units (BMUs) and other less restrictive housing for vulnerable offenders. There must be a weekly review of vulnerable offenders in solitary to ascertain when they can be returned to the general population. All prisoners assigned to solitary must receive a mental health evaluation within 24 hours and a weekly evaluation by the multidisciplinary classification committee for the first 60 days and monthly thereafter.

Senate Bill 187 would require prisoners in solitary to have access to behavioral health, transitional, educational and group programming. The bill would require staff training for those who seek work in solitary units in effective communications, crisis intervention and de-escalation. Overall conditions in solitary would be improved by providing at least two hours of daily recreation, including structured activities, out of cells. Telephone use would be allowed daily between 8 a.m. to 11 p.m., plus weekly contact visits within the bounds of safety.

The bill would establish minimum protocols for BMUs, including collection of data on offenders' demographics, lengths of stay in and any reentries into solitary from a BMU. At least five hours per day would be spent outside of BMUs, including recreation time. Programming in BMUs must promote socialization and preparation for reintegration into the general population.

Section 13 of S.B. 187 lists conditions under which offenders may be held in solitary for a maximum of 30 days. The section requires the DOC Director to present to the ACAJ by July 1 annually data on the number of offenders subjected or assigned to solitary; the length of time in and reason for solitary assignment; the number of mentally ill inmates in solitary; a list of solitary inmates by race, ethnicity, sexual orientation, age, and gender identity and expression; the amount of time between an infraction and a hearing to determine whether an offender is assigned to solitary; a hearing conducted before an inmate, including anyone in a vulnerable population, is assigned to solitary; and how many offenders are participating in and what type of programming they are doing in solitary. Any data collected must be presented in aggregate and without personal identifying information.

After passage of S.B. 402 of the 79th Session, I learned the then-Director of DOC found seriously mentally ill offenders who had been in solitary for

five years. There were also inmates younger than the age of 18 and women in solitary. Multiple sessions in solitary can cause post-traumatic stress disorder (PTSD) equal to that of military personnel who have been in combat for an extended period.

Some people say, "Well, they're offenders; that's why they're in jail—tough breaks." Not everyone in prison is guilty of the crime of which they were accused. Some populations are inordinately represented in the criminal justice system. Even if inmates are guilty, they are still human beings. If rehabilitation is the goal of DOC, solitary confinement will not determine if an inmate can progress toward that goal. In 2017, the DOC Director called solitary "an abuse." There was no protocol for inmates in solitary: when they would enter or leave, what would happen while there. The protocols were subjective, depending on who was Director.

Lest anyone think I am picking on DOC, in the Seventy-seventh Session, sponsored a bill to increase the number of corrections officers in DOC facilities so they could do their jobs more safely. Senate Bill 187 is a balanced approach to criminal justice. The bill fits into my overarching goal this Session: expose, attack and dismantle the structural elements of racism entrenched within our society. We all know Black and Brown people are incarcerated at vastly higher rates than Whites in this Country, and—as made clear in the Vera Institute study, [Exhibit B](#) —solitary disproportionately impacts Black and Brown people in our State. It makes our goal of returning people to society as more whole, healthy and productive infinitely more difficult. To fix the system, we must find alternatives to solitary through data, rehabilitative programs and accountability.

Lest anyone think I am playing the "race card," we must work with the hand we are dealt. I am not playing that card, simply acknowledging what is already in the deck. We must be certain every time we speak of persistent systemic racism, we recognize it for what it is. For some, racism in our criminal injustice system—I am a retired military police officer so understand the process—must be called out whenever we see it and take appropriate measures to rectify it. Subsets within our society have continually empowered systemic racist protocols, including solitary confinement.

NICK SHEPACK (American Civil Liberties Union of Nevada):

You have my overview ([Exhibit C](#)) of S.B. 187. Disciplinary segregation is the most restrictive form of solitary confinement. While DOC has made strides in

reducing both forms of confinement, the lack of data has made it impossible to monitor the implementation of S.B. No. 402 of the 79th Session. The United Nations (UN) has developed minimum standards for housing prisoners, the Mandela Rules. The UN defines more than 15 days in solitary as torture. It considers placing vulnerable populations, such as people with physical or mental disabilities, in solitary for any period unacceptable. New York and Colorado implemented changes that meet the UN standards.

Senate Bill 187 in no way goes that far; it simply requires DOC to develop regulations to meet the regulations made by the study, [Exhibit B](#), DOC itself commissioned. The study found a high number of inmates in solitary with mental health needs, being held for longer than their sentences due to lack of bed space and being released directly or within 30 days from solitary into the community. Representatives from DOC have told American Civil Liberties Union of Nevada (ACLUN) there are not enough mental health professionals and enumerated the costs of implementing some of the suggested reforms. We do not intend to force DOC to radically change its practices. If someone were still a safety risk after serving his or her disciplinary segregation, the bill would allow DOC to place the inmate on administrative segregation (ad-seg), as long as he or she could enter a necessary program before reentering the general population. The Alliance for Justice and Accountability and ACLUN support Nevada's effort to study the impacts of solitary on individuals.

FRANK DE PALMA:

I'm afraid because I'm afraid I won't be able to convey the truth as I lived it and experienced it, and to share it at another time is too much. Solitary confinement, I promise you, is no good in any way. I don't care by what name you call it—administrative segregation, off-tier housing, special secure housing—it's all solitary. I'm one of the few that came back. I spent 22 years and 36 days in solitary confinement. I believe it was February 2 or 3 of 1992 I went in, and I didn't leave that cell until March 11, 2014, if you add it up.

... But it didn't matter to me. There was no sense of time; time became nonexistent. I lived in a blacked-out cell. There was only one window, but I had blacked that out for years. Because, as odd as this sounds, the darkness kept me hidden. The darker it was,



the less I could be seen, and the darkness became like a blanket of protection to me. That ain't normal. ...

One of the problems I've had since I've been out of prison in the last two years, I get scattered, I can't focus, I lose everything. It's to a degree that I can't accept it. People just make excuses for me, but I can't accept it because something is wrong. I can't grasp a lot of things. I have a complete inability to process certain things. What happened to that ability, I don't know, but I can't get it back, and it hasn't gotten any better since I've been out here. People behind me—it just puts me on edge. If I go to a restaurant, I have to sit in an area where my back is against the wall. That hasn't gotten any better. I pretend it has because I want to fit so bad into society, but I don't feel like I'm a part of society. And it's not because of anything anyone out here has done for me. There's something in me that's different.

I spent a total of 42 years, 9 months and 15 days in prison. I went in with a ten-year sentence. I was just a normal kid who got in trouble. My dog got killed, and I acted on the emotional moment. The dog was my best friend, and this guy killed my dog. I drove a truck through his house—his truck. And that got me several charges, and I ended up having a ten-year sentence in Nevada State prisons. This is in 1975; I turned 19 in prison.

I got 10 years for grand larceny; I only had to serve 2 1/2 years. I only served one year, and I had three fights. You know, that's gonna happen, I don't care who you are. And I had established myself as being just a regular guy. I was low-profile; I stood up for myself and minded my own business. One year after I'd been there, I was asked to join the Aryan Warriors prison gang by the founder himself. And I said no, thank you. Well, he was a true narcissist—for me to say no to him ... .

Anyway, the word went out I'm on my own, no one's supposed to help me. One night ... one month to the day after I said no to Pat McKinnon—now mind you, I'd been in that prison a year already—four individuals of another gang came into the cell that I lived in—and the cells are very, very small; you can almost touch

both walls with one hand—and they tried to turn me into a—they tried to rape me, is what they tried to do. And I hope you all agree that I had every right to not let that happen. And I made sure that didn't happen. I hurt two guys. One of them had to be second in command of the Black gang. There's a term "green light" ... that means you're gonna get killed. And there's a hit out on me, and I'm green-lighted. Nobody was helping me.

Over the next 9 or 10 years, there were 37 knife attempts made on me. I mean, guys coming at me to kill me. ... I got scared, but I'm still here. How I'm still here, I don't know. In those years, there was one incident in 1994; when I look back on what I did, I'm appalled at how I can feel justified with my thoughts that I was doing a just thing, the right thing. I truly believed in it. That is how degraded my thought processes and my moral compass had become throughout the years.

So then, I'm gonna fast forward to 1992, is when ... I'm sure you're all aware how in the late '80s and '90s, there's an explosion of new gangs, guys breaking off from each other. And the prison administration was afraid that we old-timers who had a history were gonna come out and end up killing some of these youngsters. Well, it was the complete opposite. There's a code; they respected us, and they left us alone. I had been on that yard for like three years now in Ely [State Prison] yard after I'd transferred there in 1989. ...

One day, some mobsters came to get me, and [then] the orders were all the old-timers were to be locked up. It was more convenient because there's a whole lot more of these young gangbangers. I'm getting locked up for nothing. That's when something happened to an officer that I did. He'd light on me ... but the truth of it is, I'd become depraved. And that's something I swore I'd never do. After the first attempt on me ... There's so much I can tell you, I mean, oh, my God! Like the Senator that was speaking, she shed a light on a lot of things, but there's a whole lot more to shed light on.

In solitary confinement where I was placed, I had absolutely no external stimuli. My isolation was extreme. But all of it connects to each other. I lived in a cell, an empty cell. For the first year, I had no books, no radio, no TV, no magazines, not even a Bible. For the first year, I had a pair of boxers and a T-shirt and I think a pair of socks. I had no mattress for the first year. I slept on the floor on the State blanket.

OK, when you're like that ... we're human beings. We had an innate need to connect with each other, man. We got to have relationships, and if you're gonna have that, if you're gonna connect with whatever's there: drugs, alcohol—you know, these things I came to realize through experiencing things. If you take away that innate need, you're starting off on a bad trip.

Keeping a person in the cell away from anybody ... What happened to me, I lived in my own head. I got to know myself; I was asking myself questions. And you're having battles with the guards when they come in to extract you, it's all part of it. But after I had connected with myself, what else is there to connect to? Nothing. So, I created fantasies of having relationships with a woman and falling in love, getting married. And these fantasies literally lived on longer and longer and longer, eight, nine months at a time.

And now ... I'm here before you, which I shouldn't be because when I left that cell, I had been diagnosed with being semicatatonic. I had lost touch with all reality. It got to a point where those fantasies that I lived in no longer fulfilled me. They couldn't sustain me. My need for love—I mean, empty cells are definitely the place where you learn to live without love. And no one should have to be that way, I don't care who you are. It would be more humane to put a bullet in somebody's head, it really would.

I started to disconnect. And one of the scariest things was a part of me was aware of it, but I couldn't stop it. Because it just became all so oppressive and suffocating. Imagine screaming inside, and it's just a scream. I can't convey ... Finally it just got quiet; I gave up: "I'm never getting out of prison." And I went into

a void, an inner abyss that ... I don't understand how I'm here, but now that I am, I can say this: everybody that comes into prison is dysfunctional in some way. I maintain with all my heart and soul that prisons, especially solitary confinement, instill psychosis. Because I sat there. I wasn't aware that it was happening, but when you're alone, you hear, "Did someone call me?" And you open the door, "Did someone call me?" Nobody answers. Finally, somebody says, "Hey, nobody called you." "Then why are you talking to me right now? Are you playing games with me?" "Why, I'll talk to you another time." They got a problem now—it's that fast. That's the life there.

I came back. How I came back, I don't know if it's the human spirit or God or what. But I came back, and I understand what solitary does and how—oh, my God! Before I close, in [1842], Charles Dickens toured the Eastern State Penitentiary [in Philadelphia] solitary confinement. And he wrote a letter: "I believe that very few men are capable of estimating the immense amount of torture and agony which this dreadful punishment, prolonged for years, inflicts upon the sufferers; and in guessing at it myself, and in reasoning from what I have seen written on their faces, and in what to my certain knowledge they feel within, I am only the more convinced that there is a depth of terrible endurance in which no one but the sufferers can themselves fathom, and which no man has the right to inflict upon his fellow creature. I hold this slow and daily tampering with the mysteries of the brain to be immeasurably worse than any torture of the body; and because its ghastly signs and tokens are not so palpable to the eye and sense of touch as scars upon the flesh; because its wounds are not upon the surface; and it extorts few cries that human ears can hear; therefore, the more I denounce it as a secret punishment, which slumbering humanity is not roused up to stay."

This is Charles Dickens who wrote this, and that touched me, I submit, you know? I just want to ask all of you ... from what I hear there've been done a lot of studies on sensory deprivation, and I think they need to do some more because I asked a couple of guys that I know who've been in prison for 30 years and what have you.

They had the same kind of issues that I had; they did solitary confinement, too.

I know you have a problem with trying to make things work, but the way they got prisons—prisons are still racially segregated! They don't teach cultural awareness or racial awareness; they teach class warfare! Prisons, let's face it, they make big money, and people like me are the stock and trade. And I understand capitalism—hey, I'm all for it—but at what cost, what cost in human lives, regardless of what they done? I had to beat myself down from judging certain cases that I find are just unacceptable, but then again, who am I to judge? Because I can be judged, too, for things I've done.

We need to come together collectively, people like you and me, because, together, I can give you insights that you don't have. If we work together enough to where there's a trust that develops, you can trust what I tell you. You're not gonna think, "Oh, he's just—" because I am speaking from the heart, and I don't think I'm doing a good job. I feel like I'm falling short. Because I want you to understand, please. ... It's not as complete as it should be, but the goal is to abolish solitary confinement in all its forms. What are you gonna replace it with? That's where we got to get together and make it work. But I promise you, if you allow certain inmates that have done time and work together with some of these people? We'll make strides, man, because I got ideas, I got so many ideas on what really works.

I wasn't prepared to come out of prison. When I came out, the day that I got out, I sat in the van without cuffs on. I kept looking at my hands: "I'm out of prison, oh, my God!" December 21, 2018. And when we got to where I was going—which happened to be a parole office, but I didn't know that—the officer handed me a little box with all of my stuff. I said, "Where do I go, where do I go?" I won't repeat the words he used, but he said, "Wherever the \*\*\*\* you want to. I'll see you when you get back [to prison]." I dropped my box and said, "What?!" And this girl that was there, said, "Hey, come with me." So, in the end, I've been out here two years. I'm adjusting a little bit, but there's issues. And it happened in there.

MARY BUSER:

Mr. De Palma conveyed something in a way only a person who has been in solitary can convey. I was the assistant chief of mental health of New York City's Rikers Island Correctional Facility solitary confinement unit. I was a civilian mental health worker. On my first day, my supervisor told me, "If the prisoner had no mental health issues before solitary, he does now." Truer words were never spoken.

A mental health team is a huge presence in solitary, and our job was to dole out medication—antidepressants, antianxiety, sleep pills, antipsychotics—mostly to people who had never taken any of those prior to solitary. I asked myself, "What kind of punishment is this that people need to be medicated in order to endure it?" It did not end there. When these men could no longer hold their human psyches together and we were called to their cell doors, it was grim: makeshift nooses, slashed arms, blood-soaked T-shirts, incoherent babbling, head-banging, agonized shell-shocked faces begging for a reprieve. Virtually everyone we saw on Rikers was Black or Hispanic.

I was shocked to discover just how grueling solitary is and learn roughly three out of four people were in solitary for nonviolent infractions. I thought solitary was for the baddest of the bad. One man I know spent three months in solitary for having too many bedsheets. That was more than 30 years ago, but he lives with the resulting PTSD to this day.

In many cases, solitary is simply a convenient management tool. That is not to say there are not violent people in solitary, but evidence shows placing them in isolation only increases violent propensities. Let us not forget that most will eventually be released back into the community. Obviously, jails and prisons must be kept safe, but solitary confinement—a practice deemed torture after 15 days by the UN—is not the solution. Other countries and a growing number of U.S. states are safely implementing humane alternatives. Passage of S.B. 187 would be a big step in that direction.

Senator John McCain was a prisoner of war in Vietnam, including in solitary. He said, "It crushes your spirit and weakens your resistance more effectively than any other form of mistreatment." This is from a man who was regularly beaten; denied adequate medical treatment for two broken arms, a broken leg and chronic dysentery and tortured to the point of another broken arm. We must

look at the same things happening in our prisons with solitary, especially at humane alternatives.

SENATOR OHRENSCHALL:

Fyodor Dostoyevsky said, "The degree of civilization in a society can be judged by entering its prisons." How true that is. The proposed regulations in S.B. 187 would be approved by the Board of State Prison Commissioners. Are there no regulations for how long inmates can be kept in solitary and why they are there?

MR. SHEPACK:

The DOC has internal regulations around things like disciplinary segregation. A person may be in it for a year before he or she is allowed to use good-time credits. There are no regulations for ad-seg. An inmate may have access to a few more possessions, like a radio, than are available in ad-seg. Inmates get a weekly average of five hours of time—not even an hour a day—outside their cells. People can be in ad-seg indefinitely.

There are inmates, especially those in ad-seg, who may congregate out of cell. The bill would increase DOC's ability to allow more people out of cells more often. There are few regulations about how long an inmate may be out of cell.

DENISE BOLANOS:

During the enforced social isolation due to the Covid-19 pandemic, there are increased rates of anxiety and depression and a decline in mental health. Imagine experiencing that in a 6- by 12-foot concrete cell without windows, without the amenities, such as showers and kitchens, we have in our homes. You are fed through a slot in the door, and you "shower" in a sink with only the company of your own thoughts around the clock in a stressful and chaotic environment. Inmates in solitary have a higher risk of suicide and self-harm. The psychiatric effects of its torture can last a lifetime.

Colise Brauder, aged 16, spent three years in jail after his family could not make bail after he was arrested for a crime he did not commit. He spent two years in solitary confinement where he was starved, denied showers and beaten. He was finally released from prison after the charges were dropped, and two years later, he hanged himself in his parents' home after multiple suicide attempts in and out of prison. Black, Brown, disabled and mentally ill people are disproportionately affected by solitary.

Senate Bill 187 would make transparency mandatory and hold DOC accountable for the use of solitary by implementing clearer guidelines, definitions and restrictions. It will also help protect the basic human rights of those in solitary. Return Strong understands the need to impose necessary disciplinary measures; however, people in solitary should be able to eat, shower, contact their families and participate in programs. Taking those rights away only creates more issues than it solves.

KENDRA BERTSCHY (Office of the Public Defender, Washoe County):

The Offices of the Public Defender, Washoe and Clark Counties, support S.B. 187. Bryan Stevenson said, "The true measure of our character is how we treat the poor, the disfavored, the accused, the incarcerated and the condemned." This bill will help ensure our State is treating prisoners in solitary humanely. In the Seventy-ninth Session, the Vera Institute study, [Exhibit B](#), found the number of people admitted to Nevada prisons over the years had dramatically increased. Their mental health needs had increased by more than 35 percent; more than 50 percent of the female inmates had mental health needs.

We often hear the goals of sentencing include rehabilitation, protection of the community and punishment. The latter does not mean breaking and destroying human beings beyond repair. Solitary is so much more than just a punishment; it is simply inhumane. We have known that for more than 100 years. In 1890, the U.S. Supreme Court ruled *In re Medley*, 134 U.S. 160 (1890). On page 168, the effects of solitary are described. Inmates with no prior history of mental illness suffer damaging effects, including death. Even if they are released, they still suffer solitary's impacts, as we have heard today. The Committee can vote to protect people like young Mr. Brauder, who was just trying to serve his time and be safely released.

JENNIFER HENRY:

I am a teacher who knows two people in DOC: my best friend since childhood and the brother of three of my previous students. A few years ago, my friend spent several months in "the hole" after defending himself in a fight on the tier. It has been a learning experience for me to understand his experience is typical in some ways yet completely atypical in others.

I asked him what solitary is like. He said the time had been the longest in his life. Even though it was only a few months, the impact on his mental health



was significant. He tried to occupy his mind and repeatedly read every book he could obtain. He prayed. He did not have a history of mental health issues, but in the hole, his depression was so severe he began to contemplate and plan his suicide. He is a social person with strong ties to his Mexican immigrant family. In the hole, not only are your movements restricted to 23 hours in the cell, you cannot make regular phone calls. He got one 15-minute call per week, if he was lucky. Maintaining relationships with his family, including his sons aged 7 and 11, became impossible. Solitary confinement changed my friend's brain and everything that defined him. While S.B. 187 does not go far enough, it is a huge step in the right direction.

JIM HOFFMAN (Nevada Attorneys for Criminal Justice):

The Nevada Attorneys for Criminal Justice supports S.B. 187. As Mr. De Palma powerfully expressed, solitary is torture. It leads to severe mental health issues. A study of the New York City jail system found the 7 percent of inmates in solitary accounted for 50 percent of suicide attempts. In addition to the moral argument against it, solitary is expensive. Another study found putting an inmate in solitary for a year cost \$78,000, triple the cost of putting someone in the general population.

Solitary is disproportionately used against Black, Indigenous and People of Color, LGBTQ+ and disabled inmates. Transsexual people often cannot be housed in the general population for safety reasons so are punished simply for their orientation. Solitary does not make prisons or society safer. While the bill will not end solitary, it would impose substantial limits on its use. Half a loaf is better than none.

TINA MEGASON:

Imagine you have bipolar disorder depression, drug addiction issues and a history of trauma, including confinement. You are suddenly taken away after being falsely accused of a crime, as corroborated by witnesses. You are transported to solitary. For four days, when you ask every correctional officer for basic hygiene items, you are ignored. You can shower just once during this period, and all you have is a towel. You cannot even wash your underwear, because if you leave it off to dry, that is an infraction.

At this point, you are begging for clean clothes, hygiene products and a spoon to eat with. It is humiliating to eat oatmeal with your fingers. On Day Four, you get lucky and a compassionate correctional officer brings you a spoon. A family

member calls the inspector general's office to ask why you are being treated less than humanely. Within two days, you are moved to a less restricted unit but are terrified. This has happened before, when you spent three months in solitary waiting for your complaint to be investigated. It was all for nothing after you are exonerated.

Think about this when you get home and look at your family and yourself in the mirror. The DOC mission statement is to reform, educate, train and treat people so they can return to society. Solitary does nothing to advance that mission; all it does is break an inmate's spirit.

ASHLEY WHITE:

Senate Bill 187 would stop damaging families and inmates' relationships with their children. Children and families create bonds and become dependent on visits with incarcerated parents. When an inmate goes to solitary, families must be separated, creating depression, anxiety and fear. My six-year-old daughter was close to her father and eagerly anticipated visiting him in prison every weekend. Now, I see her sadness over how much she misses Daddy and wishes he were home. On nights she sleeps with me, she cries herself to sleep, saying, "I miss Daddy. I just want to see him. I hope he's safe." All I can do is hold her, try to stay strong and not cry.

My relationship with my husband became stronger with weekend visits. He already had severe depression and anxiety, but solitary has caused him to increase his medications. Its consequences should not include family separations. Solitary takes a toll on families mentally, emotionally and physically.

JODI HOCKING (Founder, Return Strong):

My loved one has spent more than 14 years in solitary. Jerry Clark is in medical isolation at Northern Nevada Correctional Center. He is terminally ill with stage IV cancer and has been denied compassionate leave. He probably will not make it to the State Board of Pardons Commissioners, DPS, even though he has a tumor protruding from his chest. Before medical staff would take him to a hospital, he was forced to punch himself in the face to make them believe he had coughed up blood.

Jerry has been in medical isolation due to an array of health issues. He cannot get a food package or order food to accommodate his significant dietary needs.

He is undergoing cancer treatment and takes pain medications for a broken rib resulting from the tumor. He cannot buy batteries for his Mp3 player to listen to music and has limited phone use to tell his family about his needs or get help with his compassionate release application. He has had almost no human contact for a year: no mental, spiritual, physical or social interaction. He has been forced to slowly die in pain and isolation.

New York recently passed legislation to end isolation for any inmate who is part of a special population, which would include Jerry. Solitary is not always just discipline. Human isolation is unnatural and destructive. The State must take responsibility for the damage to humans in its care. The bill would force DOC to be transparent and responsible for its actions.

CHRISTINE SAUNDERS (Progressive Leadership Alliance of Nevada):

Solitary confinement has a profound impact on mental health, making it even more difficult for people to adjust to reentry into the community. We must ensure we do not misuse solitary, only imposing it as a last resort. Senate Bill 187 requires DOC to adopt the recommendations of the Vera Institute study, [Exhibit B](#), to reform solitary.

JAMEELAH LEWIS:

I support S.B. 187 because solitary is used as a form of retaliation. It is used for people being investigated for sexual violence, which is supposed to happen within 30 days. Because some of the people most vulnerable to sexual violence are trans, they are sent to ad-seg. They may develop depression, suicidal ideation and other disorders.

In the bill's section 13, subsection 2, prisoners are allowed to be housed in solitary for safety reasons; however, there is no time limit specified. In section 13, subsection 5, paragraph (a), an inmate would be able to petition the warden for a good-behavior release from solitary. Inmates are often disallowed access to their personal belongings such as underwear, lipstick, hair care products, soap and other hygiene products.

MERCEDES MAHARIS:

In 2001, I was a chaplain in Unit 8, the solitary section of Southern Desert Correctional Center. My heart still palpitates when I think about that time. With a background in education, I immediately knew solitary is a faulty criminal

justice system. In no way does it support the five key elements of the health goal of rehabilitation.

I support S.B. 187 with changes. There are no penalties for prison staff who do not enforce the laws imposed by S.B. No. 402 of the 79th Session. In the past year, many inhabitants of Unit 8 have written letters complaining of a lack of due process. In no way, shape or form should solitary confinement last 30 days.

TAMI IRVINE:

During my loved one's incarceration in DOC, I began to understand the ripple effect prison has on families and communities. He has never been in trouble while incarcerated, but Covid-19 has destroyed my family with painful isolation from him. While isolation and quarantine are one thing in the free world, in prison it is something altogether different. It severs inmates from all human contact.

During the pandemic, inmates have spent months in quarantine and lockdown, even if they are not in solitary. They are losing contact with family, often having just 30 minutes every 72 hours to prepare food, call family and shower. Two inmates are isolated in one 6- by 10-foot cell. Even though they are not in the hole, the traumatic impact may be the same or worse. Damage from isolation lingers after inmates are released. Its impact bleeds into families and communities; yet, we continue this barbaric, dehumanizing practice. Prison is supposed to be for rehabilitation, not torture.

ERIC GARCIA:

In 2006, I was sent to the hole for a murder in the yard I did not commit. Solitary deprives you of your senses, feelings, vision. You lose track of time. I was there in May and did not know my birthday had happened in February. It breaks you down in an unimaginable way. You start laughing at your own jokes and going crazy. Replacing solitary with a different punishment would be more helpful. It is not the way to rehabilitate an offender.

NICOLE WILLIAMS:

My loved one is in DOC, including a stint in solitary. Prior to his time in solitary, I believed it was imposed only for scary, violent behavior that could not be otherwise addressed, for crimes on the level of Hannibal Lecter. That is not true. In 2015, my loved one was sent to solitary for selling contraband material.

He spent a year in the hole before charges were dropped and he returned to the general population.

In the hole, he was not allowed to buy additional food; the food provided often made him sick and exacerbated his ulcer. He lost 60 pounds. He began hallucinating about dead people, specifically his best friend, who died in prison from a bleeding disorder. He would call and beg us to help him, yet he never received help or treatment. His mental health screenings never identified his problems.

After his release, he has never been the same. He is paranoid and his anxiety has made it impossible to function in society. He is homeless and has addiction issues. He always needed close contact with family and friends to keep him balanced while he was incarcerated. Prior to solitary, he spoke nightly to his young daughter to help teach her to read. In solitary, he was allowed a single 15-minute call per week to manage all of his relationships. His daughter is now a troubled teenager making destructive choices. This man had every hope of a productive postprison life but was destroyed by solitary. A Public Broadcasting System documentary on solitary said, "You cannot conduct yourself as a human being when they treat you like an animal." Solitary creates monsters that are dropped back into society and told, "Go ahead, be a good boy."

AYANNA SIMMONS-OGLESBY:

My brother Zachary Simmons served 14 years in DOC, including 4 years in the hole. He emerged unhinged: talking about being at the scene when Marilyn Monroe was murdered, in the car behind President John F. Kennedy when he was assassinated and how our second-grade teacher was our biological mother. Zachary was destroyed in that institution; he was a fine man before his sentence. The Innocence Project reached out to help because his case was fraudulent—but he still ended up in the hole, fighting for his freedom. It is criminal to chain a dog to a tree, yet inmates in solitary are treated like animals.

Solitary creates monsters, and DOC lacks a plan to treat the resulting mental health issues. Our mental health crisis has skyrocketed. You Committee members took an oath to uphold the moral obligation to help our imprisoned brothers and sisters. The State has the resources to help inmates because they are people, not monsters and animals.

AURELIA RODRIGUEZ:

My brother, aged 22, is in a county jail awaiting a trial that keeps being postponed due to Covid-19. I am not a professional in jail or prison work, but the more I learn about solitary, the more I know something must be done. So many people told their stories today about how solitary impacted them or their loved ones. Inmates go to solitary for being belligerent or argumentative; not wearing a mask during the pandemic; suspicion of an infraction being investigated, even if it is disproven; having contraband: a cigarette, a dollar bill, too many socks, a book, an extra pair of shoes, a new tattoo. Inmates go to solitary if they refuse to do anything, including taking a Covid-19 test or getting caught in a door opening or closing during roll call. Once in solitary, inmates cannot order food, which DOC does not provide enough of for an adult; they are always hungry. They cannot maintain family relationships and suffer from sleep deprivation.

WILLIAM GITTERE (Warden, Ely State Prison):

Should S.B. 187 become law, adequate resources must be allocated so it can be implemented efficiently and above all safely. Many problems discussed today were remedied after passage of S.B. No. 402 of the 79th Session. The prison system improved as a whole, and Ely State Prison in particular. Further progress can be made if the Legislature supports S.B. 187. Senate Bill No. 402 of the 79th Session significantly reduced all forms of segregation, including disciplinary segregation by more than 90 percent, as codified by Administrative Regulations 507, 707 and 733.

In 2015 at Ely, the State's maximum security unit for prisoners most dangerous and difficult to rehabilitate, the Prison was 88 percent segregation and 12 percent open tier. By 2018, after S.B. No. 402 of the 79th Session and the Vera Institute study, [Exhibit B](#), Ely had 88 percent open tier and 12 percent segregation. Social opportunities for the vast majority of inmates increased. Offender-on-officer violence decreased by 50 percent; however, offender-on-offender violence increased by 371 percent, hospital transports by more than 100 percent and Life Flight transports by more than 60 percent.

Senate Bill 187 would more than double out-of-cell time for solitary residents. It would expand the definition to include more than one-third of nonsegregated inmates at Ely who participate in group operations for just under two hours per day. Our construction supports just one hour of out-of-cell time per solitary

inmate per day, so we cannot safely follow the bill's provisions without money to improve our physical plan and for additional officers and training.

BRIAN WILLIAMS (Deputy Director, Operations, Department of Corrections):

I am neutral on S.B. 187. Many measures have been taken over the last four to five years to reduce segregated housing, despite the multiple challenges that entailed. In 2017, DOC created BMUs to provide services to segregated inmates who need to develop skills to allow for placement in the general population. These skills include interpersonal interactions, hygiene, basic daily living, decreased victimization, education, anger management, adaptation to the institutional environment and compliance with rules and regulations. Program participants are evaluated for socialization as a step-down from segregation.

We reached out to the Vera Institute. We began the BMUs without being told to under former DOC Director James Dzurenda. The DOC no longer incarcerates people with serious mental illnesses outside of designated mental health units on an in-patient basis or the structured-care unit as outpatients. No inmate with mental health concerns is segregated before a consultation with a mental health professional. Any inmate with mild to moderate mental or behavioral health issues is monitored and treated by mental health professionals. We will work with stakeholders of S.B. 187 so it will not add to citizens' tax burden.

DAVID GREENE (Mental Health Director, Department of Corrections):

Mental Health Services is active in all phases of an inmate's incarceration. At intake, we identify mental health needs and do assessments to ascertain inmates' risk of recidivism. We provide programs to help with reentry. We only have a couple of BMUs and would need many more resources to fund more effective therapeutic communities.

HAROLD WICKHAM (Deputy Director, Programs, Department of Corrections):

The DOC is willing to accomplish the mandates of S.B. 187 with proper resources.

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VICE CHAIR CANNIZZARO:

We will close the hearing on S.B. 187. Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 3:03 p.m.

RESPECTFULLY SUBMITTED:

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Pat Devereux,  
Committee Secretary

APPROVED BY:

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Senator Melanie Scheible, Chair

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



EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 161	B	1	Senator Pat Spearman	"Findings, Recommendations and Reforms for the Nevada Department of Corrections" by the Vera Institute of Justice
S.B. 161	C	1	Nick Shepack / American Civil Liberties Union of Nevada	Overview of Bill