



**NEVADA LEGISLATURE
LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO
STUDY SENTENCING AND PARDONS, AND PAROLE
AND PROBATION**

(Assembly Concurrent Resolution No. 17 [File No. 98, *Statutes of Nevada 2005*])

SUMMARY MINUTES AND ACTION REPORT

The fourth meeting of the Legislative Commission's Subcommittee to Study Sentencing and Pardons, Parole and Probation, was held on Thursday, April 27, 2006, at 10 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's Web site at www.leg.state.nv.us/73rd/Interim. In addition, copies of the audio record may be purchased through the Publication Office of the Legislative Counsel Bureau (LCB) (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblyman William Horne, Chair
Senator Dennis Nolan

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Mike McGinness
Senator Valerie Wiener
Assemblyman Bernie Anderson
Assemblyman John C. Carpenter

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Patrick Cadle, Senior Research Analyst, Research Division, LCB
Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division, LCB
René Yeckley, Principal Deputy Legislative Counsel, Legal Division, LCB
Kennedy, Principal Research Secretary, Research Division, LCB

WELCOME BY THE CHAIR

APPROVAL OF MINUTES OF THE MARCH 21, 2006, MEETING HELD IN CARSON CITY

- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

SENATOR MCGINNESS MOVED TO APPROVE THE MINUTES OF THE MARCH 21, 2006, MEETING HELD IN CARSON CITY. THE MOTION WAS SECONDED BY ASSEMBLYMAN ANDERSON AND CARRIED WITH SENATOR NOLAN ABSENT FROM THE ROOM.

DISCUSSION OF ISSUES AFFECTING VICTIMS OF CRIME IN NEVADA

- Vic Schultzi, Vice President, Coalition on Crime Victims Rights, said he represented several grassroots nonprofit organizations that were opposed to changing Nevada State Law in any way that would affect mandatory minimum sentences. He expressed support for sentencing enhancements for violent crimes. He said that sentencing serves victims of crime in three ways: (1) punishment retribution; (2) deterrence; and (3) incapacitation. He noted that crime victims deserved the protections of safety and security through the vehicles of deterrence and incapacitation and stated that judges have sufficient flexibilities in sentencing. A copy of information discussed in Mr. Schultzi's presentation is available as [Exhibit B](#).

There were discussions regarding: (1) offering reassurance to victims of crime that they are not invisible; (2) understanding that fairness in sentencing also refers to consistent sentencing for the same crime; and (3) understanding a judge's flexibility in showing discretion in sentencing a case where the deadly weapon enhancement option was evoked.

DISCUSSION OF METHODS FOR COMBINING JUVENILE AND ADULT SENTENCING OPTIONS FOR JUVENILES WHO COMMIT SERIOUS CRIMES

- The Honorable William O. Voy, Family Division, Department A, Eighth Judicial District Court of Nevada, suggested that the juvenile justice system could be more effective if youthful offenders completed longer sentences in court-ordered programs. He explained that changing a person takes more time than the four months that state detention facilities currently offer because they are overcrowded as a result of increasing numbers of juvenile offenders entering the system. Judge Voy explained that the programs were originally designed to last nine months and youths who are released after only four months have a high re-offend rate. He suggested that the current system could be improved upon through understanding, policy, and agreements with local private contractors, and not necessarily through legislation. He also said that if such a plan is developed, there would be funding discussions during the 2007 Session.

There was a discussion regarding the State's ability to add more beds to existing correctional facilities. Members and presenters agreed that higher successes could be achieved through public-private partnerships and cooperative agreements for housing juvenile offenders.

There was also a discussion regarding percentages of juvenile inmates with emotional problems, including co-occurring diagnosis, major and situational mental disorders, and substance abuse. Judge Voy stated the need for intensive supervision and the availability of wrap-around services for offenders.

Members discussed how alcohol and substance abuse are changing the face of adolescence and the level of criminal activity in the juvenile population. Judge Voy noted that an infusion of more funding is paramount as well as locating additional facilities in communities equipped with a willing and competent work force.

- Ben Graham, Representative, Nevada District Attorneys Association, said that the Subcommittee is "headed in a good direction" and he did not perceive any opposition on this issue.
- Robert Teuton, Assistant District Attorney, Office of the Clark County District Attorney, agreed that the juvenile justice system needs more funding for facilities, services, and programs designed to change young lives, instead of "putting the kids away for some time."

There was a discussion regarding certifying juveniles as adults and the average length of stay in youth camps. Mr. Teuton explained that a request for certification was a method used to "buy time while evaluations and program availabilities were determined" and did not necessarily mean that juveniles were automatically certified as adults.

There was also a discussion regarding the need for a commitment of financial resources to address Nevada's juvenile offenders. Mr. Teuton noted that statistical analysis in Clark County indicates that the number of juvenile delinquency events has "leveled off." Members also considered the benefits of behavior modification on different age groups of youths and recalled many discussions during the 2005 Session regarding ages 16 to ages 21.

- Phil Kohn, Public Defender, Clark County Public Defender's Office, expressed concern for direct or automatic filings of certifications of juveniles to adults and suggested the creation of "an escape hatch" for youthful offenders with long sentences. He said this could be accomplished by instituting a review during the offender's incarceration to determine if the offender's criminal behavior had been realized, changed, or "grown out of." He also noted that deadly weapons enhancements in a murder case double sentencing penalties and reminded members that the intent of the enhancement legislation was to stop an activity from happening, thereby lessening the harm that could be inflicted.

- Senator Weiner discussed the process of criminalization and its effect on young susceptible minds. Mr. Kohn suggested that any successes in the area of rehabilitation with the proposed early review plan would be advantages in some cases. A discussion regarding the potential for segregation youth from adult populations ensued. Judge Voy and Mr. Kohn agreed to provide Senator Wiener with research on the topic.

Susan Roske, Chief Public Defender of Juvenile Services, Clark County, pointed out that Nevada allows for prosecution of 8-year olds, although that is rare. She stated that rehabilitation in certain settings could offer a child, convicted of a crime, more than a life of more criminal behavior as well as some hope.

- Fernando Serrano, Administrator, Division of Child and Family Services, Nevada's Department of Health and Human Services, described several sentencing models and said "blended sentencing" is the process of combining juvenile and adult sentencing options for juveniles who commit serious crimes, and allows the court to impose juvenile sanctions followed by an adult sentence, which can be suspended and imposed only if the juvenile does not comply with the juvenile sanction. He further explained that Extended Jurisdiction Juvenile (EJJ) is a system whereby the juvenile court retains jurisdiction over a juvenile beyond the age of 18, usually until the age of 21, unless circumstances warrant continued monitoring. Mr. Serrano opined that these options may not constitute good public policy because it is costly for the state not to invest in long-term juvenile offender bed space within youth correctional facilities and the Nevada's Department of Corrections (NDOC). A copy of information presented by Mr. Serrano is available as [Exhibit C](#).

There was also a discussion regarding the viability of instituting segregation of violent youthful offenders from the main population in correctional facilities. Members discussed types of special treatment needed to handle youth in prison, including providing safety and training opportunities for them.

- Scott Shick, Chief, Juvenile Services, Douglas County, and President, State Juvenile Justice Association, provided a brief history of how an increase in the violence committed by minors resulted in allowing imposition of adult sentences on violent juvenile offenders instead of the imposing the rehabilitative nature of juvenile sanctions, previously imposed in the 1980s and 1990s. He further explained that the Nevada Legislature will consider substantial changes to juvenile criminal sentencing through the adoption of blended juvenile sentences. He described Nevada's current juvenile court sentencing model and listed several drawbacks or "unintended consequences" of this model. He recommended that alternative sentencing for juveniles be refrained from until more research and evaluation was accomplished. A copy of information given by Mr. Shick is available as [Exhibit D](#).

TRAINING, EDUCATIONAL, AND REHABILITATION PROGRAMS AVAILABLE FOR OFFENDERS IN NEVADA

- Glen Whorton, Director, Nevada's Department of Corrections (NDOC), introduced Dorothy Nash Homes.
- Dorothy Nash Holmes, Deputy Director, Correctional Programs, NDOC, explained the history of NDOC's Correctional Programs Division. She described the organization, funding (through grants and partnerships), availability, and mission of each program within the Division ([Exhibit E](#)). She gave a slide presentation ([Exhibit F](#)) on the Correctional Programs Division, which included details on the following:
 1. Substance abuse and sexual treatment for offenders in prison;
 2. Vocational training, women's programs, structured living, and boot camp;
 3. Programs for youthful offenders, structured living for seniors, and inmate activities; and
 4. Re-entry assistance and transitional services.

There were a discussions regarding: (1) volunteer and mandatory programs for treatment of sexual offenders; (2) programs for incarcerated women; and (3) how the NDOC budget typically emphasizes inmate essentials such as housing and environment issues.

There was also a discussion regarding the philosophy of therapeutic communities for inmates. In a similar discussion, Mr. Whorton noted that the current average cost of housing one inmate in Nevada prisons is \$19,350 per year, and the recidivism rate is in the mid- to low-20 percentile. Ms. Nash stated that it is cost-effective to treat individuals, but cautioned that NDOC's federal funding is "evaporating".

Finally, Subcommittee members discussed: (1) Nevada's Boot Camp program, which is a 120-hour substance abuse diversion program; (2) participation of female inmates in higher education programs; (3) the balance between vocational and educational programs in prison; and the license plate factory.

- Lee Rowland, Public Advocate, Nevada Chapter, American Civil Liberties Union (ACLU), said "it is our responsibility to make certain that released prisoners do not reoffend." She said that Nevada's parole and probation system has "a disconnect" about the point (credits or merit) system and have no accountability for their reasons to deny parole. Ms. Rowland said the parole and probation system "needs a new mindset" because its members "do not seem to understand that people do get out of prison, eventually." She listed ACLU recommendations, including: (1) conducting an independent outside evaluation or review of correctional programs; (2) finding adequate funding of successful correctional programs by the state and providing equal accessibility to all inmates; and (3) conducting an independent evaluation or review of incarceration-based vocational training programs, especially ESL and GED programs. ([Exhibit G](#))

METHODS TO PROMOTE MORE COST-EFFECTIVE PARDONS, PAROLE, AND PROBATION PRACTICES AND OVERVIEW OF OPERATING BUDGETS OF THE DIVISION OF PAROLE AND PROBATION, NEVADA'S DEPARTMENT OF PUBLIC SAFETY, AND NDOC

- Mark Krmpotic, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), gave an overview of the Division of Parole and Probation's budget and said since 2002, the Division and received 90 percent of its primary support from the General Fund with the remainder of funding generated from supervision fees. He explained that funding levels in the Parole and Probation Division's budget are driven primarily by workload, which is represented by pre-sentence investigation, general supervision cases, intensive supervision cases, supervision of sex offenders, and miscellaneous cases addressed by the Division's central office. He reviewed how the Division plans to address increases in projected caseload and then discussed staffing issues. A copy of information presented by Mr. Krmpotic is available as [Exhibit H](#).

There was a discussion regarding the State's practice of maintaining vacancies as a salary savings mechanism. Mr. Krmpotic responded that the Department of Public Safety has increased its efforts to fill sworn positions in the Department. He also commented on the updated radio system for the Division of Parole and Probation.

- Tracy Raxter, Program Analyst, Fiscal Analysis Division, LCB, gave an overview of the NDOC budget and explained that it is primarily funding from General Fund appropriations, although additional funding sources include federal funds, inmate medical charges, inmate room and board charges, inmate store sales, and prison industries sales. He said the budget is primarily driven by the projected number of inmates to be housed. Mr. Raxter described funding for five capital improvement projects for new facilities and expansions of existing facilities. Finally, he discussed major initiatives included in the NDOC budget including: (1) correctional programs; (2) transitional housing; (3) special salary adjustments; and (4) offender management information system. A copy of information presented by Mr. Raxter is available as [Exhibit I](#).

There was a discussion regarding the ratio of NDOC's budget increasing disproportionately to the rise in the prison population. Mr. Raxter explained that changing the name of the Department of Prisons to the Department of Corrections involved changes in staff and other costs. He also noted that Prison Industries does not receive funding from the General Fund, but is and always intended to be self-supporting.

DISCUSSION ON COMPASSIONATE RELEASE OF SENTENCED OFFENDERS

- Mr. Whorton, previously identified, said NRS 209 provides for compassionate release for seriously ill inmates and is done at the discretion of the Director. He explained that the Director assigns the inmate to the supervision of the Parole and Probation with the criteria that the inmate is physically incapacitated, or is seriously ill and expected to die within 12 months. He discussed other requirements of the program and noted that it is only offered to inmates that do not pose a threat to the community.

There was a discussion regarding denying the compassionate release of an inmate if the court was aware of a preexisting condition during the trial phase. Mr. Whorton said the decision was made from the angle of whether or not there would be a threat to the community.

DISCUSSION ON NDOC MANAGEMENT OF MONIES ACQUIRED BY PRISON INMATES

- Laurie Bagwell, Chief Fiscal Officer, NDOC, discussed the policy, purpose, background, and procedure for processing inmate deductions from wages, and inmate deductions from any source other than wages. She explained that deductions from wages are from work programs designed to provide inmates with the opportunity to pay: (1) part of the cost of their incarceration; (2) court ordered financial obligations; and (3) into an inmate's savings account.
- Mr. Whorton, previously identified, also explained that other types of deductions are taken from deposits made on behalf of the inmate from outside of the institution, for example, from family and friends. Those deductions provide the inmate an opportunity to pay for costs incurred by the department on behalf of the inmate and to acquire a savings account for when the inmate is released. A copy of information referenced in Mr. Whorton's presentation is available as [Exhibit J](#).

There was a discussion regarding the amount taken from donated income to inmates, which was determined to be up to 50 percent taken by the NDOC and used to repay department charges (i.e., medical, postage, legal copies, damages from fighting, et cetera). Ms. Bagwell said no amount is taken out of an account if the inmate does not have any charges.

SOLICITATION OF RECOMMENDATIONS

- The Subcommittee recommended that following recommendations:
 1. Senator Nolan suggested a review of NDOC's correctional programs to determine which ones are successful. He added that a survey of successful programs in other states' prisons would be useful as well.
 2. Chairman Horne suggested creation of a report listing NDOC correctional programs available to men and women, for determination of equitable accessibility to merit credits by both genders in Nevada's prison population. He added that funding issues would be addressed after the list was created.

3. Assemblyman Anderson suggested a sentencing re-evaluation or review of youthful juveniles at an age of 25 or 26 to determine whether the need still existed to hold the offender certain levels of custody. He emphasized the importance of the review in cases where youthful offenders were found guilty by association and were subsequently carrying out long sentences.

PUBLIC COMMENT

- Consuelo McQuin, Las Vegas, said she supported the ACLU with regard to an independent audit of NDOC programs.
- Teleatha Alford, Las Vegas, said she would submit her recommendations in writing.
- Flo Jones, Las Vegas, said she was a member of Redress, Inc., and asked that the Subcommittee consider a program used by prisons in Indiana. She also submitted a binder of information from Redress, Inc. ([Exhibit K](#)), which is available by contacting the Research Division Library.
- Constance Kosuda, Las Vegas, said she was a member of Redress, Inc., and expressed concerns for alleged medical abuse and neglect in Nevada's correctional facilities. She also requested an independent audit of the NDOC budget.
- Teresa Roberts, Las Vegas, expressed support for correctional programs for incarcerated inmates, and said she agreed with earlier testimony from the ACLU.
- Terry Parker, Las Vegas, said the High Desert Prison Station was the site of an alleged incident involving an incarcerated family member and asked Subcommittee members to investigate it.
- Onie Cooper, Carson City, suggested that inmates who did not commit a violent crime be released and that the State pay for college-level education and all medical care for inmates. He said that money donated to inmates from outside sources should not be used to pay victim restitution.
- Pat Hines, Las Vegas, expressed concerns for Nevada's correctional policies. She alleged that the A.C.R. 17 Subcommittee "operated comfortably without statistics." ([Exhibit L](#))
- Sandi Sharp, Executive Director, Families of Murder Victims, asked Subcommittee members to consider crime victims and survivors of crime when crafting its final recommendations.

ADJOURNMENT

- The Chair announced the final meeting and work session of the A.C.R. 17 Subcommittee as June 8, 2006, in Carson City. There being no further business to come before the Subcommittee, the meeting was adjourned at 4:30 p.m.

Respectfully submitted,

Kennedy
Principal Research Secretary

Patrick R. Cadle
Senior Research Analyst

APPROVED BY:

Assemblyman William Horne, Chairman

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda” provided by Patrick R. Cadle, Senior Research Analyst, Research Division, Legislative Counsel Bureau (LCB), Carson City, Nevada.

[Exhibit B](#) is a letter dated April 18, 2006, to the members of the A.C.R. 17 Subcommittee from an organization called STOP D.U.I., presented by Vic Schultzi, Vice President, Coalition on Crime Victims Rights.

[Exhibit C](#) is a copy of testimony and information presented by Ferrano Serrano, Administrator, Division of Child and Family Services, Nevada’s Department of Health and Human Services.

[Exhibit D](#) is a copy of testimony furnished by Scott Shick, Chief, Juvenile Services, Douglas County, and President, State Juvenile Justice Association.

[Exhibit E](#) is a document titled “Juvenile Justice Commission Work Study Group Blended Sentencing Information Memo,” provided by Dorothy Nash Holmes, Deputy Directory, Correctional Programs, Nevada’s Department of Corrections (NDOC).

[Exhibit F](#) is a Microsoft PowerPoint presentation titled “State of Nevada Department of Corrections,” given by from Dorothy Nash Holmes, Deputy Directory, Correctional Programs, NDOC.

[Exhibit G](#) is a copy of testimony and recommendations given by Lee Rowland, Public Advocate, Nevada Chapter, American Civil Liberties Union.

[Exhibit H](#) is a document titled “Department of public Safety, Division of Parole and Probation legislative Approved Funding Levels,” presented by Mark Krmptic, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB).

[Exhibit I](#) is a document titled “Overview of the Budget of the Nevada Department of Corrections,” from Tracy Raxter, Program Analyst, Fiscal Analysis Division, LCB.

[Exhibit J](#) is a document titled “Office of the Director Operational Procedure,” submitted by Laurie Bagwell, Chief Fiscal Officer, NDOC.

[Exhibit K](#) is a report titled “Spartacus Project of Nevada” and binder of information given by Flo Jones, Las Vegas (the complete exhibit is on file in the Research Division Library).

[Exhibit L](#) is a document to members of the A.C.R. 17 Subcommittee regarding a list of suggested criminal justice reform changes, from Pat Hines, Las Vegas.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.

