

# Accurate Records and Information

ACAJ Public Comment 8/18/08

## Pre-Sentence Investigation Reports

The PSI Report is a valuable tool for the Judges when they are imposing sentences, and it is also used by the Parole Board as a tool to help determine parole eligibility. As the lives of those convicted, emotional conditions of victims, and tax payers expense, are directly and drastically affected by the decisions made based on this document, it is imperative that this document be as accurate as possible.

Numerous inmates have reported that their PSI Report are riddled with inaccuracies, if they are even allowed to see them at all. Inmates are often told by the Parole Board that they are denied parole based on information in their PSI Reports, yet they are told by their NDOC Case Workers that they are not allowed to see it or have a copy. Inmates have also reported that information on their PSI Reports pertaining to their arrest was changed throughout their incarceration without their knowledge and without reliable information or proof.

Below is a list of reported inaccuracies for inmate Elmer John Werner III's PSI Report:

PSI States: Elmer John Werner II

Fact: The accused Mr. Werner is the THIRD (III)

PSI States: David P. Buchanan is the Dist. Atty.

Fact: Mr. Buchanan was Mr. Werner's co-defendant's attorney. David Schwarz was in fact the Dist. Atty.

PSI States: NO co-defendants

Fact: Mr. Werner had TWO co-defendants, both of whom received prison sentences from the same crime.

PSI States: Eligibility of kidnapping charge begins after a minimum of ten years is served.

Fact: Eligibility of kidnapping begins after a minimum of five years is served. (Per NRS 200.320a)

PSI States: Mr. Werner also uses different SS#s as well as DOB

Fact: Mr. Werner has never used a different SS# or DOB. The numbers are one number off and most likely a typo on the part of whom ever translated information.

PSI States: Prior arrest in Dubuque, NM

Fact: Prior arrest was in Iowa not New Mexico

PSI States: Mr. Werner was never in the military

Fact: Mr. Werner WAS in the military

PSI States: Richard E. Wyett submitted the PSI Report written by Robert D. Laesione

Fact: Neither Mr. Wyett, nor Mr. Laesione interviewed Mr. Werner when the report was being created.

In addition to the above inaccuracies, there are 19 incorrect statements that are inconsistent with those given by co-defendants and witnesses as well as in court transcripts. There are also numerous and blatant typos in the PSI Report.

If the PSI Report is such an important record that it is used as a tool to decide the fate of people's lives and tax payers money, it MUST BE ACCURATE and available to the inmate that it pertains to. There also must be a vehicle or avenue for the inmate to submit for corrections to be made when proof is available.

## **NDOC Inmate Records**

There are enormous amounts of information, including proof, that the NDOC fails to keep accurate records of inmates. The Parole Board relies heavily on information the NDOC provides them in order to assist them to make decisions regarding inmate parole eligibility. Often times they make decisions to deny parole and continue to defend the denial even after proof is provided that the decision may have been based on inaccurate information. (Example Attached)

Complaints regarding inaccurate records maintained by the NDOC include, but are not limited to, the following:

- Inmates attend classes and not credited.
  - Unless there is a certificate received, they have no proof they attended and the NDOC's attendance sheets 'mysteriously disappear'.
  - Inmates have provided their case workers with copies (or originals) of certificates and they 'mysteriously disappear' from their files and/or never recorded in the prison information database.
  - Credits are inappropriately given, or not given at all.
- Medical complaints and/or visits are not recorded and/or recorded incorrectly (to minimize the complaint/diagnosis)
- Inaccurate sentence structures/terms
- Inaccurate parole eligibility dates (most complaints are parole dates seem to be pushed out further after **more** 'credits' are earned which seems to be the opposite of what should be happening).

## **How much does false/inaccurate information cost inmates, their families, and Nevada Tax Payers?**

### **The Law**

NRS 239.300 Stealing, altering or defacing records, documents or instruments. A person who:

1. Steals, embezzles, corrupts, alters, withdraws, falsifies or avoids any record, process, charter, gift, grant, conveyance, bond or contract;
  2. Knowingly or willfully, takes off, discharges or conceals any issue, forfeited recognizance or other forfeiture;
  3. Forges, defaces or falsifies any document or instrument recorded or filed in any court, or any registered acknowledgment or certificate; or
  4. Steals, alters, defaces or falsifies any minute, document, book or any proceedings of or belonging to any public office within this state,
- ➔ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

NRS 239.310 Removing, injuring or concealing public records and documents. A person who willfully and unlawfully removes, alters, mutilates, destroys, conceals or obliterates a record, map, book, paper, document or other thing filed or deposited in a public office, or with any public officer, by authority of law, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

NRS 239.320 Injury to, concealment or falsification of records or papers by public officer. An officer who mutilates, destroys, conceals, erases, obliterates or falsifies any record or paper appertaining to his office, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

NRS 239.330 Offering false instrument for filing or record. A person who knowingly procures or offers any false or forged instrument to be filed, registered or recorded in any public office, which instrument, if genuine, might be filed, registered or recorded in a public office under any law of this State or of the United States, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

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Governor



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DORLA M. SALLING, Chairman

BOARD OF PAROLE COMMISSIONERS

July 2, 2008

Inmate John Nicholas, #34076  
Nevada State Prison  
P O Box 607  
Carson City, NV 89702

Dear Mr. Nicholas:

The Board received your letter for reconsideration on June 25, 2008, and has reviewed your request, as well as the Risk Assessment including mitigating and aggravating factors. The only mitigating factor incorrectly marked is the one stating that you had a positive adjustment to a halfway house or work release program. Please know that the Nevada Parole Board takes into account all the aggravating and mitigating factors when making a decision.

The hearing on June 6, 2008, was your first hearing on a life sentence for kidnapping an elderly woman. You are not a first time offender having been convicted for Carrying a Concealed Weapon and Possession of a Dangerous Weapon in 1990. Please also note that the severity of the offense for which you are incarcerated is the highest severity level. The guideline recommendation is still to "Consider Factors." All such factors were considered at the time of your hearing and the decision to deny parole remains.

The Parole Board encourages you to continue to participate in programs specific to addressing behavior that led to your incarceration and to remain disciplinary free until you are seen in 2011.

Regards,

  
Mary K. Baker, Commissioner  
Nevada Parole Board

July 21, 2008

STATE BOARD OF PAROLE COMMISSIONERS  
1677 Old Hot Springs Road, Suite A  
CARSON CITY, NV. 89706

JOHN D. NICHOLAS #34076  
NEVADA STATE PRISON  
P.O. Box 607  
CARSON CITY, NV. 89702

RE: RESPONSE to letter dated July 2, 2008 REGARDING  
CASE # C3756

DEAR COMMISSIONERS,

I am writing this letter to request that the record be corrected concerning a prior felony conviction for carrying a concealed weapon and possession of a dangerous weapon in 1990.

These charges were dismissed on May 9<sup>th</sup>, 1991. Enclosed is a file stamped copy of the order to support this. Please note that I have no prior felony convictions or incarcerations.

Thank you for your time in this matter.

Sincerely,

John D. Nicholas #34076

FILED

No. CR90-2681

'91 MAY 14 P2:45

Dept. No. 5

JUDI BAILEY, CLERK

By M. Trabert

DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

O R D E R

JOHN DEAN NICHOLAS,

Defendant.

Based upon the Motion of the District Attorney filed  
herein, and good cause appearing therefor,

IT IS HEREBY ORDERED that the Information in case  
number CR90-2681, filed against the above named defendant on  
the 31st day of December, 1990, be, and the same hereby is  
dismissed.

DATED this 9 day of May, 1991.

[Signature]  
DISTRICT JUDGE

E120

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