

REASONS NV PAROLES ARE NOT GRANTED

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To: Advisory Commission on Administration of Justice

From: Florence Crew, cell #775-315-5721

Many of the documents noted in my report are included in Tonja Brown's Index presented to this committee. To keep from duplicating information I will gladly provide any documentation requested flojones39@yahoo.com

- Reasons:
- I. Unchecked power of the Parole Board.
 - II. Media exploitation and reporting on Parole Board actions.
 - III. Victim's Testimony.
 - IV. Parole Board Guidelines.
 - V. Inmate Litigation.
 - VI. False Information in Inmate Files including NOTIS.

No one knows why paroles are not being granted in NV. The Parole Board operates in "darkness and cloak and dagger secrecy". And, no one knows this better than me. I have been present at all of the legislative hearings from 2003 on noted below when the Board and others attempted to exempt the Parole Board from the OML.

Legislative History of NV Parole Board to change NRS 213 and gain an exception from NV Open Meeting Law NRS 241:

The 1983; 1998; and 2001 items listed below are all in R. Crew vs Parole Board OML Lawsuit, District Ct. Docket #0401001A and Supreme Court #44510, 2005.

1983 Parole Board Chair Bryon Armstrong testified before the NV Legislature stating, "The Parole Board holds open meetings in compliance with the Open Meeting Law."

1998 Deputy Attorney General Greg Salter's memo to DAG Joe Ward 9/18/98. "NRS 213.1214 establishes the psychological panel, [to review sexual offenders] and this office has been asked whether it is governed by the open meeting law. We believe it is."

2001 Nevada Board of Parole Commissioners' operation of the board (Manual) dated, revised October 12, 2001; page 1, parole application hearings, "All hearings conducted by the Board are open to the public in compliance with the Nevada Open Meeting Law." **Without any legislative authorization or change** the Board removed the language "*in compliance with the Nevada Open Meeting Law.*" from their Operation Manual noted above to: "All hearing conducted by the Board are 'open to the public.' "

End of the parole board operating under the open meeting law in sunshine and transparency. --- START OF THE PAROLE BOARD'S QUEST TO CONVINCE THE LEGISLATORS OF 2003, 2005, 2007, and 2011 TO EXEMPT THE PAROLE

HEARINGS FROM THE OML, and codify their operation, that did not have legislative authorization. All were UNSUCCESSFUL until 2011 in AB59 and its Conference Report #CA9.

2003 Senate Bill 229, Section 4.5 proposed amendment to NRS 213 --Memo from Joe Ward, Jr., Senior Deputy Attorney General to Scott Wasserman, Chief Counsel Legislative Counsel Bureau outlines a plan to create the following legislation:

“Except as otherwise provided in this chapter, the provisions of chapter 241 of NRS do not apply to a public body conducting a meeting or hearing that may result in a recommendation of final decision to grant, deny, continue, or revoke the parole of a prisoner, certify a prisoner pursuant to NRS 213.1214, commute a sentence, remit a fine or forfeiture, restore a Persons civil rights or grant a pardon or reprieve.”

2005 Senate Bill 423 **the above noted memo was attached to Parole Board David Smith’s letter to Chairman Anderson of the Asm. Judiciary Committee and submitted to the Legislative Counsel Bureau on May 19, 2005 by the Parole Board staff. The following day David Smith personally signed to withdraw his letter and the attached Ward to Wasserman memo. On May 20, 2005 David Smith resubmitted his letter to Chairman Anderson minus the above noted memo. May 18, 2005 David Smith states in his letter, “Currently, the Parole Board operates under the advice of the Attorney General that parole hearings are not subject to the OML.”**

2005 Asm. Judiciary Committee Chairman Bernie Anderson, SB 423 page 45, “We are not going to sanction or put into state law their [Parole Board] practice.” Bill died.

2007 Senate Bill 496-- Once again an attempt to stop the public from knowing who the parole board is releasing and why, by seeking exemption from the OML. Bill died.

2011 AB59 went to a Conference Committee (CC) vote. The issue being discussed and argued during the (CC) was whether the Parole Board was QUASI-JUDICIAL or not. (NSC) Order Kamadula, hot off the NSC printer, was presented by Parole Board Chair Connie Bisbee and David Smith Head Hearing Officer, who argued the Board was not quasi-judicial and therefore did not have to comply with AB59.

THERE WAS NO DISCUSSION OR SPECIFIC LANGUAGE REGARDING EXEMPTING THE PAROLE BOARD FROM THE OPEN MEETING LAW during the AB59 Conference Committee Meeting. (Assemblyman Munford, Tonya Brown and Florence Jones were present.)

The Legislative Counsel Bureau reports no auditory tape or written minutes are recorded of the Legislative Conference Committee Meetings. [This loophole can and must be corrected by the rules established at the beginning of a Legislative Session by the Speaker of the House, the Senate Majority Leader and their respective secretaries.] The only record from the Conference Committee is the handwritten notes taken by the Chairperson and submitted to the LCB legal for preparation of the Amendment, which becomes law. These last minute meetings of the legislative session, Conference Committee Meetings, allow for issues to become law that have not been properly vetted by the legislative

body or adequately recorded so the actual correct discussion and agreement of the committee members is available for all to review.

CONFERENCE COMMITTEE AMENDMENT #CA9 WAS Submitted by Brenda Erdos, ESQ. Head of LCB Legal Division and ADDED TO ASSEMBLY BILL 59 ON JUNE 6, 2011 excluding the Parole Board from the Open Meeting Law Chap. 241 of NRS. Again exempting the Parole Board from the OML was not discussed at all in the Conference Committee for AB59.

2013 -AB65 corrects everything. Dep. A. G. Keith Munro testified before the 2013 Assembly Government Affairs Committee 2/7/13 that all of the exemptions from NRS Chapter 241 including the Parole Board set forth in AB 65 already “ARE EXEMPTED FROM THE OML in other locations in the NRS.” According to Deputy A.G. Munro AB 65 is just the AG’s attempt to compile and organize altogether all the OML exceptions in the NRS. I submit that 2013-AB65 was to legitimize the acts of all involved in the 2011 last minute AB59 Conference Report #CA9.

To organize and make the NRS easier to understand as AG Munroe claimed, OR To protect the Parole Board from being in error for ten (10) years of Parole Hearings held without OML or Quasi-Judicial protection for public interest and inmate rights without legislative authorization.

WHAT IS THE COST OF THESE SHINAEGANS BY STATE OF NV STAFF for over ten (10) years of planning, preparing documents, testifying and finally changing the law of NV to exempt the Parole Board Hearings from the OML in the last minute of the 2011 Legislative Session by a Conference Committee? WHAT IS THE REASON? I submit the plan was conceived by AGD Ward and LCB Wasserman, Esq. to prevent Stockmeir from successfully litigating many years ago. (see their memo that David Smith pulled from his letter to Asm. Judicial Chair Anderson, 2005.)

The above history of Parole Board actions has led to:

I. The unchecked discretionary power of the NV Parole Board which is the main issue that has created the mass incarceration industry that exists in Nevada. Until the legislature takes responsibility for mandatory minimum sentencing laws and the NV Parole Board’s actions, by creating mandatory statutory language for the release of prisoners and defined timed release mechanisms that set specific release time in law, mass incarceration will perpetuate.

II. The Board members’ concern for being blamed and held responsible if anyone they parole reoffends. The media reports quickly worldwide all events. The spotlight has been directed on the parole board members, if any parolee reoffends. In some cases the Board members have all be removed even though their actions were in compliance with the objective assessments established by the Board.

III. Victim’s Testimony:

- a. Inmates who have victim opposition appearing at their Parole Board Hearings are more likely to be denied parole than inmates who do not.
- b. Victim’s are instructed by the Parole Board in writing, how to have a private meeting with the Board and keep their testimony and documents secret.

- c. During parole hearings if the victim, family or friends request time to speak, the hearing room is cleared including the inmate. The victim's testimony, given directly to the Board without the inmate's knowledge or any oversight opens the door to the possibility the parole board's decision may be based on false testimony, that the inmate or his representative have no opportunity to refute, resulting in an **unfair** parole hearing.
- d. Transparency has been extinguished for parole hearings especially regarding victim's testimony and documents because the Board claims not to be under quasi-judicial standards or the Open Meeting Law.
In Witherow, the NV Supreme Court (NSC) established four required practices and procedures of Quasi Judicial Standards:
 - 1. the ability to present and object to evidence
 - 2. the ability to cross examine witnesses
 - 3. a written decision from the public body
 - 4. an opportunity to appeal to a higher authority
- e. NSC states, “. . . because the parole hearing does not afford each party the minimum . . . [four quasi-judicial standards]” . . . “Therefore, a parole hearing is not a quasi-judicial proceeding, and the Board must comply with the open meeting law when conducting such hearings.” Witherow.

THEN the parole board was declared to be Quasi Judicial by the NV Legislature. In so doing the law was established that the standards of Witherow should apply as standard regulations for the Board's Hearings. BUT WAIT the NV Parole Board fails to follow any of the standard regulations established by the (NSC) regarding Quasi Judicial government bodies. The Board claims they are **Quasi Judicial in name only** and entitled to disregard the standards in their day-to-day operation and parole hearings. The Board also claims exemption in parole hearings from following the Open Meeting Law, which applies to all other state agencies and boards of NV government, except the legislature and judicial courts. Prior to 2001 the parole Board operated under the Open Meeting Law. The Board changed their Operating Procedural Manual in 2001 without any legislative direction calling themselves “open and public” in its operation including its parole hearings. After five legislative sessions of the Attorney General's Office, NV Dept. of Corrections, and Parole Board to only name a few proposing legislation to codify the Board's actions and many (NSC) decisions back and forth identifying the Board as under Open Meeting Law—Not under OML—Under Quasi-Judicial –Not under Quasi-Judicial. Now the Board leans on its own interpretation of NRS 213. They claim, at the direction of the Attorney General's Office, the Board is Quasi-Judicial in nature or name only, to justify their actions of being the only Board or agency in NV exempt from both the Open Meeting Law or Quasi-Judicial Standards that enable NV Government to be TRANSPARENT. For Judicial history of Parole Board's OML – Quasi-Judicial quagmire: Stockmeir; Witherow; Russell Crew; and Kamadula.

IV. Parole Board's Guidelines:

- a. The current Board's Guidelines contain the recommendation to "Consider Factors". There is no recommended action or direction provided on the "Consider Factor Worksheet" for the Board to follow in granting or denying parole. The majority of cases heard by the Board fall into the "Consider Factors" category. **Therefore, for most of its cases the Parole Board has no objective direction to follow,** as required by NRS 213.10885. There must be specific criteria regarding when a parole is to be granted. If not this becomes TOTALLY SUBJECTIVE PAROLE BOARD ACTION.
- b. The Parole Board's Objective Risk Assessment Worksheet has both mitigating (Inmate able to change) and aggravating or static (not ever changing) items listed. Parole Board decisions are based on "static" factors but the inmates are given "mitigating" factors to improve before their next parole hearing.
 1. Repeated use of a "static" factor to deny parole has been identified by the Cite NY Symposium Aging-in-prison, to be a serious problem in repeated parole hearing. The Parole Board's continuing use of a **static** factor as their sole reason for denial of parole causes many of the repeated denials of parole.
 2. On R. Crew's repeated parole denials there is only one aggregating factor selected, out of many on the Board's form, 'nature of crime' committed at age 19. This is a **static** and unchangeable factor. Which was known and considered by Honorable Judge Guy, now deceased, when he sentenced R. Crew in 1983 to Life With Sentences under Biffath life and its enhancement to be served together for parole eligibility and Williams which allows for him to earn good time credits to be deducted from parole eligibility time.

V. Inmate Litigation:

- a. ***It is an interesting fact that the inmates who have litigated against the Parole Board and NDOC have received numerous parole denials for many years.***
This seems to go against common sense when the evaluation on the Parole Board's own Objective Risk Assessment for those inmates is scored at low risk to reoffend.
- b. Inmate litigators who received multiple parole denials:
 1. Nolan Klein, died in prison after 21 years of claiming his innocence and litigating. Im. Klein was offered a parole in 2007 if he would drop his current suit against the Parole Board, he declined.
 2. John Witherow, now on parole, also was offered a parole if he would stop his litigation. Witherow requested the offer be put in writing.
 3. Norman Crew was paroled in 1996 by a previous parole board from a life and its use enhancement aggregated under Biffath after 15 yrs of incarceration with **Williams'** **goodtime credits correctly applied.**
In 2006 he won his lawsuit against NDOC and the Board, **Crew VS Budge.** Norman was deemed eligible for parole custody to the streets, 3/2008. He has now served 20+ years on his last and its use with repeated P.B. Objective Risk Assessments rating him as **"low risk to reoffend"** but the **static** unchangeable "nature of crime" is always listed as reason for denial. Since winning his lawsuit against the

Board he has been repeatedly denied parole with the maximum allowable, by law, 3yr.“dump,”wait period before future hearings.

CHRONOLOGICAL OF NORMAN CREW’S SENTENCING AND PRISON TERM

- 1981 *Norman Crew was sentenced by Judge Guy to Life with an enhancement and life with an enhancement. These life sentences were 10 to life.*
- 1981 *BIFFATH*, the prevailing NV Supreme Court for sentencing, called for a life and its enhancement to be served together, aggregated for parole eligibility, making each life and its enhancement 20 to life REDUCED BY Good-time earned credits and was applicable for sentences imposed before July 1983. Norman was sentenced December, 1981 and Russell June 14, 1983. *DEMOSTHENES vs WILLIAMS*, 97 Nev. 611,637 P.2nd 1203. (1981)
- 1993 *After serving 12 years Norman had a parole hearing based on Biffath with Williams i.e. a life and its enhancement served together less good-time credits. Denied for 3 years.*
- 1996 *Norman paroled by previous NV Parole Board **after 15 years of prison** from One Life WITH and its use, enhancement.*
Last life with and its use separated incorrectly by NDOC and Parole Board
- 2006 *Norman **WON** his **District #1 Court** suit against the NDOC and Parole Board. Court ordered his sentences aggregated making him eligible for parole to the community March, 2008.*
- 2008 *Parole Board Denial—“victim’s impact and nature of crime.*
- 2010 *Chair Bisbee’s response to inquiry of NV Gov., “I cannot tell her (Crew Bros. mother) that the Board will release either or both of them (Norman and Russell) on parole in 2011 or at any particular time thereafter.*
- 2011 *Parole Board Denial—“nature of crime”*
- 2014 *Parole Board Denial--- “nature of crime”*
*With **Parole denial years added** to the Court Ordered **eligible for community release date of March, 2008**; Norman has served an **additional 21 years** on this Life and its enhancement. That is **six years more** than he served on his first sentence with an improved record.*
4. Russell Crew’s parole in 1995 from a previous Board has satisfied his 1st life and its use enhancement by actions of both Parole and Pardon’s Boards. In 2007 Russell won his lawsuit against the NDOC and Parole Board. **Crew vs McDaniel** Russell ‘s Court Order ordered him eligible for parole custody to the streets since 9/2007. Russell’s parole hearing denials mirror his brother, Norman’s set forth in #3 above. *Their last two parole hearings have been held on the same day.*

Note: P.B. Chair Bisbee has stated she won’t apply any goodtime credits to Norman’s or Russell’s sentences because of her interpretation of recent legislative intent even though Norman’s sentence began in 1981 and Russell’s in 1983 under Williams and their Ct. Orders reaffirms their sentences are to be reduced by goodtime credits per Williams. In a letter Bisbee wrote to a sitting NV Governor, “Norman and Russell had to serve 40 years minimum or flat time before they would be eligible for parole.” **If Chair Bisbee’s letter**

was correct their first parole hearing date would be 2021 not the parole hearings the Board holds for them every three years. These must be phony parole hearings that are for appearance only, that the Board is doing to satisfy the law requirement Chair Bisbee states is not correct. When will they actually be considered for real parole to the community. Norman and Russell have at least 10 years each of goodtime that Bisbee refuses to apply to their sentences. **The issues of Norman and Russell's parole consideration from their original sentences received in December, 1981 and June 14, 1983 are two fold:**

- 1. The 10 year number in the life WITH sentence RECEIVED BY Russell and Norman is NOT a mandatory minimum term;*
- 2. The life sentences issued by Judge Guy to both have never been reduced by the NV courts, NV executive action , NV Pardons Board or any other act.*

5. Robert Stockmeier
6. Brian Kamadula
7. Jesse Anderson vs: Connie Bisbee, his Court Order Feb. 24, 2016:
"Defendant may proceed with claim against Bisbee on 14th Amendment Rights." Although this is a parole revocation case the Court still has found that the inmate has standing against Chairman Bisbee.

VI. False Information that results in multiple unwarranted parole denials:

- a. Inmate P.S.I. reports from the Courts that follows inmates throughout their entire prison sentence, which is nearly impossible to correct, dispute or change.
- b. Inmate NDOC "I" File, kept @ institution. (Confidential)
- c. Inmate NDOC "C" File kept at Central Office. (Confidential)
- d. NOTIS system for sentence record keeping began in 2007.
 1. NOTIS Computer Glitch reported by NDOC in 2007
 - a. NDOC only shows inmate Klein's sentence records after 1999. Where are inmate sentence records prior to 1999?
 - b. When inmate prison history and sentence data including parole information was imported from the old computer system to NOTIS information was transferred into the wrong inmate files. These errors still exist within the system today. To correct this data error every inmate must be afforded the opportunity to review and have their files corrected to accurately reflect their prison data.
 2. In 2014 two inmates reported the following regarding their NDOC reports to the Board by their NDOC caseworkers:
 - a. Allowed to read report but denied a copy. Told there are no corrections.