

Audit Highlights



Board of Parole Commissioners

Highlights of Legislative Auditor report on the Board of Parole Commissioners issued on December 8, 2010. Report # LA10-21.

Background

The mission of the Board of Parole Commissioners (Board) is to conduct prompt, fair, and impartial hearings on parole applications and parole violation matters and take appropriate action. The Board consists of a chairman and six commissioners appointed by the Governor to 4-year terms. The chairman is responsible for administration and management of the agency. Parole hearings are held at the agency's offices in Las Vegas and Carson City by video conference with the prison facilities where the inmates are housed. The Board also conducts parole violation hearings to determine whether to revoke parole previously granted.

The Board was authorized 28 positions for fiscal year 2010, including the commissioners. As of October 2010, three positions were vacant. The Board has one budget account funded by General Fund appropriations. Total expenditures for fiscal year 2010 were about \$2.5 million.

Parole is the early release and supervision of an inmate who has served time in prison. NRS 213.10705 declares that the release of an inmate on parole is an act of grace and that no person has a right to parole. State laws establish the rules and factors that determine when an inmate is eligible to be considered for parole. The Board held about 7,600 parole hearings during fiscal year 2010, and granted parole about 61% of the time.

Purpose of Audit

The purpose of our audit was to evaluate whether the Board of Parole Commissioners conducted parole hearings in accordance with state laws, regulations, policies, and procedures. Our audit focused on parole hearings conducted in fiscal year 2010, and included activities through October 2010 for certain areas.

Audit Recommendations

This audit report contains one recommendation to reduce the risk of future problems with parole eligibility dates. The Board of Parole Commissioners should work with NDOC to develop a process to help ensure future statutory changes affecting parole eligibility are properly implemented.

The Board accepted the one recommendation.

Status of Recommendations

The Board's 60-day plan for corrective action is due on March 8, 2011. In addition, the six-month report on the status of audit recommendations is due on September 8, 2011.

Results in Brief

The Board of Parole Commissioners conducted parole hearings in fiscal year 2010 in accordance with state laws, regulations, policies, and procedures. However, we noted a problem with parole eligibility dates that is not within the Board's control. This problem can impact the Board's ability to achieve its mission to conduct prompt hearings on parole applications and take appropriate action.

Specifically, parole eligibility dates provided by the Nevada Department of Corrections (NDOC) to the Board were incorrect for some inmates. The errors occurred when NDOC's computer system was not correctly modified to reflect changes to state laws in 2007 related to when inmates become eligible for discretionary parole hearings. This led to delays for some inmates' discretionary parole hearings. As a result, certain inmates granted parole based on incorrect eligibility dates were released from prison later than their actual parole eligibility dates. Delaying the release of inmates has a fiscal impact on the State. In October 2010, NDOC indicated it corrected the problems with eligibility dates in its computer system. To reduce the risk of future problems, the Board needs to work with NDOC to develop a process to help ensure future statutory changes affecting parole eligibility are properly implemented.

Principal Findings

The Board of Parole Commissioners conducted parole hearings in fiscal year 2010 in accordance with state laws, regulations, policies, and procedures. The Board notified victims and law enforcement agencies of inmates scheduled for hearings, conducted hearings timely upon notice from NDOC that inmates were eligible for parole consideration, assessed inmates' parole risk, made hearing decisions in accordance with established guidelines, ensured sex offenders were cleared by a psychiatric panel before being released, and notified victims of hearing decisions.

Parole eligibility dates provided by NDOC to the Board were incorrect for some inmates. For these inmates, their discretionary parole hearings were delayed. As a result, parole release was delayed for inmates affected by this error that were granted parole. Based on information provided by NDOC, the average delay was 24 days. Delaying the release of inmates has a fiscal impact on the State. Determining the fiscal impact depends on the assumptions made about which costs could have been reduced if the inmates' releases were more timely. According to NDOC, the average cost of housing an inmate in fiscal year 2010 was \$58.58 a day. However, NDOC indicated the estimated incremental cost of delaying an inmate's release was \$6.64 a day, which consists of food and medical costs. Using this amount, expenditures of about \$71,000 could have been avoided if the errors with parole eligibility dates had not occurred.

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We have completed an audit of the Board of Parole Commissioners. The audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions. The results of our audit, including findings, conclusions, recommendations, and the Board's response, are presented in this report.

We wish to express our appreciation to the management and staff of the Board of Parole Commissioners for their assistance during the audit.

Respectfully presented,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA
Legislative Auditor

November 15, 2010
Carson City, Nevada

STATE OF NEVADA
BOARD OF PAROLE COMMISSIONERS
AUDIT REPORT

Table of Contents

	<u>Page</u>
Executive Summary	1
Introduction	4
Background	4
Scope and Objective	6
Findings and Recommendation.....	7
Hearings Conducted in Accordance With Requirements	7
Some Parole Eligibility Dates Provided to the Parole Board Were Incorrect	7
Appendices	
A. Audit Methodology	11
B. Nevada Revised Statutes Relevant to the Parole Function	14
C. Board of Parole Commissioners Risk Assessment Instrument and Guidelines	19
D. Response From the Board of Parole Commissioners	21

EXECUTIVE SUMMARY

BOARD OF PAROLE COMMISSIONERS

Background

The mission of the Board of Parole Commissioners (Board) is to conduct prompt, fair, and impartial hearings on parole applications and parole violation matters and take appropriate action. The Board consists of a chairman and six commissioners appointed by the Governor to 4-year terms. The chairman is responsible for administration and management of the agency. Parole hearings are held at the agency's offices in Las Vegas and Carson City by video conference with the prison facilities where the inmates are housed. The Board also conducts parole violation hearings to determine whether to revoke parole previously granted.

The Board was authorized 28 positions for fiscal year 2010, including the commissioners. As of October 2010, three positions were vacant. The Board has one budget account funded by General Fund appropriations. Total expenditures for fiscal year 2010 were about \$2.5 million.

Parole is the early release and supervision of an inmate who has served time in prison. NRS 213.10705 declares that the release of an inmate on parole is an act of grace and that no person has a right to parole. State laws establish the rules and factors that determine when an inmate is eligible to be considered for parole. The Board held about 7,600 parole hearings during fiscal year 2010, and granted parole about 61% of the time.

Purpose

The purpose of our audit was to evaluate whether the Board of Parole Commissioners conducted parole hearings in accordance with state laws, regulations, policies, and procedures. Our audit focused on parole hearings conducted in fiscal year 2010, and included activities through October 2010 for certain areas.

EXECUTIVE SUMMARY

BOARD OF PAROLE COMMISSIONERS

Results in Brief

The Board of Parole Commissioners conducted parole hearings in fiscal year 2010 in accordance with state laws, regulations, policies, and procedures. However, we noted a problem with parole eligibility dates that is not within the Board's control. This problem can impact the Board's ability to achieve its mission to conduct prompt hearings on parole applications and take appropriate action.

Specifically, parole eligibility dates provided by the Nevada Department of Corrections (NDOC) to the Board were incorrect for some inmates. The errors occurred when NDOC's computer system was not correctly modified to reflect changes to state laws in 2007 related to when inmates become eligible for discretionary parole hearings. This led to delays for some inmates' discretionary parole hearings. As a result, certain inmates granted parole based on incorrect eligibility dates were released from prison later than their actual parole eligibility dates. Delaying the release of inmates has a fiscal impact on the State. In October 2010, NDOC indicated it corrected the problems with eligibility dates in its computer system. To reduce the risk of future problems, the Board needs to work with NDOC to develop a process to help ensure future statutory changes affecting parole eligibility are properly implemented.

Principal Findings

- The Board of Parole Commissioners conducted parole hearings in fiscal year 2010 in accordance with state laws, regulations, policies, and procedures. The Board notified victims and law enforcement agencies of inmates scheduled for hearings, conducted hearings timely upon notice from NDOC that inmates were eligible for parole consideration, assessed inmates' parole risk, made hearing decisions in accordance with established guidelines, ensured sex

EXECUTIVE SUMMARY

BOARD OF PAROLE COMMISSIONERS

offenders were cleared by a psychiatric panel before being released, and notified victims of hearing decisions. (page 7)

- Parole eligibility dates provided by NDOC to the Board were incorrect for some inmates. For these inmates, their discretionary parole hearings were delayed. As a result, parole release was delayed for inmates affected by this error that were granted parole. Based on information provided by NDOC, the average delay was 24 days. Delaying the release of inmates has a fiscal impact on the State. Determining the fiscal impact depends on the assumptions made about which costs could have been reduced if the inmates' releases were more timely. According to NDOC, the average cost of housing an inmate in fiscal year 2010 was \$58.58 a day. However, NDOC indicated the estimated incremental cost of delaying an inmate's release was \$6.64 a day, which consists of food and medical costs. Using this amount, expenditures of about \$71,000 could have been avoided if the errors with parole eligibility dates had not occurred. (page 7)

Recommendation

This audit report contains one recommendation to reduce the risk of future problems with parole eligibility dates. The Board of Parole Commissioners should work with NDOC to develop a process to help ensure future statutory changes affecting parole eligibility are properly implemented. (page 23)

Agency Response

The Board, in response to the audit report accepted the one recommendation. (page 21)

Introduction

Background

The mission of the Board of Parole Commissioners (Board) is to conduct prompt, fair, and impartial hearings on parole applications and parole violation matters and take appropriate action. The Board consists of a chairman and six commissioners appointed by the Governor to 4-year terms. The chairman is responsible for administration and management of the agency. Parole hearings are held at the agency's offices in Las Vegas and Carson City by video conference with the prison facilities where the inmates are housed. The Board also conducts parole violation hearings to determine whether to revoke parole previously granted.

The Board was authorized 28 positions for fiscal year 2010, including the commissioners. As of October 2010, three positions were vacant. The Board has one budget account funded by General Fund appropriations. Total expenditures for fiscal year 2010 were about \$2.5 million. Exhibit 1 summarizes the Board's expenditures for fiscal year 2010.

Exhibit 1

Board of Parole Commissioners Expenditures Fiscal Year 2010

<u>Category</u>	
Personnel	\$1,941,011
Operating	365,548
Information Services	80,154
Intra-Agency Cost Allocations	48,232
Hearing Representatives	35,199
Training	20,841
Travel	19,812
Total	\$2,510,797

Source: State Accounting System.

Basics of the Parole Hearing Process

Parole is the early release and supervision of an inmate who has served time in prison. NRS 213.10705 declares that the release of an inmate on parole is an act of grace and that no person has a right to parole. State laws establish the rules and factors that determine when an inmate is eligible to be considered for parole.¹ The factors include the length of an inmate's sentence, how much time has been served, and how many credits the inmate earned. Inmates earn credits in many ways, including for good behavior, working, educational achievements, and completing alcohol and drug treatment programs. The Nevada Department of Corrections (NDOC) is statutorily responsible for determining when an inmate is eligible for parole based on these rules and factors.

With the exception of mandatory parole hearings, all parole hearings are considered discretionary. Mandatory parole hearings are statutorily required for certain inmates 12 months before the end of the maximum sentence, as reduced by any credits earned. Inmates are eligible for discretionary parole hearings when they have served their minimum sentence, less any credits earned. If an inmate is denied parole at their discretionary hearing, the Board sets the date for the inmate's next discretionary hearing. By law, the next discretionary hearing must be within 3 or 5 years, depending on the years remaining on the inmate's sentence. Different parole eligibility rules apply to inmates sentenced to a crime committed before July 1, 1995.

Each month NDOC notifies the Board of the inmates eligible for parole in 5 months. This timeframe allows the Board to notify applicable victims and law enforcement agencies of eligible inmates, and to schedule, prepare for, and hold parole hearings. It also allows time for the Division of Parole and Probation to work with the inmate on a release plan before the inmate is actually paroled. NDOC and Board staff prepare for each hearing by gathering information about the inmate to complete the parole risk assessment instrument. The commissioners consider the instrument's guideline recommendations when deciding whether to grant parole.² The instrument weighs several risk factors. Some factors, such as age when the inmate was first

¹ Appendix B contains these laws and other NRS sections relevant to the parole function.

² Appendix C contains the Parole Board's risk assessment instrument and guidelines.

arrested, do not change over the course of the inmate's imprisonment. Other factors, such as disciplinary violations in the past year, can vary based on the inmate's conduct. The Board also considers aggravating and mitigating factors in certain circumstances. The Board held about 7,600 parole hearings during fiscal year 2010, and granted parole about 61% of the time.

Scope and Objective

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provision of NRS 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This audit focused on parole hearings conducted in fiscal year 2010, and included activities through October 2010 for certain areas. The objective of our audit was to evaluate whether the Board of Parole Commissioners conducted parole hearings in accordance with state laws, regulations, policies, and procedures.

Findings and Recommendation

Hearings Conducted in Accordance With Requirements

The Board of Parole Commissioners (Board) conducted parole hearings in fiscal year 2010 in accordance with state laws, regulations, policies, and procedures. The Board notified victims and law enforcement agencies of inmates scheduled for hearings, conducted hearings timely upon notice from the Nevada Department of Corrections (NDOC) that inmates were eligible for parole consideration, assessed inmates' parole risk, made hearing decisions in accordance with established guidelines, ensured sex offenders were certified by a psychological review panel before being released, and notified victims of hearing decisions. However, we noted a problem with parole eligibility dates that is not within the Board's control. This problem can impact the Board's ability to achieve its mission to conduct prompt hearings on parole applications, and is discussed further below.

Some Parole Eligibility Dates Provided to the Board of Parole Commissioners Were Incorrect

Parole eligibility dates provided by NDOC to the Board were incorrect for some inmates. The errors occurred when NDOC's computer system was not correctly modified to reflect changes to state laws in 2007 related to when inmates become eligible for discretionary parole hearings. This led to delays for some inmates' discretionary parole hearings. As a result, certain inmates granted parole based on incorrect eligibility dates were released from prison later than their actual parole eligibility dates. Delaying the release of inmates has a fiscal impact on the State. In October 2010, NDOC indicated it corrected the problems with eligibility dates in its computer system. To reduce the risk of future problems, the Board needs to work with NDOC to develop a process to help ensure future statutory changes affecting parole eligibility are properly implemented.

Law Changes in 2007 Affected Parole Eligibility

Effective July 1, 2007, Section 5 of Assembly Bill 510 (A.B. 510), revised NRS 209.4465 to increase credits inmates earn. In addition, the bill required certain credits earned by inmates convicted of specific felonies to be deducted from the minimum sentence in determining when they are eligible for discretionary parole hearings. This includes credits for good behavior, work, education, and meritorious service. Specifically, the credits must be applied to an inmate's minimum sentence if the inmate was not convicted of:

- a category A or B felony,
- a felony involving the use or threatened use of force or violence against the victim,
- a sexual felony offense, or
- certain offenses involving driving under the influence of alcohol or controlled substances.

Prior to A.B. 510, the law required all credits to be deducted from an inmate's maximum sentence.

Computer System Was Not Modified For Some Law Changes

With the passage of A.B. 510, NDOC had to make numerous changes to its computer system which calculates parole eligibility dates. The system was correctly changed to deduct credits for good behavior and education from an inmate's minimum sentence, if the offense qualified. However, the system was not changed to also deduct work and merit credits from an inmate's minimum sentence, as provided for in the revised law. This delayed the eligibility dates of all inmates with qualifying offenses that earned work or merit credits.

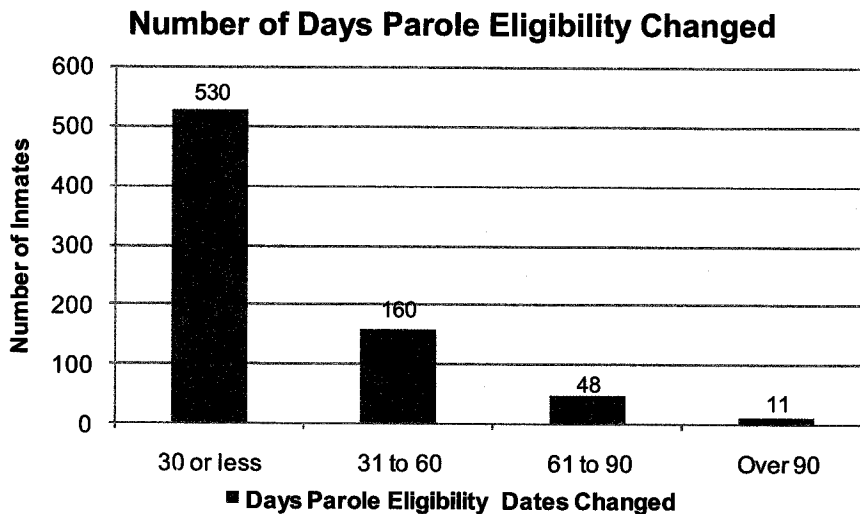
Of the 25 hearings we tested, 3 inmates had incorrect parole eligibility dates because they earned, but did not receive, work and merit credit reductions to their minimum sentences. A.B. 510 credits did not apply to the other 22 hearings we tested. For these 3 inmates, we noted:

- Two inmates were housed longer than necessary, for 11 and 104 days, because the Board granted parole based upon incorrect eligibility dates.
- One inmate was denied parole, and therefore there was no effect to having a delayed parole hearing.

Errors Resulted in Unnecessary Costs to House Inmates

Discretionary parole hearings were delayed for inmates with incorrect eligibility dates (a total of 749) because their minimum sentence was not reduced for work and merit credits. As a result, parole release was delayed for inmates affected by this error that were granted parole. Based on information provided by NDOC, the average delay was 24 days. Most of the delays were 30 days or less. Exhibit 2 shows the number of inmates affected by the error, and the number of days the parole eligibility dates changed after NDOC's computer system was corrected.

Exhibit 2



Source: Auditor analysis of data provided by NDOC.

Delaying the release of inmates has a fiscal impact on the State. Determining the fiscal impact depends on the assumptions made about which costs could have been reduced if the inmates' releases were more timely. According to NDOC, the average cost of housing an inmate in fiscal year 2010 was \$58.58 a day. However, NDOC indicated that the estimated incremental cost of delaying an inmate's release was \$6.64 a day, which consists of food and medical costs. Using this amount, expenditures of about \$71,000 could have been avoided if the errors with parole eligibility dates had not occurred. This amount is based on the number of inmates whose discretionary parole hearings were delayed due to the computer system error, the average delay of 24 days, and the Parole Board's grant rate of 61% in fiscal year 2010.

Although NDOC informed us the problem with parole eligibility dates has been corrected as of October 2010, future statutory changes may occur affecting parole eligibility. It is important for the Board and NDOC to work together to ensure inmates' parole eligibility dates are accurate. Without an established process for implementing such changes, there is increased risk of similar problems in the future.

Recommendation

1. In conjunction with the Department of Corrections, develop a process to help ensure that any future statutory changes affecting parole eligibility are properly implemented.

Appendices

Appendix A Audit Methodology

To gain an understanding of the Board of Parole Commissioners, we interviewed agency staff and reviewed statutes, regulations, policies, and procedures significant to the Board's operations. We also reviewed financial information, budgets, legislative committee minutes, and other information describing the activities of the agency. We documented and assessed the Board's internal controls over the parole eligibility process, notifications to victims and inmates, parole hearings, revocation hearings, personnel requirements, reporting of performance measures, and the Parole Board's comprehensive review of its standards for granting parole.

To determine if parole eligibility dates in the computer system were accurate, based on requirements in state laws, we obtained eligibility lists used to schedule hearings from July 2009 to June 2010. We randomly selected five inmates on five different monthly eligibility lists, for a total sample of 25 inmates. For each inmate selected, we recalculated the eligibility dates using sentence and credit information in the computer system. After discovering errors with parole eligibility dates in our sample, we interviewed personnel at the Nevada Department of Corrections (NDOC) and gathered data from their computer system to understand the cause of the errors and determine the number of inmates affected. We then analyzed the data to determine the average delay and to estimate the potential cost of the delays. Finally, we provided NDOC management a written summary of our audit results related to NDOC for their review and comment. We also tested whether the Board distributed the eligibility lists to law enforcement agencies timely, as required by law.

To evaluate if risk assessments were scored correctly according to established criteria and guidelines, we selected a random sample of five hearings from five different months in fiscal year 2010, for a total sample of 25 inmate hearings. For each hearing, we verified each factor of the risk assessment was properly scored, and that aggravating and mitigating factors were identified correctly. To verify hearings were

timely, we compared the hearing date to the parole eligibility date in the computer system. We verified three commissioners conducted the hearing, when required by law, and evaluated whether decisions reached by the Board adhered to guidelines established in regulations.

To determine if sex offenders were evaluated by the NDOC psychological review panel in advance of parole hearings, as required by law, we obtained a listing of sex offenders that had hearings during fiscal year 2010, and randomly selected 20 hearings. For each hearing, we verified the Board received psychological review panel reports timely from NDOC. Next, we confirmed the Board did not grant parole unless the report certified the offender was not a high risk to sexually reoffend. We also tested the completeness and accuracy of the sex offender listing by selecting five case files and tracing the information to the list. Then, we traced five sex offenders from the list to the case files.

To determine if victims received timely notification of scheduled hearings and hearing decisions, we selected all inmates with victims from our previous samples. We also tested the completeness and accuracy of the victim information in the database by selecting 10 case files and tracing the information to the database.

Our audit work was conducted from March to September 2010. We conducted this performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Chairman of the Board of Parole Commissioners. On November 10, 2010, we met with agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix D which begins on page 21.

Contributors to this report included:

Diana Giovannoni, CPA
Deputy Legislative Auditor

Richard A. Neil, CPA
Audit Supervisor

Appendix B

Nevada Revised Statutes Relevant to the Parole Function

Legislative Declaration

NRS 213.10705 Legislative declaration concerning parole, probation and residential confinement. The Legislature finds and declares that the release or continuation of a person on parole or probation is an act of grace of the State. No person has a right to parole or probation, or to be placed in residential confinement, and it is not intended that the establishment of standards relating thereto create any such right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

(Added to NRS by 1989, 1885; A 1991, 316)—(Substituted in revision for NRS 213.10989)

Eligibility for Parole

NRS 213.130 Consideration for parole: Duties of Department of Corrections; use of photographs related to offense during meeting of the State Board of Parole Commissioners; conduct of meeting; notice of meeting to victim; prisoner's rights; notice to prisoner of decision of Board.

1. The Department of Corrections shall:

(a) Determine when a prisoner sentenced to imprisonment in the state prison is eligible to be considered for parole;

(b) Notify the Board of the eligibility of the prisoner to be considered for parole; and

(c) Before a meeting to consider the prisoner for parole, compile and provide to the Board data that will assist the Board in determining whether parole should be granted.
(only subsection 1 is shown here)

NRS 213.1099 Limitations on Board's power to release prisoners on parole.

1. Except as otherwise provided in this section and NRS 213.1214 and 213.1215, the Board may release on parole a prisoner who is otherwise eligible for parole pursuant to NRS 213.107 to 213.157, inclusive.

2. In determining whether to release a prisoner on parole, the Board shall consider:

(a) Whether there is a reasonable probability that the prisoner will live and remain at liberty without violating the laws;

(b) Whether the release is incompatible with the welfare of society;

(c) The seriousness of the offense and the history of criminal conduct of the prisoner;

(d) The standards adopted pursuant to NRS 213.10885 and the recommendation, if any, of the Chief; and

(e) Any documents or testimony submitted by a victim notified pursuant to NRS 213.130.

3. When a person is convicted of a felony and is punished by a sentence of imprisonment, the person remains subject to the jurisdiction of the Board from the time the person is released on parole under the provisions of this chapter until the expiration of the maximum term of imprisonment imposed by the court less any credits earned to reduce his or her sentence pursuant to chapter 209 of NRS.

4. Except as otherwise provided in NRS 213.1215, the Board may not release on parole a prisoner whose sentence to death or to life without possibility of parole has been commuted to a lesser penalty unless it finds that the prisoner has served at least 20 consecutive years in the state prison, is not under an order to be detained to answer for a crime or violation of parole or probation in another jurisdiction, and that the prisoner does not have a history of:

(a) Recent misconduct in the institution, and that the prisoner has been recommended for parole by the Director of the Department of Corrections;

(b) Repetitive criminal conduct;

(c) Criminal conduct related to the use of alcohol or drugs;

(d) Repetitive sexual deviance, violence or aggression; or

(e) Failure in parole, probation, work release or similar programs.

Appendix B

Nevada Revised Statutes Relevant to the Parole Function (continued)

5. In determining whether to release a prisoner on parole pursuant to this section, the Board shall not consider whether the prisoner will soon be eligible for release pursuant to NRS 213.1215.

6. The Board shall not release on parole an offender convicted of an offense listed in NRS 179D.097 until the Central Repository for Nevada Records of Criminal History has been provided an opportunity to give the notice required pursuant to NRS 179D.475.

(Added to NRS by 1967, 526; A 1973, 844; 1975, 85; 1977, 414; 1981, 871; 1987, 509, 946; 1989, 1886; 1993, 2777; 1995, 28, 417, 1259, 1331, 2067, 2070; 1997, 589, 590, 591, 1686, 2508; 2001 Special Session, 200; 2007, 2775)

NRS 213.120 When prisoner becomes eligible for parole.

1. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed before July 1, 1995, may be paroled when the prisoner has served one-third of the definite period of time for which the prisoner has been sentenced pursuant to NRS 176.033, less any credits earned to reduce his or her sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when the prisoner has served the minimum term of imprisonment imposed by the court. Except as otherwise provided in NRS 209.4465, any credits earned to reduce his or her sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment.

[Part 13:149:1933; 1931 NCL § 11581]—(NRS A 1957, 317; 1965, 434; 1967, 527; 1979, 1031; 1991, 1105; 1993, 137; 1995, 1259; 2007, 3182)

NRS 213.1214 Prisoners required to be certified by panel before release on parole; recertification required if prisoner returns to custody; revocation of certification; immunity.

1. The Board shall not release on parole a prisoner convicted of an offense listed in subsection 5 unless a panel consisting of:

(a) The Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or his or her designee;

(b) The Director of the Department of Corrections or his or her designee; and

(c) A psychologist licensed to practice in this State or a psychiatrist licensed to practice medicine in this State,

↪ certifies that the prisoner was under observation while confined in an institution of the Department of Corrections and does not represent a high risk to reoffend based upon a currently accepted standard of assessment.

2. A prisoner who has been certified pursuant to subsection 1 and who returns for any reason to the custody of the Department of Corrections may not be paroled unless a panel recertifies the prisoner in the manner set forth in subsection 1.

3. The panel may revoke the certification of a prisoner certified pursuant to subsection 1 at any time.

4. This section does not create a right in any prisoner to be certified or to continue to be certified. No prisoner may bring a cause of action against the State, its political subdivisions, or the agencies, boards, commissions, departments, officers or employees of the State or its political subdivisions for not certifying a prisoner pursuant to this section or for refusing to place a prisoner before a panel for certification pursuant to this section.

5. The provisions of this section apply to a prisoner convicted of any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

Appendix B

Nevada Revised Statutes Relevant to the Parole Function (continued)

- (b) Statutory sexual seduction pursuant to NRS 200.368.
 - (c) Battery with intent to commit sexual assault pursuant to NRS 200.400.
 - (d) Abuse or neglect of a child pursuant to NRS 200.508.
 - (e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.
 - (f) Incest pursuant to NRS 201.180.
 - (g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.
 - (h) Open or gross lewdness pursuant to NRS 201.210.
 - (i) Indecent or obscene exposure pursuant to NRS 201.220.
 - (j) Lewdness with a child pursuant to NRS 201.230.
 - (k) Sexual penetration of a dead human body pursuant to NRS 201.450.
 - (l) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.
 - (m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive.
 - (n) An offense that is determined to be sexually motivated pursuant to NRS 175.547.
 - (o) Coercion or attempted coercion that is determined to be sexually motivated pursuant to NRS 207.193.
- (Added to NRS by 1997, 2506; A 1999, 108; 2001, 1640, 2799; 2001 Special Session, 201; 2003, 289, 306, 1392; 2005, 2878)

NRS 213.1215 Mandatory release of certain prisoners.

1. Except as otherwise provided in this section and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

- (a) Has not been released on parole previously for that sentence; and
- (b) Is not otherwise ineligible for parole,

the prisoner must be released on parole 12 months before the end of his or her maximum term, as reduced by any credits the prisoner has earned to reduce his or her sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in this section, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that the prisoner committed the offense for which the prisoner was imprisoned must, if the prisoner still has a consecutive sentence to be served, be granted parole from his or her current term of imprisonment to his or her subsequent term of imprisonment or must, if the prisoner does not still have a consecutive sentence to be served, be released on parole, if:

- (a) The prisoner has served the minimum term of imprisonment imposed by the court;
- (b) The prisoner has completed a program of general education or an industrial or vocational training program;
- (c) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and
- (d) The prisoner has not, within the immediately preceding 24 months:
 - (1) Committed a major violation of the regulations of the Department of Corrections; or
 - (2) Been housed in disciplinary segregation.

3. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his or her release.

4. Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

Appendix B

Nevada Revised Statutes Relevant to the Parole Function (continued)

5. If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1 or 2 that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his or her sentence and not grant the parole provided for in subsection 1 or 2. If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1 or 2, the Board shall provide to the prisoner a written statement of its reasons for denying parole.

6. If the prisoner is the subject of a lawful request from another law enforcement agency that the prisoner be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

7. If the Division has not completed its establishment of a program for the prisoner's activities during his or her parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

8. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits the prisoner may have earned to reduce his or her sentence had the prisoner not been paroled.

(Added to NRS by 1987, 945; A 1991, 702; 1993, 1526; 1995, 1260; 2007, 3183; 2009, 1547)

Credits on Term of Imprisonment

NRS 209.4465 Credits for offender sentenced for crime committed on or after July 17, 1997.

1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement or the laws of the State recorded against the offender, and who performs in a faithful, orderly and peaceable manner the duties assigned to the offender, must be allowed:

(a) For the period the offender is actually housed pursuant to his or her sentence;

(b) For the period the offender is in residential confinement; and

(c) For the period the offender is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,
↳ a deduction of 20 days from his or her sentence for each month the offender serves.

2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate, 60 days.

(b) For earning a high school diploma, 90 days.

(c) For earning his or her first associate degree, 120 days.

3. The Director may, in his or her discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.

4. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, program for reentry of offenders and parolees into the community, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 30 days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

Appendix B

Nevada Revised Statutes Relevant to the Parole Function (continued)

7. Except as otherwise provided in subsection 8, credits earned pursuant to this section:

- (a) Must be deducted from the maximum term imposed by the sentence; and
- (b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

- (a) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;
- (b) A sexual offense that is punishable as a felony;
- (c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is punishable as a felony; or
- (d) A category A or B felony,

↪ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.

(Added to NRS by 1997, 3175; A 1999, 2881; 2001, 1164, 1937; 2001 Special Session, 157; 2003, 26, 28, 1367, 2577; 2007, 3176; 2009, 1887)

NRS 209.448 Credits for completion of program of treatment for abuse of alcohol or drugs.

1. An offender who has no serious infraction of the regulations of the Department or the laws of the State recorded against the offender must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of not more than 60 days from the maximum term of the offender's sentence for the successful completion of a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the Department and a person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern or a clinical alcohol and drug abuse counselor intern, pursuant to chapter 641C of NRS.

2. The provisions of this section apply to any offender who is sentenced on or after October 1, 1991.

(Added to NRS by 1991, 1404; A 1993, 1520; 1995, 1254; 1997, 3184; 1999, 1881, 3063; 2001, 219; 2007, 3083, 3178)

NRS 209.449 Credits for completion of vocational education and training or other program.

1. An offender who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement, or the laws of the State recorded against the offender must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of 60 days from the maximum term of the offender's sentence for the successful completion of:

- (a) A program of vocational education and training; or
- (b) Any other program approved by the Director.

2. If the offender completes such a program with meritorious or exceptional achievement, the Director may allow not more than 60 days of credit in addition to the 60 days allowed for completion of the program.

(Added to NRS by 1989, 1883; A 1991, 782; 1993, 137; 1995, 1254; 1997, 3184; 2003, 1368; 2007, 3178)

Appendix C

Board of Parole Commissioners Risk Assessment Instrument and Guidelines

NEVADA PAROLE RISK ASSESSMENT

Name	ID Number	Location	Date
Static Risk Factors		Dynamic Risk Factors	
1. Age at First Arrest (juvenile or adult)	Pts	7. Current Age	Pts
25 years or older	0	41 and above	-1
20-24 years	1	31 - 40	0
19 years or younger	2	21 - 30	1
2. Prior Prob/Parole Revocation (juv. or adult)		Under 21	2
No parole or probation revocations	0	8. Active Gang Membership	
One or more (including gross misdemeanors)	2	No	0
3. Employment History (prior to arrest)		Yes	2
Satisfactory full-time employment >1 year	0	9. DOC certified edu/voc/treat program	
Employed less than full-time/full-time < 1 year	1	Yes, or has existing GED/HS Dipl/Degree	-1
Unsatisfact. employment/unemployed /unemployable	2	No	0
4. Offense for Current or Prior Convictions		10. Disciplinary Conduct - Past Year	
All others	0	No Major Disc Violations or Single Minor/Gen	-1
Property Offense, Robbery, Forgery, etc.	2	Multiple Minor/General Violations	0
5. History of Drug/Alcohol Abuse		Major Violation	1
None	0	Multiple Major Violations	2
Some use, no severe disruption of functioning	1	11. Current Custody Level	
Frequent abuse, serious disruption of functioning	2	Minimum	-1
6. Gender		Medium	0
Male	1	Maximum or Disciplinary Segregation	2
Female	0	Total Dynamic Risk Score	
Total Static Risk Score		Total Score (Static+Dynamic Score)	

Low Risk = 0-4 points
 Medium Risk = 5-10 points
 High Risk = 11+ points or 8 points on Dynamic factors

The risk assessment is based on the static and dynamic factors that are applicable at the time of a parole hearing. A change in status following the hearing that may impact the risk factors shall not be the basis for an appeal for re-computation. A prisoner will only be granted a re-hearing if a factor is misapplied at the time of the hearing, and a correction would cause a deviation from the guideline recommendation.

Appendix C

Board of Parole Commissioners Risk Assessment Instrument and Guidelines (continued)

DISCRETIONARY RELEASE PAROLE GUIDELINE WORKSHEET

Name: _____ ID#: _____ Location: _____ Date: _____

Offense Severity	Risk Level		
	High (11+ total, or 8 dynamic points)	Mod (5,6,7,8,9,10)	Low (0, 1, 2, 3, 4)
Highest	Deny Parole	Consider Factors	Consider Factors
High	Deny Parole	Consider Factors	Par at 1 st or 2 nd Hearing
Moderate	Deny Parole	Par at 1 st or 2 nd Hearing	Parole at initial Parole Eligibility
Low Moderate	Consider Factors	Par at 1 st or 2 nd Hearing	Parole at initial Parole Eligibility
Low	Consider Factors	Parole at initial Parole Eligibility	Parole at initial Parole Eligibility

Offense Severity (circle): Highest High Moderate Low Moderate Low

Risk points: _____ **Risk (circle):** High Moderate Low

Guideline Recommendation (circle): Deny Par Consider Factors Par at 1st or 2nd Hng Par at initial PED

This is this inmate's (circle one): First Second Third+ **discretionary parole hearing on this sentence.**

Aggravating Factors (check all that apply)

- Prior prison term did not deter future criminal activity.
- Prior sex conviction.
- Prior violent conviction.
- Significant prior criminal history.
- Commission of a crime while incarcerated, on bail, eluding, on escape status or during felony parole or probation supervision.
- Disruptive Institutional Behavior.
- Refuse to participate in or terminated for cause from treatment.
- Repetitive similar criminal conduct.
- Removal from community supervision program (305/184/317) on current period of incarceration.
- Housed in Disciplinary Segregation w/in 24 months.
- Crime was targeted against a child or person at greater vulnerability because of age/disability.
- Three or more parole/probation revocations.
- Nature of criminal record is increasingly more serious.
- Impact on victim(s) and/or community.
- The extreme or abnormal nature of the crime.
- Other: _____

Mitigating Factors (check all that apply)

- No prior/minimal criminal conviction history.
- Infraction free in two years or more to hearing month and not in disciplinary segregation during past two years.
- Lesser involvement in the instant offense.
- Positive adjustment to Halfway house/work release program.
- Participation in programs specific to addressing behavior that led to their incarceration.
- Prior successful completion of parole or probation supervision.
- Community and/or family support.
- Stable release plans.
- Crime was situational without evidence of intent to harm as information derived from pre-sentence investigation.
- Case history demonstrates remorse.
- Consistent in managing their mental illness as recommended by professionals (if applicable).
- Pending CS sentence or detainer lodged by other jurisdiction.
- Other: _____

Discretionary Parole Recommendation (circle action and indicate effective date or denial length):

Grant Parole: at PED or date _____ **Deny Parole:** to MPR to EXP Next hearing date _____

Does this action deviate from the guideline recommendation (circle): YES NO

If the action deviates from the guideline recommendation, indicate any reasons other than those already indicated above:

Appendix D
Response From the Board of Parole Commissioners

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SUSAN L. JACKSON, *Member*
ADAM ENDEL, *Member*
TONY CORDA, *Member*

KATHI BAKER, *Executive Secretary*

STATE OF NEVADA
JIM GIBBONS
Governor



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CONNIE S. BISBEE, *Chairman*
EDDIE GRAY JR., *Member*
MICHAEL KEELER, *Member*
MAURICE SILVA, *Member*

NEVADA BOARD OF PAROLE COMMISSIONERS

November 10, 2010

Legislative Counsel Bureau
Paul V. Townsend, Legislative Auditor
401 S. Carson Street
Carson City, NV 89701

RE: Response to the Findings of the Legislative Audit of the Board of Parole Commissioners.

Dear Mr. Townsend,

I have reviewed the preliminary report pertaining to the legislative audit of the Board of Parole Commissioners. The following is the response to the report in accordance with NRS 218G.230.

First and foremost, I would like to applaud the professionalism and thoroughness of the staff you assigned to audit the Parole Board. The Parole Board is a complex and dynamic operation, and it was impressive to see Ms. Giovannoni and Mr. Neil research and review our operations to the level they did.

This extensive review of our operations has allowed us to demonstrate that the Board is in compliance with legislative requirements. It also reflects the hard work and dedication of the staff of the Parole Board, who, despite suffering staffing shortages and other external issues, have been, and continue to be, committed to accomplishing our mission.

I am exceptionally pleased that the audit did not result in a finding related to an area the Board has control or jurisdiction over. NRS 209 specifies that the Department of Corrections (NDOC) is responsible for applying credits to inmate sentences, and NRS 213.130 requires NDOC to determine parole eligibility dates.

Paul V. Townsend, Legislative Auditor
November 10, 2010
Page 2

Inmate timekeeping in Nevada is a daunting task, because of the various credits that may be applied to inmate sentences in a variety of ways. While the audit finding is a result of an area not within the jurisdiction of the Board, because of our strong working relationship with the NDOC, and because the Board employs staff with the experience and knowledge to assist in the recommended manner, I accept the audit recommendation to develop a procedure to work with the NDOC when issues arise that may affect parole eligibility.

I would however, not recommend or support a statutory change that would require the Board to function in this manner. One agency should have the ultimate authority and responsibility for maintaining credits and determining parole eligibility. I believe any legislation created that would bifurcate this responsibility could ultimately result in a loss of control over the proper administration and oversight of credits and timekeeping.

Sincerely,

Connie S. Bisbee
Connie S. Bisbee, Chairman

**Board of Parole Commissioners
Response to Audit Recommendation**

<u>Recommendation Number</u>		<u>Accepted</u>	<u>Rejected</u>
1	In conjunction with the Department of Corrections, develop a process to help ensure that any future statutory changes affecting parole eligibility are properly implemented.....	<u> X </u>	<u> </u>
TOTALS		<u> 1 </u>	<u> 0 </u>