

Committee in Session at 8:58 A.M. on Friday, March 30, 1979.

Senator Keith Ashworth in the Chair.

PRESENT: Chairman Keith Ashworth
Senator Rick Blakemore
Senator Jim Kosinski
Senator Wilbur Faiss

ABSENT: Vice-Chairman Neal
Senator Clifton Young

GUESTS: Mr. Ted Oleson, American Civil Liberties Union
Mr. Gary Smith, Washoe Legal Services
Dr. John Carr, Health Division
Ms. Dottie Gallagher Batchelor, Nevada State Medical Association
Mr. Russell McDonald, Washoe County
Mr. Gill Blonsley, Clark County Health District
Mr. G. P. Eteheway, Nevada League of Cities

Chairman Ashworth opened the hearing on S.B. 351.

Mr. Ted Oleson, American Civil Liberties Union, spoke in support of S.B. 351. He stated a group of volunteers toured the Douglas County jail and came up with a report, Exhibit "A", Page 2, stating that some of the conditions they found were absolutely in violation of the constitutional protections against cruel and unusual punishment. The courts have ruled on what standards jails have to adopt for minimum health and prisoners rights. He further stated that there is a need for minimum health standards, to be set up by the state, to protect the prisoner's rights against this type of treatment. He felt that the Health Department in this state should be the ones who set the standards, because of their obvious expertise in the field.

Mr. Gary Smith, Washoe Legal Services, stated that the need to improve environmental conditions and to provide better health service, in general in jails and prisons is as strong as ever. It becomes more critical each day as the criminal justice system reacts to the increasing changes in the social, political, and economic dimensions of society. He stated that these changes include the general attitude that rehabilitation is out and that punishment is in, and that these changes have contributed to the increase in the prison population.

Senator Young entered the meeting at 9:07 A.M.

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Chairman Ashworth asked Mr. Smith if he knew of anyone who died because of the unhealthy conditions of the Nevada jail. Mr. Smith stated, "not definitely, but do know of many instances of the transference of disease, specifically hepatitis." He further stated there was the need for inspections and minimum standards to protect the patient and the community. He stated Dr. Bayliss Walker just finished an inspection which was originally scheduled for 2 days, but spent 5 hours which was sufficient for Dr. Walker to find the institution unfit for human habitation, and so submitted his affidavit in that manner. Dr. Bayliss Walker is the Director of the Environmental Health and Sanitation Department, Washington, D.C. He stated that Dr. Walker was directly speaking to the health, environment and sanitation conditions that exist at the prison.

Chairman Ashworth stated that in Clark County the biggest problem was not the health problem but putting too many people (525) in a facility that was designed for only 200 people. Mr. Smith stated this amounts to totality of circumstances which is cruel and unusual punishment according to federal standards. He stated that this legislation would disallow the placing of 500 people in a room like that, as it is unsanitary. He stated that by this bill we are directing them to set guidelines, minimum standards that they cannot exceed.

Chairman Ashworth asked what the problems are in the schools and the school gymnasiums. Mr. Smith said the problems were such as athletes' foot, possibly some cleaning up of the fountain areas, and other areas of mutual use which tend to transmit strep throat or one disease or another. He further stated that there is a separate bill, introduced in the Assembly, to deal with the state needing to set minimum standards for the prison itself. He felt the word "shall" should be added to S.B. 351, page 1, line 9, to make this not permissive legislation, but mandatory for tax supported institutions, specifically the jails.

Dr. John Carr, Health Division, stated he did not feel he wanted to testify for or against the bill but would like to make some comments. He stated that the Board of Health has been interested in this problem of the prison sanitation and conditions for the health and safety of the prisoners. He said that the sanitarians go in to check the food service problems and sanitation generally. Senator Young questioned if the state board of health had adopted, promulgated or enforced any rules for sanitation in the state institutions. Dr. Carr said, "to my knowledge they have not, but I do know that the sanitarians do go in." Dr. Carr stated he could not speak for the board, that he is a secretary. He said in the institutions in Sparks that the state sanitarians inspect them; as far as the food service part goes, the division of mental health and mental hygiene and mental retardation has it's own nutritional system that undertakes the dietary part on contract.

Senator Blakemore suggested that before processing of this bill further that Dr. Butler, Chairman of the Board, be invited to speak to the committee.

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Dottie Gallagher Batchelor, Nevada State Medical Association, stated that three years ago the law enforcement administration association gave the American Medical Association a grant to develop standards of health care in jails across the country. She stated that last year Nevada was one of the states for their pilot study which looks into the health care conditions of the jails, working with the counties and cities, not addressing the studies to the prisons. She stated she was speaking in support of S.B. 351, and that her observations of what was said in this committee was absolutely correct; and that the situation in Douglas County was as bad as could be found anywhere else in the country. She stated that they do not have the jail covered, with correctional people, for the 24 hours a day. She stated that in Clark County now they have full medical care in that jail. She further stated that the Supreme courts and all the other courts across the land have set up precedents that to withhold minimal health care is cruel and unusual punishment. She said the medical community in the state is addressing the medical care issue and that the medical association is going to be involved in the program next year and in the years to come. She felt that there should be somebody responsible for inspecting the jails. Chairman Ashworth stated that the crime rate has gone up and we are getting more people into our jails, so we have the overcrowding problem. He stated that there is progress being made to establish standards. Ms. Batchelor stated that Nevada is trying to improve and correct the situation.

Chairman Ashworth directed the committee secretary to compose a letter to Dr. Butler, Clark County, regarding the questions today and reschedule for further testimony from Dr. Butler.

At the direction of Chairman Ashworth, Mr. Russell McDonald gave a description of jails, prisons, juvenile detention homes etc. for bill drafting technique, for line 5 subsection (a) clarification. Mr. McDonald stated that on line 3 the word "safety" relates to the safety of the person incarcerated; that this is really a sanitation thing and does not go over into the architectural situation.

Chairman Ashworth closed the hearing on S.B. 351 and opened the hearing on S.B. 338.

Mr. Gill Blonsley, Clark County District Board of Health, stated the letter from the chairman, which he distributed to the committee, Exhibit "B", was reinforced by him. He stated the authority for setting the health officer's salary was by a district board composed of elected officers, or the people that the elected people appointed to the commission position. He stated that it is practice in Clark County, from each of the five participant entities, that one elected person from that counselor commission is appointed to the District Board of Health and then a second person, generally not an elected official. Chairman Ashworth asked how many elected officials were on the Clark County Board of Health and how many non-elected members.

Mr. Blonsley responded that the majority of their board are elected public officials, that is 6 of 11. But it does not have to be that way. It is possible, under the law, that they could have an 11 man lay board. He further stated that the function of the health district was greatly facilitated and that liaison between the participating entities and the health activities of the community were substantially improved by the participation of elected officials. In Clark County they have always had elected official participation as the dominant circumstance. The health district has all the salaries set by the board, except for the health officer. He stated the salary setting responsibility falls on new hires as well as those already on the board. If they lose an incumbent and have to advertise for a replacement, they have to go to each entity just to establish some starting salary without a particular applicant in mind.

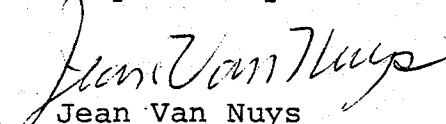
Mr. G. P. Eteheaway, Nevada League of Cities, stated that the City of Sparks wholeheartedly disagrees with S.B. 338, lines 20, 21 and 22. He stated that possibly an amendment could be made at a later date.

Mr. Russ McDonald, Washoe County Health Board, stated that the board does not agree with the concept of S.B. 338. They do admit to difficulties in recruitment.

Mr. Blonsley responded that in Clark County proportionately there is specific agreement on tax distribution. The entities participate with additional revenues and do not defer strongly to county funding; it is a cooperative funding venture. The population differentiation would be an ideal solution were they under one statute or health district. Chairman Ashworth stated he had no objection to the population separation, but he was concerned about the possibility of the lay board setting the salary of a government official. Some amendments are pending regarding the population differential and the majority of elected officials so no action was taken.

There being no further testimony, Chairman Ashworth adjourned the meeting at 10:10 A.M.

Respectfully submitted,

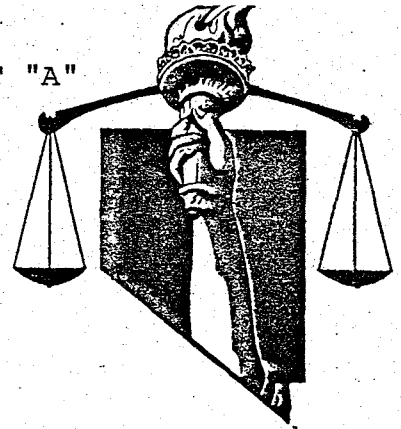

Jean Van Nuys
Committee Secretary

Approved:

Chairman
Keith Ashworth

Union of Nevada

1235 Pyramid Way
Sparks, NV 89431
(702) 358-6800



March 29, 1979

Memorandum

TO: Members of the Senate Human Resources and Facilities Committee

FROM: Ted Oleson, Jr.
Executive Director

SUBJECT: Supporting evidence for ACLU testimony on S.B. 351

Attached are documents which corroborate the ACLU position of support for S.B. 351.

The first attachment is a copy of the report made by a group of ACLU volunteers who toured the Douglas County Jail. This report is included to illustrate two facts. First, it is meant to demonstrate the deplorable conditions which prevail in some of Nevada's jails. Second, it illustrates the need for some agency to perform regular inspections and to adopt uniform standards for the care and treatment of prisoners in jail.

The second attachment is a series of memoranda regarding the adoption of standards governing the sanitation, healthfulness, cleanliness, and safety of jails by the Board of Health. While the evidence supported the adoption of such regulations, the Board of Health, using the permissive authority of the statute, did not adopt any regulations. This clearly illustrates the failure of the present statute to create the necessary uniform standards.

Report on Douglas Co. Jail

On January 26, 1978, three ACLU lay investigators, Bruce Blackadar, Blair West and Ted Oleson, toured the jail in Douglas County, and spoke with the Sheriff, the district attorney, and the chief jailer about complaint we had received. They all seemed open to discussion and to our observations. We made the following observations and have the following recommendations about the jail.

Mail: All incoming mail is opened and searched, contraband and money are removed. Outgoing mail is censored, except legal mail, and is stamped as having been censored by the Jail on the envelope. Recommendations: Incoming and outgoing mail should be opened only to remove contraband, it should not be read. The guidelines for mail policy as established in Brown & Tucker v. Rasner should be followed. (U.S. District Ct. In Reno Civil No. BRT 75-127). We are sending them a copy of the decision.

Publications: Publications are currently being strictly censored as to whether to allow them in or not. No catalogs are allowed in. Recommendations: Publications should be censored only as far as they are a security hazard. This has been the trend in courts across the country and should be followed here.

Exercise: The prisoners are taken for walks outside once a month. There is no facility for regular outside exercise. The county commission is considering building some such facility. Recommendations: The program for regular exercise outside the cell and preferably outdoors should be instituted as various courts have ruled.

Light: Lighting was improved since our last visit last year. It was still dim, however, and the jail planned to install higher wattage bulbs.

Ventilation: Ventilation was improved this time mainly because four windows were open. The exhaust fan is no longer used as it just circulated the air between the two cells, and the jailers office. Recommendations: An exhaust fan to the outside should be installed. Such a fan would allow for year round ventilation. The Uniform building code adopted by the state and many municipalities mandates such a ventilation system for jails.

Diet: The meals consist of Swanson frozen dinners and breakfasts. Twice per week sandwiches are served for lunch. Twice a week fruit is also served (apples and oranges). The diet is improved over our last visit and also more varied.

Law Library: Inmates are allowed to use the law library after regular hours. When we visited, however, the prisoners were not aware of this. Recommendations: Procedure for using the law library should be included in the rule sheet which is already given to incoming prisoners.

General Physical Facility: Overall the facility, built in 1915 is hopelessly outdated. There are exposed electrical circuits running across the ceiling. The drunk tank is a wire mesh cage in the middle of the pre-trial detainee section, in full view of everyone. In the main cell there is only one toilet for as many as 15 prisoners.

JOHN H. CARR, M.D., M.P.H., F.A.A.P.
STATE HEALTH OFFICER
PHONE (702) 885-4740



STATE OF NEVADA - Capitol Complex
DEPARTMENT OF HUMAN RESOURCES
DIVISION OF HEALTH
CARSON CITY, NEVADA 89701 89710

May 28, 1976

MEMORANDUM

TO: Bureau of Health Facilities
Consumer Protection Services

FROM: John H. Carr, M.D.
State Health Officer

SUBJECT: Investigation of Board of Health Regulations
Concerning County Jails, Correctional Institutions, Etc.

The recent tragic death of an inmate in the Clark County Jail has again brought into focus the whole problem of jail crowding, sanitary conditions, and so forth. Although the Statutes are not entirely clear, NRS 444.330 indicates that the Board of Health may adopt regulations, etc. (Please refer to the Statute and what follows.) After a discussion with Dr. Bentley, it appears to be very desirable for the Bureau of Health Facilities and Consumer Protection Services, particularly the Sanitarians, to get together and obtain from other jurisdictions, for example, counties in California, perhaps state regulations, there, in Utah and Oregon, etc., that might bear on this problem. The NRS refers to the health authority, which is delegated to the large counties. However, we should be obtaining background material in the event that we have to move forward rapidly on this.

Will you please look into this and provide a joint preliminary report by Wednesday noon, 9 June, 1976.

JC/bws



NEVADA STATE DIVISION OF HEALTH
BUREAU OF HEALTH FACILITIES
CAPITOL COMPLEX
505 EAST KING STREET
CARSON CITY, NEVADA 89710

(702) 885-4475

August 4, 1976

MEMORANDUM

TO: John H. Carr, M.D.
State Health Officer

FROM: William L. Thomason, D.D.S.
Administrator, Bureau of Health Facilities

SUBJECT: Correctional Institution Health and Sanitation Regulations

The following is a synopsis of the information we have collected relative to rules and regulations of jails and prisons:

Inspection:

- 38 states have inspection of all jails.
- 25 states have inspection at specified intervals.

Standards:

- 34 states have legislative authority to prescribe standards for local jails, which include Nevada (NRS 444.335).

Enforcement:

- 12 states authorize specific enforcement measures such as orders closing institutions, seeking injunctions, etc.
- 13 states are silent on explicit remedies but authorize appropriate corrective action in general terms.

Regulatory Agency:

- 31 states have state level regulatory agencies.
- 8 states have both state and county level regulatory agencies.
- 8 states have county regulatory agencies only.

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Regulatory Agency: (continued)

Of the 31 states that have regulatory agencies at the state level;

25 states operate through a corrections agency,

6 states operate through an independent or designated agency.

The Areas of Inspection are:

Administrative area, including record-keeping procedures;

Health and medical services;

Offenders' leisure activities, employment, education and work programs;

Offenders' housing and recreation programs;

Food service

Observation of rights of offenders.

Of the 32 inquiries sent to other states and correction oriented organizations we have had 16 responses. The following are excerpts of responses from several states:

Utah:

"The Division of Corrections is currently writing a manual on procedures for jails."

New Mexico:

"There are no regulations of jails in the Health Agency."

Idaho:

"The Department of Health and Welfare has no jurisdiction over nor regulation for penal institutions."

Hawaii:

"The Department of Health has no specific rules and regulations for health facilities within penal institutions."

Wisconsin:

"The Department of Health and Social Services - Division of Corrections is currently developing a draft of Operational Procedures." (They also express the concern: "The question arises as to the inmate's right to sue in the event we cannot produce the requirements as established in our manual.")

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Memo: Correctional Institution Health and Sanitation Regulations

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Illinois:

"The Department of Corrections has health and sanitation covered in the Administrative manual."

Massachusetts:

"The Department of Corrections is in the process of developing standards for health care in correctional institutions."

Minnesota:

"The Department of Corrections has just undertaken the task of developing a comprehensive health care policy manual for use in all of our penal institutions."

New Jersey:

"The Division of Correction and Parole has standards that are used in evaluating the medical care within our state correctional institutions."

North Carolina:

"The Department of Corrections - Division of Prisons has a set of medical policies."

California:

"The Department of Corrections Administration Manual covers health care."

Of the responding states, none has Health Agency regulations for penal institutions.

The Nevada Revised Statutes provide for placement of responsibilities for inspection of jails, treatment and condition of prisoners with the County Commissioners:

NRS 211.020 Duties of the Board of County Commissioners: Supervision; inspection; precaution. The Board of County Commissioners shall:

1. Have the care of building, inspecting and repairing such jail.
2. Once every 3 months, inquire into the state thereof, as respects the security thereof, treatment and condition of the prisoners.
3. Take all necessary precautions against escape, sickness or infection.

WLT/WJW/cif



JOHN H. GARR, M.D., M.P.H., F.A.A.P.
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STATE OF NEVADA - Capitol Complex
DEPARTMENT OF HUMAN RESOURCES
DIVISION OF HEALTH
CARSON CITY, NEVADA 89701 89710

August 25, 1976

MEMORANDUM

TO: BOARD OF HEALTH
FROM: John H. Carr, M.D.
State Health Officer
SUBJECT: Penal Institution Standards

This is an early outline of some items for consideration by the Board should it undertake a study of the rules and regulations concerning jails.

JHC/bws

PENAL INSTITUTION STANDARDS

1. Healthfulness

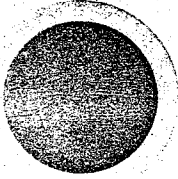
- 1.1 Healthfulness shall include adequate exercise and sleep, proper diet, provisions for personal hygiene, and a clean safe environment.
- 1.2 Access to medical (including emergency medical treatment) and dental care shall be provided.

2. Sanitation and Cleanliness

- 2.1 Penal institutions shall meet recognized standards set forth by the Consumer Health Protection Services Bureau of the Nevada State Division of Health.

3. Safety

- 3.1 Penal institutions shall meet the requirements set forth in the Occupational Safety and Health Standards adopted by the Department of Occupational Safety and Health, Nevada Industrial Commission, under the provisions of the Nevada Occupational Safety and Health Act of 1973 (NRS 618).
- 3.2 Penal institutions shall comply with applicable portions of the National Fire Protection Association (NFPA) 101, 1973 edition, adopted by the State Fire Marshal.
- 3.3 Penal institutions shall comply with appropriate codes of the Uniform Building Code, 1976 edition.



CLARK COUNTY HEALTH DISTRICT

P.O. BOX 4425 • 825 SHADOW LANE • LAS VEGAS, NEVADA 89106 • 702-385-1291

March 29, 1979

Human Resources and Facilities Committee
 Nevada State Senate
 Capitol Complex
 Carson City, Nevada 89710

Attn: Senator Keith Ashworth, Chairman

Gentlemen:

Subject: Senate Bill 338

I am writing to you as Chairman of the Clark County Health District Board of Health to urge your support and adoption of the subject legislation as a means of providing a reasonable and responsible means of establishing the salary of health officers employed in communities where health districts exist.

Last year it was determined by our legal counsel that authority for setting the Health Officer's salary was literally vested in the hands of each and every one of the separate governing bodies that participate in a health district, and that whether a health district was seeking to offer a wage to a new health officer coming into the community, or seeking to give a pay raise to an incumbent health officer, each and every one of the cities and county who participate in a health district would have to vote concurrently on the wage. By our perception, this is not a practical means of determining the compensation of a local health officer.

We urge that the remedy as prescribed be adopted so that district boards of health, which are composed of elected public officials from each participating entity, may make its own determination of a health officer's salary. In fact, the ordinances adopted by each city and county when they chose to enter the District, included a proviso for the Board to set the salary as they deemed appropriate.

Additionally, we would request that the other matter addressed in the Bill likewise be supported so that a county is not restricted in who it must appoint, but that so long as there is at least one physician on the board of health it may be the appointment of any entity that is a participant.

Sincerely,

Robert Ferraro, Chairman
 Clark County District Board of Health