

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
April 06, 2009

[CONFIRMATION]

The Committee on Judiciary met at 9:00 a.m. on Monday, April 6, 2009, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting public hearing on gubernatorial appointments. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Mark Christensen; Colby Coash; Brenda Council; Scott Lautenbaugh; Amanda McGill; and Kent Rogert. Senators absent: None. []

SENATOR ASHFORD: Why don't we get going. Everyone's here, I think. Good morning and welcome to the Ernie Chambers Judiciary Committee hearing room. We have one matter only today for public hearing and that is the nomination of James Pearson to the position of Board of Parole, and I know Mr. Pearson is here, so welcome and good morning. We're almost on time, about 45 seconds late. That's not bad. Go ahead when you're ready. []

JAMES PEARSON: (Exhibits 1 and 2) Good morning, Senator Ashford and members of the Judicial Committee, my name is Jim Pearson and I'm here today seeking confirmation of my reappointment by Governor Dave Heineman to the Nebraska Board of Parole. I've had the privilege of serving the state of Nebraska in this position since my first appointment to the board to the board by Governor Ben Nelson on June 1, 1995. My first appointment was to fill the balance of a term when a former chair of the board had resigned. I was then reappointed by Governor Ben Nelson for a full six-year term and then reappointed by Governor Johanns on September 9, 2003. This appointment by Governor Heineman will begin on September 9, 2009, and will be in effect until September 9, 2015. Senators, it's been an honor to serve on this board for the past 14 years and I've taken this appointment very seriously. I consider the parole process a very important part of the criminal justice system. As I've stated in my past confirmation hearings, I do believe that in most cases the time on parole under supervision in the community is in the best interest of public safety. Releasing an offender under the guidelines and special conditions of parole and under supervision of a good parole officer is, in my opinion, the best way for an offender to enter back into society after serving a term in a correctional facility. Parole is perhaps the most misunderstood function within the criminal justice system. Many citizens do not understand that all offenders, except those serving a life sentence, have a date set when they are released from prison. I do believe in most cases it is not in the best interest of the offender or public safety to just open the doors of that prison on that mandatory release date and allow that convicted offender back into society without any restrictions or supervision at all. Since I've been serving on the board I have been involved in over 52,000 board reviews, over 14,000 parole hearings, and 4,900 revocation hearings. The past four years I've had the honor of serving as vice chair of the board. As vice chair it's my duty to assist the chairperson of the board, Ms. Esther Casmer, with conducting parole hearings, revocations and any other duties within the agency that the chairperson delegates to me. We do have an excellent Board of Parole. My colleagues on the board

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all conduct themselves in a very professional manner. We do work together in a spirit of harmony while maintaining and respecting each member's independent judgment. Our current board is very dedicated to the parole process and we take our responsibility very seriously. I am honored to work with the board each day and to be able to say that they are my colleagues. The Board of Parole is very busy. At the present time, we are involved in over 450 cases a month, which includes board reviews, hearings, and revocations. We are on the road every day of the week departing our office at 8:00 a.m. to go to one of the eight state correctional institutions. In addition, there is much preparation that is involved in each case. We must be prepared for our duties each day which requires us to either come in early or to possibly take cases home to work up for the next day. Incidentally, we do have 43 reviews with the Tecumseh State Prison today. As of April 2, last Friday, 2009, there were 874 offenders on parole. In addition to that, between today and October, 2011, there are an additional 736 offenders set for parole hearings. Senators, with that, I will close and ask for your support in my reappointment and confirmation to this position. I can assure you that I will continue to perform this responsibility to the best of my ability, that I will work very hard and do what I feel is best for all Nebraskans as I make decisions every day. I do believe in the process and found this to be a position that is very challenging but also very rewarding. The rewarding days in this position are the days that we as a board sign off on a large number of successful completion of parole certificates, or when a parolee comes up to one of us in public, as just happened to me quite recently, and introduces his family and says, remember me, you paroled me several months ago, I'm doing great on parole and my life is now where it should be. If you have any questions, I'd be happy to answer them now, and thank you for this opportunity. []

SENATOR ASHFORD: Any questions of Mr. Pearson? I have one, a couple, Jim, and I appreciate your service. It is a massive job. Yeah, I noticed reading in the New York Times, yesterday that Senator Webb from Virginia is working on some legislation to deal with the imprisonment...with incarceration and drugs as his goal to try to deal with that issue and that we are the most imprisoning society in the world now, per capita. We imprison more people in the United States than any other country in the world, and drug offenses seem to be a big part of that. What is your thought on that? []

JAMES PEARSON: Well, I'd have to agree with that. Methamphetamine in this state and many other states is actually an epidemic. There are so many young people and middle-aged and even some older people that are in prison here in Nebraska for methamphetamines and other drugs but methamphetamine seems to be a very, very great problem across the nation right now. In addition to that, I would say the majority of the revocation hearings that we do have to proceed through with are dirty UAs. They fall back into that ugly world of methamphetamines, cocaine, or other drugs, so it's definitely... []

SENATOR ASHFORD: What should we do about that? What is our...you see it on the

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ground every day with all these cases. I mean, it's just phenomenal to me that you've been involved in 52,000 cases. That's a tremendous service. What is...what do we do? I mean, how can we in America be...imprison so many people and it's just stunning and breathtaking to me. How do we get at it? Maybe it's at the revocation or after parole, is there something we should be doing on the parole side to cut into that problem? []

JAMES PEARSON: Well, the Parole Board is very set on people that are in serving time for drugs to make sure we get them through programming that will help them become a better person out in society and be drug free. Four of the institutions have very good programs, long-term, substance abuse, 10-month programs that we endorse and support tremendously within the board. The WEC program at McCook has got a short-term inpatient substance abuse, so within the prisons I think the Department of Corrections is doing everything they possibly can to get the right programming to these people. Once they get out or before they even commit a crime, I guess I would refer back to law enforcement being on top of this as much as they possibly can as far as trying to break down these meth labs and enforcement before they even get to prison would be a big key to success. But once they're in prison, programming, programming, programming, is the name of the game for success as far as I'm concerned. []

SENATOR ASHFORD: Because we're still looking at a 57 percent recidivism rate and a lot of that you're telling me, and I would agree, is drug related. []

JAMES PEARSON: Yes. []

SENATOR ASHFORD: And our budget at the Department of Corrections is nearing \$300 million a year. Wow! []

JAMES PEARSON: Yes. []

SENATOR ASHFORD: Your job and then on the prevention side, it seems to me that your group and law enforcement, corrections may be the most important jobs, almost, we have in state government. []

JAMES PEARSON: I would agree with you, sir. []

SENATOR ASHFORD: I believe that's all I have. Any other questions? Thanks, Mr. Pearson. []

JAMES PEARSON: Thank you very much. Appreciate your time today. []

SENATOR ASHFORD: Well, we appreciate your service. []

JAMES PEARSON: Thank you. []

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SENATOR ASHFORD: I think we're going to go into Exec Session now. Are there any other comments? I'm sorry, excuse me. Yes sir, I apologize. Any other comments for, pro, against? []

ESTHER CASMER: Good morning, Senator Ashford and committee members. I am Esther Casmer. I am the chairperson for the Board of Parole. Myself, as well as my colleagues, are very much in support of Jim Pearson being reappointed. He is a valuable asset to the Board of Parole, professional, positive work ethics, and also his experience as far as Board of Parole in his previous job occupation has been of great value to the board. []

SENATOR ASHFORD: Thank you, Esther. Any questions of Esther? We appreciate the endorsement. Thank you. []

ESTHER CASMER: Thank you. []

SENATOR ASHFORD: Yes, sir. []

CRAIG GROAT: (Exhibit 3) Craig Groat. This has been one of my long-time concerns. I gave a copy of this to Brenda Council right after she took office. This is from the PEW Center on the States, one of the most respected organizations in the country. It's entitled "One in 100: Behind Bars in America 2008." We now have more than one out of 100 individuals in our country behind bars. You were asking some questions. I think many of those will be answered in this. I don't know whether you've seen a copy of this yet or not. []

SENATOR ASHFORD: I'm not sure I have yet. Are you pro or against? What's your.... []

CRAIG GROAT: I'm for him, at this as far as I know, based on the knowledge... []

SENATOR ASHFORD: Good And you're going to talk about the issue of incarceration? []

CRAIG GROAT: Directly related to parole. []

SENATOR ASHFORD: All right. Go ahead, we've got 3 minutes. []

CRAIG GROAT: Okay. Executive Summary. Three decades of growth in America's prison population has quietly nudged the nation across a sobering threshold. For the first time, more than one in every 100 adults is now confined in an American jail or prison. According to figures gathered and analyzed by the Pew Public Safety Performance Project, the number of people behind bars in the United States continued

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to climb in 2007, saddling cash-strapped states with soaring costs they can ill afford and failing to have a clear impact either on recidivism or overall crime. Prisons costs are now blowing holes in state budgets but barely making a dent in recidivism rates. At the same time, policymakers are becoming increasingly aware of research-backed strategies for community corrections, better ways to identify which offenders need a prison cell, and which can be safely handled in the community, new technologies to monitor whereabouts and behavior, and more effective supervision and treatment programs to help them stay on the straight and narrow. Taken together, these trends are encouraging policymakers to diversify their states' array of criminal sanctions with options for low-risk offenders and save tax dollars but still hold offenders accountable for their actions. Policy Choices Drive Growth. In exploring such alternatives, lawmakers are learning that current prison growth is not driven primarily by a parallel increase in crime, or a corresponding surge in the population at large. Rather, it flows principally from a wave of policy choices that are sending more lawbreakers to prison and, through popular "three-strikes" measures and other sentencing enhancements, keeping them there longer. Overlying that picture in some states has been the habitual use of prison stays to punish those who break rules governing their probation or parole. In California, for example, such violators make up a large proportion of prison admissions, churning in and out of badly overloaded facilities. Nationally, more than half of released offenders are back in prison within three years, either for a new crime or for violating their terms of release. Taking a Different Track. Faced with a mushrooming bill, many states are confronting agonizing choices and weathering bitter divisions in their Legislatures. But lawmakers are by no means powerless before the budget onslaught. Indeed, a rising number of states already are diversifying their menu of sanctions with new approaches that save money but still ensure that the public is protected and that the offenders are held accountable. And some already are reaping encouraging results. This goes on very extensively. It covers this. It's probably one of the best documents that I've seen out there. I'm going to leave something else with you here. This is from the National Council of Bishops of the United Methodist Church; the National Council of Bishops of the Catholic Church; also the Union of American Hebrew Congregations, largest Jewish organization in North America, and the National Council of Churches, every one of which calls for the banning of handguns, banning of handguns. Everything you do within this committee has a direct effect on prison population and crime. You have allowed something to come out of this committee, which should have never been allowed to come out of this committee, which is a direct relation to crime and is protected by the National Rifle Association and I have further documentation here, very extensive, of how the Republican party has used attack ads by the NRA to further their political goals. []

SENATOR ASHFORD: Okay. Thanks very much. Appreciate your comments. And I... []

CRAIG GROAT: And the reimbursement that has the Republican party has felt to...the NRA as reward for this and they have been running these concealed weapons laws

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through since 1996 as a result of that and it's directly related to crime, so. []

SENATOR ASHFORD: Thank you very much for your comments. And I do agree with you that recidivism is a major issue and it's something I think maybe this committee may look at over the summer and so your studies are important. []

CRAIG GROAT: I'll leave a copy of this, all these. And again, I would like them to be put in the formal record and I would like the originals back, and I'll wait for those. Thank you. []

SENATOR ASHFORD: Okay. Thank you. Senator Council. []

SENATOR COUNCIL: Mr. Chairman, not for Mr. Groat. I just have a comment. And just before Mr. Pearson and the other members of the Parole Board leave, when we go into Executive Session, I just want to thank Mr. Pearson for his willingness to continue to serve on the Parole Board. I think I'm fairly accurate in saying I'm probably the only member of the committee who has the distinction of appearing before this body representing clients. And I know the extent to which they do their best efforts to ensure that the individuals who are in need of the kind of drug rehabilitation treatment that the chairperson was referring to that that occurs, they take into account the best interests of that parolee and public safety. So I just wanted to publicly thank you all and it means a lot. and I'm sure to Mr. Pearson to have all of his colleagues appear today for his confirmation hearing, so. I just want to thank you for the job you do. I know it's a tough job. We don't always agree but I can assure my colleagues that in your deliberations you do, you're driven by what's in the best interest of the parolee and the safety of the public. I just wanted to publicly thank you for that. []

SENATOR ASHFORD: Thank you, Senator Council, and I appreciate it. With that, we're going to go into Exec Session. []

Chairperson

Committee Clerk