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Senate Law and Justice Committee to seek subpoena in Department of Corrections case

OLYMPIA – The Senate Law and Justice Committee will seek subpoena power to conduct its own inquiry into a management failure at the Department of Corrections that turned loose thousands of prisoners before their scheduled release dates and likely caused the deaths of at least two people.

Senate Law and Justice Chair Mike Padden and Vice Chair Steve O'Ban notified Gov. Jay Inslee with a letter Wednesday night that the committee will seek a subpoena to force disclosure of records associated with the case. Padden said lawmakers are not satisfied with an investigation that has been launched by Inslee.

"By definition the governor's investigation cannot be considered independent," said Padden, R-Spokane Valley. "But this isn't the only reason the Legislature is compelled to conduct its own inquiry. We asked a number of questions about the scope and transparency of the investigation, and we have been greeted with a shrug. We filed a public records act request and were rebuffed. We have no assurance that any finding will be released before the Legislature adjourns in March.

"We have an obligation as independent elected officials to determine what happened here. And we can only conclude it will take a subpoena to do it."

The committee will convene hearings on the matter during the current legislative session, which opened Monday. In its initial resolution, the Senate Law and Justice Committee seeks all documents from the Department of Corrections and the governor's office pertaining to the erroneous early release of inmates. The plan is to pass the resolution in the Law and Justice Committee Tuesday so that it might be considered by the Senate Rules Committee Jan. 20. Senate Rule 43 requires a vote of the Rules Committee before a subpoena can be issued. RCW 44.16 lays out the rules for the rarely used process of legislative inquiry.

The lawmakers said they were disappointed by testimony offered by Corrections Secretary Dan Pacholke at a hearing Monday of the Law and Justice Committee. Though a list of 10 specific questions about the investigation had been submitted to Pacholke in advance of the hearing, he offered few answers.

O'Ban, R-Pierce County, vice chair of the Law and Justice Committee, said he hopes the panel will not have to issue subpoenas for the testimony of individual witnesses, and that they will choose instead to testify voluntarily. "Regrettably, the Legislature must take this step to get these important documents that have been withheld by the Department of Corrections, so that we can do our job to get to the bottom of this unprecedented breakdown of public safety. If the governor had authorized the DOC to produce the documents by a date certain, we would not need to call on the Legislature to issue the subpoena."

Inslee disclosed Dec. 22 that some 3,200 prison inmates had been released ahead of schedule since 2002. According to Inslee, the department first learned of the issue in 2012. Yet the department failed to correct the problem, delaying a fix to software 16 times. A Corrections records check currently in progress shows at least two former inmates are accused of killing people when they should have been behind bars, and numerous other crimes also may have been committed by those released before their time.

Pacholke's testimony indicated a new information technology director learned of the problem in early November, but top department officials were not informed until Dec. 15, more than a month later. Pacholke could not explain the delay. Inslee's office was briefed the following day. It is not clear why the governor waited nearly a week to disclose the matter publicly.

Pacholke's testimony established that the investigators work for the governor's office. Asked if the testimony they receive would be made public, Pacholke said he did not know. Nor could he say how evidence of negligence would be treated, whether witnesses would be placed under oath, or what time period the investigation would cover.

Legislative efforts to obtain records also have been delayed. Immediately after the problem was disclosed Dec. 22, Padden submitted a public records request to the governor's office and the Department of Corrections. Nine days later Corrections responded with a bureaucratic brush-off saying the request had been submitted to the wrong office. No response was received from the governor's office. Although Padden received verbal assurances his request would be dealt with, he is still waiting for a response.

"Too many questions have gone unanswered, and it shows we need to find the answers on our own," Padden said.