



BRIAN SANDOVAL
Governor

JAMES DZURENDA
Director

BARBARA CEGAVSKE
Secretary of State

ADAM LAXALT
Attorney General

**STATE OF NEVADA
BOARD OF PRISON COMMISSIONERS**

**Board of Prison Commissioners Meeting
Tuesday, August 16, 2016
MINUTES**

The Board of Prison Commissioners held a public meeting on Tuesday, August 16, 2016.

The meeting began at 9:00 AM at the following locations:

Meeting Location:	Laxalt Building 2nd Floor Chambers 401 N. Carson Street Carson City, NV 89701	Video Conference:	Grant Sawyer State Office Building Room 5100 555 East Washington Ave. Las Vegas, NV 89101
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1. Call to Order

Action: The meeting was called to order by Governor Brian Sandoval.

Attendance: Governor Brian Sandoval; Secretary of State Barbara Cegavske; and Attorney General Adam Paul Laxalt

Department Attendees: James Dzurenda - Director; Quentin Byrne - Deputy Director; John Borrowman - Deputy Director Support Services; Pamela DelPorto - NV Inspector General

Public: Refer to [Attachment 1](#)

2. Public Comment

Action: Public Comment heard from Carson City resident, Paul Corrado, who provided a handout of his testimony (See [Attachment 2](#)). Mr. Corrado provided comments on reentry, recidivism, VA treatment of colitis.

Action: Public Comment heard from Kevin Ranft, ASCME Local 441 to provide comment on safety of correctional items and the removal of the birdshot.

Action: Two public comments provided to the Office of Governor Sandoval via email from: 1) Herbert Olson (See [Attachment 3](#)); and 2) Mercedes Maharris, (See [Attachment 4](#)).

3. Acceptance and Approval of Minutes – January 14, 2016 meeting. (For Possible Action)

Action: The Acceptance and Approval of Minutes was passed unanimously with a spelling correction.

4. **Introduction of NDOC Director James E. Dzurenda and report on issues and observations to date – James Dzurenda, Director (for Discussion Only).**

Discussion: Director James E. Dzurenda was introduced to the Board of Prison Commissioners who provided a brief overview of history, experience and philosophy. The Director provided the Board an overview of his philosophy to focus on programs that are evidence-based and demonstrate results to reduce the total number of inmates in prison. This includes an evaluation of policies and the Department's Administrative Regulations on initiatives including the Use of Force; the use of volunteers in the Department; improving mental health programs for the Seriously Mental Ill (SMI) to include comprehensive treatment programs; implement programs and to connect inmates with their families as part of their reentry programming; standardize definitions and programming; and training. It was also important for the Director to note the successes of NDOC by providing an overview of PREA and explained that NDOC is 100% compliant and he does not believe any other state in the country can say that.

Specific projects the Director is currently reviewing includes programs and initiatives to impact the inmate homeless population as well as connecting medical records from when inmates are inside the prison to when they are released to outside agencies, veterans agencies and local hospitals. Changing the culture and recognizing that most of the inmate population will return to the community and that connectivity to programming and services is important. The Director highlighted that community providers need to know what did and did not work while someone was incarcerated. Specifically, what happens inside the prison has an effect outside in the community and this is not just regarding medications, but how inmates are treated by staff. Director Dzurenda shared that we do not want to release someone who is angry at staff and angry about how they were treated, as that will directly impact how they act once they are back in the community. This is a major culture change and a change in Department philosophy, but inmates should be treated as anyone in the community would want to be treated. Staff needs and will be receiving additional training in mental health issues and psychotropic drugs and their side effects for their safety and the offender's safety as well. He believes if the NDOC increases best practice programs, Nevada will see a reduction in recidivism which correlates to a reduction in future victimization in the community.

Governor Sandoval congratulated Director Dzurenda on hitting the ground running and was pleased and proud of the aggressive position the Director has taken on the numerous issues.

Governor Sandoval asked if most of the 25% of inmates from out-of-state are from California and whether or not this could be attributed to the mass release of prisoners from California. Director said partially, but also can be attributed the better job Nevada does on tourism that convinces many people to come to Nevada. The Director also explained that Nevada also has the largest number of veterans incarcerated in Nevada per population than anywhere else in the country. Many Veterans incarcerated are considered transient so not necessarily originally from Nevada.

Governor Sandoval asked if California notifies Nevada if they are inmate on parole is moving to Nevada. Director explained that if an offender legitimately transfers from parole in another state to Nevada, then they are Nevada parole is notified. However the offenders coming from California are not following regulations and telling their parole and probation officers that they are, this would be a violation of their parole and probation. If they get arrested in Nevada, they will have to face charges on their California parole violation. The Director shared that if the individual is sentenced for a crime they committed in Nevada, the offender would first have to finish their sentence here before they are returned to California to face charges there. Part of the reentry program is notifying other states that have a hold on an inmate so he may be returned to that state to complete his sentence there. The other state is notified and it is their choice whether they want to travel to Nevada to pick up the inmate and transport him back to face charges there. The Governor said he understood the NDOC is working closely with Nevada districts around the state as well as CSN and colleges as well as programming for the inmates as part of the transition for when they get released.

The Governor asked about new business coming to Nevada and the impact it would have on inmate training programs. Director Dzurenda said the new companies play a positive and negative role on the agency because he is worried about losing staff to other firms. NDOC will be adapting to the needs of these companies regarding training inmates in preparing them for jobs. He said there are some state laws that may need to be adjusted to help them get jobs once they're released. He discussed restrictions on former inmate's getting licensed as master barbers, cosmetologists and master auto mechanics. Director is setting up a LGBTQ committee regarding education of staff and offenders. This will involve local legislators, activists, University of Las Vegas, University of Reno among others. They will review what other agencies around the country are doing as best practices that Nevada can follow. Oregon has an advanced training on this issue and is willing to share it.

Governor Sandoval asked Director how the new policy of eliminating birdshot has been received by staff. Director said he has a presentation coming up. He said once frontline staff had been educated on what other states use rather than birdshot they were amazed to see there are better options out there. He explained chemical agents are much more effective especially when confronting several inmates in a group. He explained how birdshot can ricochet and injure innocent bystanders.

Secretary Cegavske welcomed Director Dzurenda and said she appreciated the time he took to meet in her office. She also thanked Cynthia explaining she received a wonderful letter from a family thanking her and the NDOC for helping them to get to see their son. She said for a future meeting she would like to discuss putting parole under NDOC was talked about for a long time while she was in legislature and she would like to revisit this. Secretary Cegavske the mental health issue had her very concerned so she is very pleased to hear that addressing mental health issues is one of the Directors main goals in being the new Director. She is also looking forward to working with Director on resolving the Workers Comp issue in the upcoming legislative session unless they can do something outside of the legislature which she's sure they will look into. Secretary Cegavske discussed the Hope for Prisoners program. Director said Deputy Director of programs David Tristan has met with John Ponder. Director brought up the issue of the aging prisoner population. Sentencing laws in the 60s and 70s inmates getting to the age of 65 and older. There has been an astonishing increase in hospital stays of over 24 hours and more. They have had 600 more days than last year which is a huge increase in costs for the state. Each day takes 1 to 3 officers per offender to watch an inmate at a hospital depending on the security level of the offender.

47.09

5. Update on the Association of State Correctional Administrators (ASCA) Study on the Nevada Department of Corrections (NDOC) Use of Force Policy, Prison Practices and Staff Training – James Dzurenda, Director (for Discussion Only).

Director Dzurenda provided a PowerPoint presentation outlining the recommendations of the ASCA study. [Attachment 5](#) Director reviewed the status of each recommendation. The highlight he touched on several areas.

Page 3: Director said they changed their recruitment policy for rural areas and have increased it. Human resources staff is looking at schools with criminal justice programs and at armed forces local chapters. She discussed current vacancies at the rural prisons; they are listed in the attached report.

Page 4: Director shared that a new draft of AR 405 will be sent out to staff that will include more precise definitions and will make it clear what type of force may be used and restrictions and options. Medical reporting requirements will also be included.

Page 5: the use of informational bulletins to staff regarding minor updates and changes to the AR.

Page 6: NDOC staff is in compliance with ACA standards of 40 hours of training per year for each correctional officer.

Page 7: new training includes correctional staff being certified in the use of chemical agents. This goes hand-in-hand with the elimination of birdshot. Currently, all custody staff are certified and are offered chemical agents to carry on their person when go on duty.

Page 8: almost 100% of the custody staff has been trained in the use of batons however at this point there is not enough inventory for each person to be issued their own baton. This should happen by mid fall.

Page 9: all staff has been issued handcuffs as their standard equipment except for ESP and HDSP. They are issued that handcuffs when they arrive for duty once there is enough inventory they will be issued their own set of handcuffs. The Governor asked if these items are all required for each officer. Governor Sandoval asked if these items were required or optional when they come on duty. Director said the handcuffs are required the chemical agent is required depending on the post where the officer works. Eventually the batons will be required as part of their duty belt.

Page 10: nationally the 37 mm has gone out of service due to its lack of accuracy. The 40 mm has grooves within the barrel that makes the shots extremely accurate. It also has removable cartridges from rubber rounds to chemical agents to beanbags. You can choose the appropriate cartridge for the distance you need to shoot from 20 to 100 meters.

Secretary Cegavske asked if ASCA recommended the 37 mm but after demonstrations NDOC chose to move forward with the 40 mm. Director explained staff went to the range with Metro officers who demonstrated the difference between the 37 mm and the 40 mm. The Director provide input that staff was amazed at the difference between the minimal kickback of the 40 mm when shots are fired as opposed to the harder kickback of the 37 mm. They were also impressed with the superior accuracy of the 40 mm. Secretary Cegavske asked if there was a difference in staff qualifying for use of the 40 over the 37 mm. Director said yes, it's it similar but different enough that staff who are qualified on the 37 mm will have to qualify for the 40 mm. He explained that ASCA recommended the 37 mm in their use of force report however Director Dzurenda recommends they do not follow the ASCA recommendation but go with the improved 40 mm instead. Secretary Cegavske asked if there was a cost difference and he explained that they are virtually the same price to purchase however some of the munitions they can use in the 40 mm will be more expensive than what they used in the 37 mm.

Page 11: Director explained that NDOC has implemented the recommended use of force review process at each institution and discussed details.

Page 12: Director said that as of May 2016, birdshot was eliminated and a 2nd rubber stinger round was added. He went on to discuss the charts that graph the amounts of blank, rubber and live/birdshot rounds used since January 2013 through the elimination of the birdshot in May 2016. He stated this presentation will be available on the NDOC website. ([Director Dzurendas Presentation](#))

Governor Sandoval asked the Director if he has drawn any conclusions as to why when the birdshot was removed that there was also less of the chemical weapons. Director said he was shocked because when other states take away use of force tools, there is an generally an increase in other options being used. He said the NDOC does such a great job now, before he got to NDOC, of training in verbal intervention rather than using force so it became the primary focus for staff to be able to stop in incident. He said this is a very good sign as there have been incidents in the facilities where staff could have used chemical agents, but instead used verbal intervention instead with great success. Governor Sandoval said he was pleased to hear that the verbal intervention was effective.

6. HIV / Department of Justice update - James Dzurenda, Director (for Discussion Only)

Director Dzurenda worked with the Department of Justice, which had submitted a letter to the State of Nevada identifying Nevada's need to for corrective actions and improvement in housing and classifying inmates identified with HIV. There were several immediate actions taken to eliminate the inmates as targets or violating their rights including 1) house alone/house alike policy; and 2) eliminated the code that identified that an inmate had a blood-borne pathogen and/or infectious disease. NDOC will now teach correctional officers in the

Academy to treat all inmates as if they could have a communicable disease and to always take the proper safety measures.

Governor Sandoval said it was his understanding that a statutory change would be needed. Director Dzurenda advised the current NRS required custody staff to be notified of every inmate that comes into the system that is HIV positive. The NRS needs to be changed so that this information is only available to medical and clinical staff that require it. [Attachment 6](#)

7. Presentation and Discussion of Report of Chief Medical Officer pursuant to NRS 209.382 – Dr. John DiMuro, Chief Medical Officer (For Discussion Only).

Doctor John DiMuro was introduced as the new chief medical officer for the State of Nevada, under the Department of Health and Human Services, replacing Doctor Tracy Green, who is now at the University of Nevada, Las Vegas as of July 1, 2016. Dr. DiMuro provided an overview of the assessments of NDOC facilities that were completed with the Deputy Attorney General and registered environmental specialists. Dr. DiMuro identified one ongoing issue with an inmate at Lovelock who has a complaint about inadequate nutrition of food served at the facility. In compliance with the District Judge Russells' order, DHHS has reviewed the dietitians' reports and nutrition assessments for each facility and provided a report that all passed in 2015. The briefing included information that medical and dental care has not been an issue at any facility in 2015. All medical surveys will be conducted over the next five (5) months. Governor Sandoval asked if he had any overall observations that he would like to share. Doctor DiMuro indicated that everything has been very regimented thus far and the notes left by Doctor Green are very easy to follow. Information was provided that assured that Nevada was on schedule to complete the inspections for medical dental sanitation including the nutritional adequacy by the end of this year. Governor Sandoval stated that was his point of his question to Doctor DiMuro's on his observations, was to get a fresh look. [Attachment 7](#)

8. ADA / Department of Justice update on NNCC - James Dzurenda, Director, Quentin Byrne Deputy Director Operations (for Discussion Only)

Director Dzurenda provided an update that the Department of Justice is currently reviewing all correctional facility compliance in the states and will provide notification to NDOC after their audit is complete. For NDOC, the majority of noncompliance challenges are at an NCC. NDOC has met with state public works to discuss each item of noncompliance and actions to bring NDOC into compliance, for example adding sidewalks (where there were none), exceeding cracks in sidewalks and pavement's. State public work wants to add capital improvement funds to their ADA funds to assist the NDOC.

The Department of Justice finished their audit on HDSP and documented minor noncompliance with some of the older facilities, which will need to be brought up to compliance. Deputy Director Quentin Byrne presented an overview of what they have accomplished so far, including bringing architects in to provide an analysis audit as part of the settlement agreement with the DOJ and NCC. Per the analysis, it would cost approximately \$8 million to bring all outstanding issues into compliance. They have the schematics and basic design completed. Most of this will have to be done through a CIP or through state public works. NDOC and the Public Works Board expect to be able to send the work out to bid in 3rd Quarter 2017 with construction starting in 4th Quarter 2017. It is estimated to be complete the fourth quarter of 2019. Governor Sandoval clarified that these efforts are a result of a Department of Justice legal action that, if not corrected, will take place.

9. Execution Chamber at Ely State Prison and lethal injection medication update – James Dzurenda, Director, Quentin Byrne Deputy Director Operations (for Discussion Only)

Director Dzurenda provided an overview on current executions that would or could be undertaken at Nevada State Prison (NSP). Unfortunately, the NSP is outdated and was designed for gas executions, not lethal injection. The majority of death row inmates are housed at ESP. In order to make it conducive, NDOC took a large room and reorganized it to the four (4) rooms required to include: the medical room, witness room for the victim's family, a media room and actual execution room. The bid went out on July 7, 2016 and the winning contractor is working on the project. The timeline date is expected to be November 2016. To make this area cost effective, when not in use, the rooms will have a multi-purpose use for attorney visits with inmates, storage space for records, etc.

Directors Dzurenda explained the challenges with the two types of medications required to complete a successful execution. Nevada has one that expired in July 2016, but the other one is still good. However, you cannot use one without the other. NDOC received a certified letter from Pfizer that they will no longer provide any medications that would be used in any type of execution and they notified their suppliers not to release any supplies to the NDOC. Director Dzurenda started a national RFP for medications and will not have a result back until the RFP process closes. Therefore, at this time NDOC does not have the means possible to do an execution.

Governor Sandoval asked if other states use the same procedure. Director advised yes, however some states such as Texas and Georgia have other options in their state, including the use of a firing squad. Texas, Florida, Georgia, Ohio, and Arizona still have medication that is not expired and so they still have the ability to conduct an execution. The Governor asked if Pfizer is the exclusive provider of the necessary drugs. Director said there are two other companies he knows of that have that civic medication. Nevada uses both companies, but they are working together with Pfizer to no longer provide these drugs. Director said the two drugs have different shelf lives - one for one year and the other is for two years. The Governor asked if anyone is close to an execution date and Director advised not at this time.

Secretary Cegavske asked how many inmates are currently on death row and are all of them appealing. Director advised there are currently 80 inmates on death row status and the appeal process is mandatory unless they specifically withdraw their right to the appeal process. Secretary Cegavske asked if it is their 1st round of appeals and what the average appeal time is. Director said he would have to find out that information.

Secretary Cegavske asked who typically represents the appealing inmates and Director said he would have to find out get back to her. Governor Sandoval shared that most of these inmates usually have a public defender or are appointed counsel that has to be certified in that area of expertise, before they could represent the defendant. Governor Sandoval asked the cost associated with the installation of the new chamber. Budgeted through general obligation bonds was \$858,539. The contractor that was chosen through the RFP was MGM construction and selected the process to be built and finished at \$632,945 total. The Director will bring back the total costs to the BOP at a future meeting, when the project is completed.

10. Second Chance Act – David Tristan Deputy Director Programs (for Discussion Only)

Deputy Director David Tristan provided an updated on the Bureau of Justice Second Chance Act, which is designed to reduce recidivism rates of those inmates who have the greatest risk of reoffending. In the State of Nevada, those two groups include property and substance abuse offenders. This is different from the grant focus areas on the past, which would focus on those that had the most serious crimes and longer sentences. The Second Chance Grant seeks to assist correctional systems in creating a seamless transition by having the NDOC; the parole board; parole and probation; as well as community service providers work to implement the goals in the strategic plan that focus on reducing recidivism. The Director and his leadership team have been working on developing partnerships with community programs such as Hope for Prisoners, the Urban League; Workforce Connections; all eligible for BJA funding. Deputy Director Tristan provided examples of some challenges with Nevada's re-entry system including limitations on inmate identifications; transportation; and housing. Nevada will be working towards an evidence-based data driven inmate management improvements to

demonstrate to the BJA that Nevada has the capabilities to collect data and report, which makes Nevada eligible for funding.

NDOC has also identified some limitations with staffing resources, and the Programs will be looking to redirect resources on evidence-based programming. As an example psychologists are not only doing therapy they are also teaching classes. They should be doing mental health treatment. With the projected inmate population at 13,000, 1,000 over the projected 12,000, the change in programming to focus on data-driven programs and the costs associated with the program changes should result in a reduction in the recidivism rate and provide an overall cost savings moving forward.

Governor Sandoval asked if those are offenders who committed offenses associated with substance abuse or they have committed one offense, but are also a substance abuser. Deputy Tristan said he would find out, but shared that his his experience in California suggested that 85% of their population, regardless of the crime committed, committed the crime under the influence of a substance, alcohol or both. Governor Sandoval pointed out that we have this type of programming now. Deputy Tristan advised that NDOC has substance abuse programming including non-evidence-based programs that they will be transitioning into evidence-based programs; as well as existing evidence-based programs. Governor Sandoval asked if upon release an inmate is given a list or connection to the community for faith based groups that are able to provide programming for them. Deputy Tristan said that there is limited list now, but Programs is currently working to expand it and incorporate many job partners. Currently an inmate is responsible to develop his own parole plan, who then submits it to parole and probation for review. If parole and probation consider viable, the inmate is released. Deputy Tristan said the goal is to do a better job of assisting the inmate in developing a viable parole plan.

Secretary Cegavske provided comments that she was disappointed to hear that the NDOC still had challenges with the inmate identification issue. Secretary Cegavske provided history that as Senator she worked to put together strong legislation with Senator Segerblom to adopt strong legislation to support the ability of NDOC to help inmates get their birth certificate and/or Social Security cards while in prison. She was surprised to hear that it is not working and would like to know what happened and/or where are the shortcomings so they could consider some changes for the next legislature.

Deputy Tristan shared that NDOC is facing some challenges to increase the effectiveness of the program. Some of the areas of challenge include incorporating developing trigger points to alert staff when someone is getting ready to parole. NDOC has to identify these individuals who are going to parole within 18 months to year to assist them in getting them the documentation they need. Deputy Director believes NDOC needs to implement a system that identifies what an inmate needs to do to start the process. He would like to initiate a video for inmates at intake explaining what they need to start doing and having the forms there to fill out and making the forms available in the inmate law libraries. He wants to be proactive on the front-end during intake rather than at the tail end of their stay. Secretary Cegavske said everything he discussed is what she thought they had done with that piece of legislation several sessions ago.

She also asked about the \$1.3 million grant he discussed and asked where it was coming from. Deputy Tristan said from the Bureau of Justice where Nevada was awarded the 1st \$88,000 to begin the process.

11. Update on the independent Staffing Study conducted by the Association of State Correctional Administrators (ASCA) to include a report on filling rural Correctional Officer vacancies – John Borrowman, Deputy Director Support Services (For Discussion only)

Deputy Director Borrowman provided an overview of positive news that all of the shift relief factor positions that were recommended by ASCA have been filled for state fiscal year 16 and 17. There are additional recommendations for fiscal years 18 and 19 which they are reviewing with the budget office in the Governor's office. He said there are chronic issues in the rural areas especially Ely. They've been working with the budget

office legislature and the Board and the Examiners. Specifically had been identified as critical labor designation locations so they are able to rehire retirees that would not lose their pension if they come back to work for the state. They have held special job fairs for them. They've reached out to criminal justice students, veteran's coordinator at the Department of Administration and other much targeted recruitment for the rural areas.

Governor Sandoval asked if the retirees have taken advantage of it. Deputy Borrowman said the last number he received was that over 10 individuals were in process of being hired. Director Dzurenda said that currently 2 are working. Deputy Borrowman said statewide they have 129 vacancies but they generally run around 80. He said they are making headway. Governor Sandoval asked about the housing shortage in Ely and if there is anything they should be considering that would assist. Director Dzurenda said the criminal Justice division of some of the colleges will offer up to 30 credit hours towards an associate's or bachelor's degree for a person completing NDOC's post-Academy. They're looking at making this offer only to students who accept positions to work in Ely for 12 months after they've graduated the post-Academy. They are doing more recruiting at the National Guard station in Ely as well. Governor Sandoval said he believed the 30 credit hours is a great incentive. He asked how many staff in the Academy now will be moving to Ely to fill the vacancies. Deputy Borrowman said they recently had a class of 25 graduating in Ely. He said they are also allowing people to train in Carson or Las Vegas so they can graduate and make sure they are qualified for the position before they move their family to Ely. He said once they've moved to Ely and worked there for 12 months they expect many of these people to acclimate and enjoy living there and stay on. Rather than transfer to the Carson City or Las Vegas areas. Governor Sandoval agreed saying that Ely is a wonderful community and that once people get there they find it's a splendid place to live and raise a family. [See Attachment 5](#)

12. Discussion/possible action regarding State Administrative Regulations – James Dzurenda, Director (For Possible Action)

Director Dzurenda said with his 1st few months as Director he has quite a few AR's that are in committees and under review. He felt that these two (2) AR's were extremely important to get done quickly and may be revised again before the next board meeting.

Administrative Regulations considered:

- AR 143 Inmate Access to Information Technology - while inmates are in transitional housing and looking for a job they need access to phones to hear from potential employers they register cell phones for the inmates and they are inspected on a regular basis to make sure they are used properly. Parole and probation agreed with this access. Additionally these transitioning inmates need access to the computer for job hunting and applications. Many places no longer take hardcopies of job applications they require electronic applications. Governor Sandoval applauded Director Orinda efforts on behalf of these inmates.
- AR 405 Use of Force - as discussed earlier the only change to this AR presently was the elimination of birdshot and the use of additional Popper rounds and the addition of use of mini 14's. The mini 14's will only be used outside of facilities. Secretary Cegavske said she appreciated all the information provided and thanked Director Dzurenda.

Action: The board approved both regulations unanimously. [NDOC Administrative Regulations](#)

13. Public Comment - there was no further public comment.

14. Adjournment

Governor Sandoval motioned for adjournment and the meeting was adjourned at 11:24 AM. Governor Sandoval congratulated Director Dzurenda and his staff on completing his 1st Board of Prison Commissions meeting.

APPROVED THIS 15th DAY, MONTH OF November, 2016

GOVERNOR BRIAN SANDOVAL

SECRETARY OF STATE BARBARA K. CEGAVSKE

ATTORNEY GENERAL ADAM PAUL LAXALT

Recorded and transcribed by Cynthia Keller, Executive Assistant, Nevada Department of Corrections