



MINUTES

of the meeting of the

BOARD OF PRISON COMMISSIONERS MEETING

July 14, 2009

The Board of Prisons Commissioners held a public meeting on July 14, 2009, beginning at 2:00 p.m. at the following locations:

at the State Capitol Building Annex, 2nd floor, 101 N. Carson Street, Carson City, Nevada and video conferenced at Grant Sawyer State Office Building, Room 5100, 555 E. Washington Ave., Las Vegas, Nevada.

I. Call to Order.

The meeting was called to order by Governor Jim Gibbons. The record reflects all members of the Board were present.

Also present were Senior Deputy Attorney General Janet E. Traut, Senior Deputy Attorney General Keith Marcher, Director Howard Skolnik, Chief of Staff Josh Hicks, Chief Deputy Secretary of State Nicole Lamboley, and members of the Press. Members of the public in Carson City and Las Vegas were asked to sign in, and the sign-in sheets are attached [\(Exhibit 1\)](#)

II. Acceptance and Approval of Minutes – April 14, 2009 (action required).

The record reflects the Minutes of the April 14, 2009 were approved and passed unanimously. There were no comments or questions from the commissioners.

III. Report on Legislative Approved FY 10/11 Budget and legislation affecting the Department of Corrections – Howard Skolnik, Director

Director Skolnik stated Nevada State Prison (NSP) and Tonopah Conservation Camp (TCC) did get the funding to stay open but did not get funding to open Phase V at High Desert State Prison (HDSP) which was a mixed blessing because the Department went from 3 (plus) million dollars to 7 million dollars in Capitol Improvement Funds which will be used to modify one of the two new units at HDSP to a Regional Medical Facility (RMF). Prison 8, the Execution Chamber and the RMF was not funded. Director Skolnik stated they felt very strongly that the RMF will help the Department in responding to the ACLU lawsuit in Ely which would service Ely and provide access to a broader range of medical care in Las Vegas and White Pine County.

In regards to the bills the Department had asked for Director Skolnik stated two were approved that were significant. The Department's Investigators will be Category II Peace Officers instead of Category I or III and an amendment was made to one of the bills to allow medical doctors licensed other than in Nevada to work in the Department of Corrections under the supervision of a licensed Nevada physician which will be helpful in recruiting doctors. He stated AB 117 was passed which allows the State Board of Parole Commissioners to grant a parole without a meeting of the Board, which will help to speed up the process and will help the Department to speed up the process and help keep the population under control. AB 168 regarding sentencing provisions will provide assistance to investigations other than just drug offenses which will ultimately involve some Department's inmates who will be brought into investigations under that new authority. AB 259 modified Residential Confinement to correct AB 510, which passed in the previous session and had interdentally eliminated B Category DUI from Residential Confinement eligibility and also modified credits while on probation and/or parole. SB 236 created a funding source which the Department will administer through private donations for re-entry programs. AB 164 increased penalties for Battery by Strangulation but the Department doesn't know at this point if it will impact the population. AB 187 created a Veteran's Court and diversion program at Casa Grande using available unoccupied beds. Director Skolnik stated the Department has been working with Terry Hubert, a former Associate Warden and veteran, who is mainly recognized as the leading expert on Veterans in Prison in the United States. AB 237 changed the age of certification of juveniles from 14 to 16 years of age which will be very helpful to the Department as 14 year olds are a problem for the Department. He stated these are the basic bills that impacted the Department.

Director Skolnik stated that the budget is going to be very difficult for the Department to manage. There is no repair or replacement equipment money, nor any Capitol maintenance money to speak of and stated he did not know how the Department can manage for two years without anything breaking. There will probably be emergency requests over the course of the biennium. Overall, Nevada has faired fairly well compared to the Director's colleagues around the country. There were no questions or comments.

IV. Discussion/possible action on the impact of the unpaid furlough policy on the Dept of Corrections and waiver request to Board of Examiners - Howard Skolnik, Director.

Director Skolnik wanted to recap for the record what was discussed at the Board of Examiners meeting that morning. The Board approved an exemption for Senior Correctional Officers, Correctional Officers, Correctional Officer Trainees and Correctional Officer Assistants for the month of July along with cooks, nursing staff and milker. He stated he anticipates another Board of Examiners (BOE) meeting next month and will be requesting the same exemptions for the month of August coupled with alternative strategies to come up with additional monies or partial furloughs that would allow the Department to live within the 4 million dollars that was allocated. Director Skolnik stated at this point in time if the Department were to get exemptions for those staff previously mentioned for the full biennium it would be in excess of 8½ million dollars. He expressed his appreciation to the members of the Board for their support at the BOE meeting.

Secretary of State Ross Miller made a motion to formally request Director Skolnik to bring before the BOE at the next meeting a request for the positions he feels necessary to maintain public health and safety, possibly with an alternative plan containing creative solutions which would save the state money. Attorney General Masto seconded the motion. There were no comments or questions regarding the motion. The record reflects the motion was passed unanimously.

V. Presentation on the VERA Institute of Justice – Howard Skolnik, Director, Michela Bowman, Project Director-VERA Institute.

Director Skolnik stated he attended a meeting hosted by VERA and they had a discussion regarding a project they were doing in the United States. He stated there had been many criticisms regarding the Department's inadequate oversight and the way it is operated. Director Skolnik stated he had issues with that since the Department is overseen by the Advisory Commission on the Administration of Justice, the Legislative Committee on Corrections, Probation and Parole, the media and the Board of Prison Commissioners.

Michela Bowman, Project Director and Alex Busansky, Director of the Washington D.C. office of VERA Institute of Justice introduced themselves. Ms. Bowman stated several years ago VERA put together a Commission consisting of people who have worked in Corrections, justice systems and advocates, to look at issues confronting Corrections around the country. The goal of the project was to bring them all to the table to see if they could reach an agreement and what recommendations they would have regarding the major challenges facing Corrections today. Ms. Bowman stated there was a large area of agreement on many issues including strong oversight which is important in helping good, strong managers do their job to understand what is going on in their systems. Their disagreement was the extent of how well the oversight was functioning. The VERA Institute's origin of this project was to help people who run Corrections and to determine what oversight can and should achieve. Ms. Bowman stated they are looking at Best Practices around the country both at the county and state level to help Department of Corrections improve existing oversight and how they can achieve. She stated they would be working with Director Skolnik for approximately 1½ to 2 years providing technical assistance to make oversight changes a reality.

Governor Gibbons asked which other states and jurisdiction the VERA Institute has successfully worked with and completed.

Ms. Bowman stated they have not completed the project anywhere and are hoping to have everyone on board at the same time so they could, at one point, bring everyone together to share their experiences. She stated Colorado was the other state they were working with and Miami Dade County in Florida and Travis County in Texas.

Attorney General Masto asked what other resources VERA had to implement the project.

Ms. Bowman stated VERA was funded by a foundation and there are four staff members in their office working on the project. Their anticipation would be to bring all of the partners together at an informational meeting and most of the work would be in Nevada.

Ms. Bowman stated she would be bringing resources and speaking with Director Skolnik. She stated what they have learned is there is a cry for stronger oversight in Corrections but there is little research regarding what works.

Attorney General Masto asked if their intention was to make a presentation or a written brief that would be provided to the state after the project period.

Ms. Bowman stated their intention would be to provide technical assistance over the course of the project after providing recommendations to help improve oversight and if successful and the Director felt comfortable with, a report would follow. Ms. Bowman stated their resources do not allow them to do this in states all over the country so they have chosen to ask a couple of states and counties to work with them.

Attorney General Masto asked Director Skolnik how he envisioned the partnership and benefits.

Director Skolnik stated he has been in meeting after meetings listening to how the Department is or is not overseen by anyone. The Department has a number of groups looking at them, including NDOC employees, who are operating independently of each other. He stated now they have the opportunity to utilize resources of VERA to take a look at all of the different groups to see if there is a way we can put something solid together that will provide assistance and direction so we can head in the same direction. If necessary, the Department does have the option to ignore the recommendations if they do not fit the needs of the state and the Board that the Department would not have to adopt them. He stated there is no cost to the state other than his time. Justice Hardesty is also aware of the project and is interested in participating.

Ms. Bowman stated their goal was to spend the next two to three months doing as much research as they could in regards to the existing oversight in the NDOC by talking with Director Skolnik and other people about the way things are functioning. VERA would be making a recommendation sometime in the fall. They would make a report after getting all of the feedback from the experts on those recommendations. Ms. Bowman stated their plan is to have a national meeting with all of the jurisdictions, possibly next January or February, after everyone has agreed on the recommendations. After that meeting, they would do an Action Plan in Nevada and would be providing technical assistance for the remainder of the period depending on what kind of a model the state wanted to adopt.

Governor Gibbons asked what foundation was funding VERA.

Ms. Bowman stated it was the Robert Wilson Foundation and the JEHT Foundation funded the first year of their project. She stated they created working groups in jurisdictions established at the outset of the project but because of the budget crisis they did not have the time or the luxury to travel to attend meetings. Ms. Bowman stated their main goal is to provide technical assistance to Director Skolnik.

Governor Gibbons asked if the public would have access to the information of their study and review, also what type of information they would be getting and have in their control and would it be considered sensitive.

Ms. Bowman replied it would depend on the state's Sunshine Laws and the extent to which it is public information. She stated they would mainly be talking to people and observing but would not consider the data sensitive or being a public process.

Director Skolnik stated that the Department does have control over data flow under Nevada Statutes.

Ms. Bowman said their goal is not to make an assessment of how well the Department of Corrections is functioning but will be looking at the systems that are already in place and to help the Director to understand what is happening in the Department as to what kind of information gets to the Legislature, the media and the public.

Governor Gibbons stated he understood improving oversight in any capacity for the prisons or any other government agencies and applauded VERA's willingness to undertake something of this magnitude and difficulty at this point in time.

VI. Discussion/possible action on a partnership between the Department of Corrections and the VERA Institute of Justice's Corrections Support & Accountability Project – Howard Skolnik, Director

Attorney General Masto asked if there was to be a document signed or Memorandum of Agreement before entering into this partnership.

Ms. Bowman stated they had a formal Memorandum of Understanding (MOU) that has been provided to Director Skolnik.

Governor Gibbons asked Senior Deputy Attorney General Janet Traut if the Board had to approve the MOU.

Ms. Traut replied generally that it is not required and under valid statutes, the Board does not regularly review that kind of business.

Attorney General Masto motioned to support the project and approve the MOU. Secretary of State Miller seconded the motion. There were no questions or comments. The record reflects Project Vera was passed and approved unanimously.

VII. Discussion/possible action regarding State Administrative Regulations – Howard Skolnik, Director.

Director Skolnik stated there were a substantial number of Administrative Regulations (ARs) to be approved with minor issues to a couple of them. He asked Kevin Ranft from ASCME to voice his concerns regarding those Regulations before starting.

Kevin Ranft, ASCME Local 4041, also a Correctional Office at Northern Nevada Correctional Center (NNCC), stated he reviewed the ARs thoroughly and has three ARs that he will bring to the attention to the Board today with his concerns. Regarding AR 304 Equal Employment Opportunity (EEO) Discrimination Charges with regards to representation, Mr. Ranft asked Director Skolnik to allow representation for the charged party and the Director stated he would correct it. That was their only concern with AR 304. Mr. Ranft stated that AR 332, Employee Reporting Responsibilities, under 332.01 D., off duty law enforcement contacts/arrests, they were just going to make a list which is opened at this time. He stated just for history, regarding law enforcement contact, there was a Personnel Commission that passed in NAC and then NAC went to the Legislative Commission and they denied that.

Mr. Ranft stated Director Skolnik has agreed to sit down and write a list to clarify when the employee would need to contact his employer if they had contact with law enforcement.

Director Skolnik stated what the Department plans on doing is creating a manual of contacts that must be reported or need not be reported and rather than incorporate into the Regulation it would allow it to be changed if there were a change in issues or statutes in the future without having to come back before the Board. This would be like a checklist and the Department would work with both associations.

Mr. Ranft stated the association does not feel a simple traffic violation for speeding or going through a DUI checklist should be reported to the employer unless there were greater consequences that resulted in the stop such as a DUI arrest. Also, a dispute with your neighbor regarding a barking dog or minor disturbance which resulted in law enforcement contact should not have to be reported. With a list, this will deter employees to have to call in when they have law enforcement contact for speeding or getting a warning. Mr. Ranft stated the other item of concern is 332.01 I, judicial or legislative contacts, and he questioned if the intent was "while on duty"? Director Skolnik stated that was correct.

Mr. Ranft stated of concern was AR 342, Employee Representation Witness Compensation, which has been brought to the Board multiple times. AR 342.01, 1, D, "if the representative is a state or department employee, they may only assist on their own time. Release time can be approved at the discretion of the Supervisor/Warden and must be charged to appropriate leave" but stated the problem is, if the employee is chosen to be the representative but they are working, the employee being disciplined is requesting them, the association feels that individual should be not be charged with personal time. He stated if it was only going to take 10 or 15 minutes during a day when it will not risk the staffing patterns or jeopardize the safety and security and allow that employee to represent the person will not only will save the Department money on the overtime but will ultimately allow the individual to have his due process faster instead of waiting for another avenue to get representation.

Director Skolnik stated this is one where they will probably agree to disagree. He stated he would hope that a Warden would grant 15 minutes to an employee if that is all that it was going to be. The concern, in the Department's perspective, especially in light of the potential of furloughs and other issues, would be to have someone decide at the last minute that representation was needed from a critical staff person that gets called off to do that representation thereby leaving an institution or facility short staffed.

Director Skolnik stated the issues could be administratively handled if Mr. Ranft can bring him specific instances where the Department is obviously acting in an inappropriate fashion, than that could be fixed. He added that he really does not want to see that section changed or removed from that Regulation. He stated it does give discretion to the Warden but what he does not want is it to be mandated.

Governor Gibbons asked the Las Vegas audience if there was anyone who wanted to discuss any of the Administrative Regulations.

Mercedes Maharis wanted to address ARs 703, 704, 734 and 813 but stated she could not access them on the website and could not determine what these four issues were dealing with but wanted to state that she thought the Psychological Panel should go and she feels that inmate disciplinary detention has to end as far as solitary confinement and also admin segregation and disciplinary segregation. She stated deaths are occurring and if you look at the lawsuits one would say this is not working and we have to come up with something much better. Ms. Maharis submitted her comments for the record. *See [Exhibit 2](#)*

In reply to Ms. Maharis concerns, Director Skolnik stated AR 703, Inmate Labor in Food Service Areas, is a revision and renumbering of AR 529 which requires 30 days of training before handling food. It also clarifies the responsibility of classification committee of who can or cannot work in food services. AR 704 clarifies the clothing issue of issuing two sets because of budgetary issues. He stated issuing two sets has been an ongoing practice for some time. He stated the old AR issued three sets instead of two. Regarding AR 734, Director Skolnik stated he understood Ms. Maharis' concern, but historically and repeatedly, the courts have upheld the rights for requiring a shower every 72 hours and requiring that an inmate receive 5 hours of out of cell activity if they chose to take it, they cannot be forced out of their cells if they don't want to come out. AR 813. Psychological Review Panel was changed to semi-annual as opposed to monthly and also allows visitors to attend by video conference at all Department facilities equipped with video conferencing.

Tonja Brown, advocate for the innocent, requested to speak. She stated she had some input for consideration regarding AR 813 and for those who have claimed their innocence from the beginning. The Psych Panel has a policy that if an inmate does not admit his guilt, they will not be paroled and that was wrong particularly if they are innocent, they should not have to be forced into admitting something that they didn't do. Ms. Brown stated she would like to see something changed or added to this AR and there should be something for the innocent because they refuse to admit to guilt for something they did not do.

Director Skolnik stated that AR 813 did not address Ms. Brown's issue either way and someone simply saying "I'm innocent" results in not getting a favorable consideration from the Psych Panel or the Parole Board. He stated he does not see that as an appropriate addition to the regulation.

Mercedes Maharis stated she has attended Psych Panels for many years and she fails to see how it is possible for the members of the panel to go through years of paperwork then speak to someone for a few minutes then say yes or no. She stated it is an invalid process and should be abolished.

Director Skolnik stated for the record that he believes the Psych Panel is established in statute and therefore would have to be eliminated through a statutory change. It would be a Legislative requirement.

Constance Kosuda requested to speak on the inmate disciplinary detention regulation 734. She stated the Governor appointed her to the Mental Health Planning Advisory Counsel and she has started a subcommittee for both prevention and intervention with respect to children who grew up only to go to prison as a result of mental illness.

Ms. Kosuda stated to place someone with mental illness into solitary confinement is a kin to torture and a violation of their rights and can no longer be permitted as it would make their mental illness worse. She stated it can lead to suicidal behavior and severe depression and inmates are discriminated against and results in punitive action. She asked the Board to consider this and any proposed regulation and procedures as they impact the mentally ill.

Director Skolnik responded to Ms. Kosuda's concerns that the Department is, in fact, inappropriately the largest mental health facility in the State of Nevada with approximately 2,500 inmates that have been clinically identified as suffering from some form of mental illness. He stated the Department is not funded adequately for the treatment of those individuals and does not have separate facilities for them. Director Skolnik stated to the degree that the Department has for those resources they do respond to their needs internally in the system and he would not support as a practice placing these individuals into segregation simply because of mental illness actions. Director Skolnik stated he truly does not believe that is, in fact, a practice in the Department and if it were, he would modify that.

Governor Gibbons asked Director Skolnik if there was a way he could put a statement in the Administrative Regulations at some point, identifying where those inmates with mental health issues to be reviewed prior to this happening.

Director Skolnik stated he believed they could do that through a separate manual that would deal with the whole issue of mental illness.

Flo Jones requested to speak. She wanted to comment on the VERA Institution and the partnership established and discussed and approved today. Ms. Jones thanked Director Skolnik for putting this on the table and the extra effort he put into this as it is a step in the right direction. She wanted to speak on AR 734, Inmate Disciplinary Detention, and segregation specifically, and speak on the Mental Health Advisory Commission. Constance Kosuda is the Chair of the subcommittee which she has been appointed to be a member. Ms. Jones stated one of their concerns is an ombudsman or more than one throughout the state that could report directly back to the Board of Prison Commissioners with the information and direction of the Director which possibly could fit in with VERA Institution. She stated she has three volunteers, none that have family members in prison, but have a serious concern of doing the right thing in our state for all human beings especially those who are locked up and their voices are limited. She asked the Board for their support in obtaining ombudsmen to work with the VERA Institute in gaining information and working directly with the Director who has taken the position of fairness in this step forward with VERA, and checking specifically with inmate disciplinary which seems to be a serious crisis.

Director Skolnik responded to Ms. Jones stating while there is an evaluation of the system going on that there probably should not be any mass changes of how we do business but rather see what the recommendations from VERA are, especially regarding something like an ombudsman. He stated he is not opposed to the concept but would rather wait and have VERA look at the Department's system to identify where and how best that type of a position should be placed.

Ms. Jones replied she did not mean changes would be implied or suggested by the ombudsman but is suggesting information would be accurately disseminated to the VERA Institute, the Director and back to the Board to ensure they do have accurate information. She stated there are some complaints that are bogus but there are some that are serious. Ms. Jones stated that we should just look to the group of volunteers until it could be funded through perhaps a federal grant.

Director Skolnik asked Ms. Jones to bring it to his attention when an inmate is being inappropriately handled and he would follow up on it.

Governor Gibbons asked if there was a motion for individual or in block for the Administration Regulations.

Secretary of State Miller stated AR 100, 100.01, 7.states "Regulations that have been promulgated as Temporary shall at the Board of Prison Commissioners be approved as a Permanent Regulation" to change the language that would read "Regulation that have been promulgated as Temporary shall at the next scheduled Board of Prison Commissioners meeting be approved as a permanent regulation at that meeting or retained as a Temporary Regulation with recommendations for amendment at the next meeting".

Director Skolnik stated he had no objection to that change.

Secretary of State Miller stated that in regard to 100.02, Updating Administrative Regulations, number 1 "AR's may be revised as necessary, without schedule pursuant to the Temporary or Permanent regulation process" which just clarifies the language.

Director Skolnik did not see a problem with the change.

Secretary of State Miller motioned to approve the regulations in block and seconded by Attorney General Masto. There was no comment or discussion in regard to the motion. The record reflects the Administrative Regulations were approved unanimously by the Board with the amendments noted.

VIII. Public Comment.

Tosh Dawson requested to speak. She stated in order to do her part to keep this meeting focused, relevant and free, she pledged to limit her public comment to 60 seconds of feedback concerning topics presented today only and never more to abuse this meeting as a platform to promote her personal agendas which she had done in the past for which she apologized. She implores all other attendees and public speakers to please do the same as a courtesy to the Board and as a demonstration to our united commitment to professionalism.

Mercedes Maharis stated she believed on the website there is a part of the Mission which says “to improve communications” and she would like to have an open communication to try to gather more data which she had been gathering for years because she is writing a book and doing other projects. She stated she is thrilled that VERA Institute will look at things and hope they will talk to inmate advocates as well and how advocates will fit in. She also wanted to know how to get more data.

Kevin Ranft stated for the record that he wanted to thank the Commissioners at this morning’s meeting regarding the furloughs and the report presented by Director Skolnik to them. He stated they adamantly oppose furloughs due to the safety and concerns and ASCME Local 4041 will be working with Director Skolnik and the Board to look at any avenue that is less risk to the public for the safety of the officers and the inmates. Mr. Ranft stated they will be presenting some cost saving measures for the Board to review because safety and security was their number one priority.

Flo Jones stated she is concerned over the way maximum inmates are being released when they expire their sentences and asked that an AR with a step-down policy be put in place so custody levels are reduced before they are released.

Tonja Brown presented letters from inmates for the records. *See [Exhibit 3](#)*

Irene Kane submitted her comments for the record. *See [Exhibit 4](#)*

Annabelle Parker submitted her comments for the record. *See [Exhibit 5](#)*

IX. Adjournment

The meeting was adjourned at 3:30 p.m. The next Board of Prison Commissioners meeting will be held on October 14, 2009

APPROVED THIS DAY 14TH , MONTH OF October 2009

GOVERNOR JIM GIBBONS

ATTORNEY CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER