

**Board of State  
Prison Commissioners**

**BRIAN SANDOVAL**  
*Governor*  
**CATHERINE CORTEZ MASTO**  
*Attorney General*  
**ROSS MILLER**  
*Secretary of State*



**STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS**

Northern Administration  
P.O. Box 7011, Carson City, NV 89702  
Phone: (775) 887-3285 - Fax: (775) 887-3138

Southern Administration  
3955 W. Russell Rd., Las Vegas, NV 89118  
Phone: (702) 486-9938 - Fax: (702) 486-9961



**BRIAN SANDOVAL**  
*Governor*

**JAMES G. COX**  
*Director*

**MINUTES**  
Of the meeting of the  
**BOARD OF PRISON COMMISSIONERS MEETING**  
December 5, 2011

The Board of Prison Commissioners held a public meeting on December 5, 2011 beginning at 1 PM at the following locations:

**Meeting Location:**

Guinn Room  
State Capitol Building Annex  
2nd floor  
101 N. Carson Street  
Carson City, NV

**Video Conference:**

Grant Sawyer State Office Bldg  
Room 5100  
555 East Washington Ave.  
Las Vegas, NV

**I. Call to Order.**

The meeting was called to order by Governor Sandoval with all the Board Commissioners present.

Also present were Chief Deputy Attorney General Keith Marcher, Senior Deputy Attorney General William Geddes, Director James Cox, Deputy Director Deborah Reed, Deputy Director Sheryl Foster, Medical Director Dr. Robert Bannister, State Health Officer Dr. Tracey Green, 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. [Attachment 1](#)

**II. Public Comment.**

Pat Hines, mother of someone who had been incarcerated and advocate for inmate justice rights since 1984. Thanked Ross Miller for a few years ago, getting this meeting underway again. She then requested that these meetings be video conferenced for family members at home who can't get out. Thanked Director Cox for putting the VERA report on the NDOC website. She mentioned the 18 recommendations on the report on how to improve NDOC. Requested to put the 50 pages on where the investigators discussed how things work at the NDOC and it was very informative. She requested that this report be left on the website for about 3 more months so other people may review it.

Michelle Kozlowski, caregiver of a person who has severe traumatic brain injury. Thanked Director Cox for providing reasonable accommodations for her husband's medical care to date.

Tonja Brown, advocate for inmates. She said she has concerns to read onto the record. She stated she had litigation and that information has come up during the discovery process that does affect the inmates. She sent the deposition of Don Helling to Director Cox and Mr. Foletta and would like it placed on the record for the inmates to be able to see it. [Attachment 2](#)

Ms. Brown read a statement to the Board. She submitted her comments for the record. [Attachment 3](#) Ms. Brown deviated from her submitted comments to add: “Recently I was informed that there was an inmate that is missing over 1,400 days of credit.” She then discussed her case against The State of Nevada and Howard Skolnik stating that it is not confidential. The Inspector General’s office and Attorney General’s office have continued to move forward. According to Mr. Helling’s deposition the will left by an inmate is now invalid because he states the inmate was confused. Since he stated the will invalid, it meant that the Trust is now valid. She explained that as an inmate advocate she was asked to become the trustee of an inmates estate. She said NDOC went to the Department of Aging Services and put her under investigation for exploitation and scamming the elderly. Ms. Brown said she made every effort to clear this up but in 2007, NDOC did not provide a letter from the inmate asking to have it revoked, but the inmate had not signed it, thus making it invalid.

Ms. Brown stated that due to documentation that has come to light, this opens up 30 to 40 cases in which Mr. Helling has given depositions; not counting litigation, that he has been involved in over the years. Ms. Brown is demanding an apology from NDOC, the Inspector Generals office and the Attorney General’s office. She asked the Governor to ask the Department of Justice to investigate her claims.

Senior Deputy Attorney General Will Geddes on behalf of the Attorney General’s office and the NDOC; stated for the record that the NDOC reserves the right to strike from the record any confidential material read into the record by Ms. Tonja Brown and documents she has asked to be received into the record by Ms. Tonja Brown specifically the letter stamped NDOC 03811.

Ms. Brown argued that, “It’s not confidential, he put it on there, not the Court.” SrDAG Geddes objected to the dissemination of confidential Inspector-General-file documents read into the record by Tonja Brown. The documents were exchanged in discovery, and we put a confidentiality stamp on the document, reserving our right to request they not be disseminated.

Jim Penrose, Attorney in Carson City on behalf of the Nevada Corrections Association objected to a temporary AR. He said that he spoke with Director Cox about this AR and the Director intends to table it.

The Secretary of State said that he had received an email from Mercedes Maharis who wished to have comments submitted to the record. He said he would make copies of these for the Board and Director Cox. [Attachment 4](#)

### III. Acceptance and Approval of Minutes – March 8, 2011 meeting.

The record reflects the Minutes of the March 8, 2011 were approved and passed unanimously. There were no comments or questions from the commissioners.

### IV. Discussion/possible action relating to plans to implement the closure of Nevada State Prison (NSP) – Greg Cox, Director.

The closure of NSP was approved by Legislature for April 2012. Director Cox discussed the extra costs and reduction of staff and inmates. NDOC was budgeted certain amounts to keep NSP open until the approved closure date, however, we are over budget. As units have closed, there has not been the reduction in expenses that was expected. The price of utilities has increased. As for staff; for example: there are 18 High Desert State Prison Position Control Numbers (PCN’s) that are now working out of NSP. The staff to inmate ratio is extremely high. He recommended moving the inmate population out of NSP by January 1<sup>st</sup>. The recent overtime is extremely high; it was at almost \$2.5 million projected. Allowing the removal of the inmates will allow NDOC to become more compliant

and have more oversight with the budget. It is extremely difficult for the Wardens to have the PCN's that are not at their facilities; they are working at NSP. Wardens are told that they must manage their budget within their means however their PCN's are not working at their facilities. The sooner the position control numbers are moved back to their originating budget, the sooner we can reduce the impact in not only overtime, but the overall operation.

There will be a reduction in overtime costs. The decision to keep NSP open has impacted every facility in the state. The intent of the Legislature was to be able to keep positions - reducing the possibility of layoffs, and reducing the possibility of staff having to leave the Carson City area. Director Cox believes NDOC has accomplished those two tasks. However, accomplishing this has impacted overtime in all facilities. He stated that, "We are reaching a point at NSP where the ratio of the amount of staff to inmates is extremely high. It is not only inefficient; it's just something we don't like to do." As housing units at NSP are closed and the inmate population goes down, the people who are working at NSP are not being paid out of NSP's budget; they are being paid from most of the other facilities. Every facility has its own budget, from the camps to the major institutions. The Department does not have one budget to share.

Director Cox was questioned as to what will happen between January 1<sup>st</sup> when he's requesting all the inmates be removed from NSP, until April 1<sup>st</sup> when NSP is actually scheduled to close. Minimum inmate crews will be brought back into NSP to operate the tag plant, but also to begin decommissioning, help with cleaning and do other things necessary. There will still be some staff assigned to NSP during this time. After that time, there is a budget for maintenance staff for the next 2 years.

Director Cox was asked if he has moved inmates sooner than was anticipated. He replied yes, in order to maintain the budget. Director Cox explained the 1 – 100 correctional theory. Right now there are 140 medium security inmates at NSP which requires by regulations and procedures to have a very robust perimeter security; which means towers and gun posts so he can not reduce the operation without impacting security and public safety. Until all the inmates go, these posts must be manned. Whether there is 1 inmate or 100, the same posts must be manned.

The Governor asked, "So by paying the overtime and extra expenses statewide you are able to meet the legislative intent which was to not have any layoffs or relocations?" Director Cox replied, "That's right." He also stated that when he reduces the inmates in January that there would be an associated reduction in staff at NSP. Director Cox suggested that minimum security crews would be brought over from Stewart Conservation Camp (SCC). There could be one crew of 15 inmates with 1 staff member present. There would still need to be one staff member assigned to the gatehouse for any movement in and out of the facility. The tag plant would still be located at NSP and would require staff. By moving the medium security inmates out of NSP there will be an approximately 95% reduction in staff needed there. Even with this 95% reduction in staff required at NSP, Director Cox expects to meet the legislative intent to not have any layoffs or relocations of staff.

The Secretary discussed that in previous instances when the closure of NSP has been brought to the Board, they were provided with a detailed plan. He asked the Director why the revised inmate and staff movement plan was not brought to the Board before today so that they would have an opportunity to review it. Director Cox stated he will provide the Board with the revised plan. He said that it has come to the point where he can no longer move NSP staff into new vacancies in other northern Nevada facilities without taking down the required posts for the amount of inmates remaining at NSP. Therefore he cannot reduce the overtime costs at Northern Nevada Correctional Center (NNCC) or Warm Springs Correctional Center (WSCC) without moving inmates out of NSP.

The Attorney General asked for clarification about the PCN's. Director Cox explained that NDOC took PCN's, from other facilities around the state, that were vacant and put NSP employees into those PCN's in order to comply with the legislative intent to not have any layoffs or relocations. For example there were 9 PCN's approved by legislature and granted to NDOC in the last biennium that should have come on board July 1<sup>st</sup> for Southern Desert Correctional Center in Indian Springs. These were held in Carson City for use during the closure of NSP. Additionally held were 4 PCN's from Florence McClure Woman's Correctional Center (FMWCC) in North Las Vegas. Then there are the 18 PCN's from High Desert State Prison that are up in Carson City to reduce the possibility of layoffs.

Historically there are 5 positions that become vacant per month in the Carson City area. As a position becomes vacant, an NSP staff member is moved into that PCN. The intent is that once NSP is closed, all those PCN's will go back to the facility they are budgeted for.

There is a possibility of layoffs if staff chooses not to take vacant positions in northern Nevada for example; at the facility in Lovelock. Due to Nevada Administrative Code, staff in the Carson City area does not have to take the vacancies in Lovelock and NDOC cannot force them to or transfer them. They have to voluntarily request transfers to those vacancies. Some of NDOC's newer staff has indicated that they will choose to take the layoff rather than commute or relocate to these areas. They plan on going on unemployment until new vacancies open in the Carson City area and then request to be rehired by NDOC. According to Personnel Code, once they are on the layoff list, they will be the first called to fill any newly vacant position. This is a determining factor on why they do not want to take open positions in Lovelock.

When the 9 month plan to close NSP was approved by legislature they were approved \$4.9 million dollars. However the annual budget for NSP was 17 million dollars. In order to maintain the intent of legislature while implementing the closure plan, staff with NSP PCN's has been moved to PCN's of other facilities. For example, one post is 5 officers. As that post is shut down, the 5 staff can move to vacancies at the facility where the PCN they have been working under comes from. In his report to the Board, Director Cox will list how many PCN's were originally at NSP, where they are now and how many PCN's have been terminated.

Director Cox was asked when was the point when he knew NDOC had to deviate from the last closure plan provided to the Board. He stated that there was an analysis done and he met with his fiscal staff, NDOC's Human Resource Division along with the Department of Administration and we have been looking at overtime over the last 3 pay periods. They did an analysis and looked at the current staffing plan and Director Cox believed that there would be an increase in overtime if he left NSP operating the way it was. The last review was about 2 weeks ago. Director Cox met with both associations for their input. He explained to them that his decision would not increase layoffs or relocations.

The Tag Plant was brought up. State Public Works Board is doing an analysis of two possible locations for the Tag Plant, NNCC and HDSP, in regards to the costs of moving the plant to either location. Director Cox has not gotten the analysis yet but the Department of Administration has. It has been suggested to the Director that the Tag Plant needs to stay at NSP through this biennium due to the cost of moving it.

Director Cox was asked what will happen to the facility after April 1, since the Tag Plant and Execution Chamber will both remain there. Director Cox explained that due to the age of the facility and the core heating and cooling, it will have to continue to be maintained due to the Tag Plant still operating. NDOC will be able to continue to provide for and use the Execution Chamber if the need

arises. Maintenance staff was approved by legislature for the next biennium. The decommissioning process with the State Public Works Board is very detailed involving fire protection systems, electrical, HVAC and power, etc... to appropriate levels. The impact of the Tag Plant will have some cause and effect.

V. Presentation & Discussion on Hospital Health Inspection Overview pursuant to NRS 209.382 – Dr. Tracey Green, State Health Officer, Nevada State Health Division.

The Nevada State Health Division conducts annual inspections of the Nevada Department of Corrections institutions and facilities to ensure compliance with food safety standards and the sanitation, healthfulness, cleanliness, and safety of the institutions. The details of the inspections are sent in a letter to the office of the Inspector General of the NDOC. If deficiencies are identified, a statement of deficiencies is sent to the Warden of the facility. The State Health Division then works with the NDOC to assure they are resolved in a timely manner.

In accordance with NRS 209.382, Dr. Green respectfully submits these results to the Board.

[Attachment 5](#) They have 2 agencies which provide the inspections; The Bureau of Healthcare Quality and Compliance for facilities that have an infirmary. This past year they conducted 8 inspections that include medical, dental and nutritional quality of food served at the facilities. Institutions without medical are inspected by the Public Health and Clinical Services Environmental Health Section. They inspected 9 conservation camps, 1 transitional center and 1 restitution center. The most recent inspection report cited:

- 22 critical violations due to food safety Critical violations are considered an immediate threat to the health and wellness of the residents.
- Most common of these were improperly labeled or stored chemicals
- No test kits re: sanitizing the residual of the dishwashing machines
- Dented canned goods
- Hand washing sinks in disrepair or inoperable
- Presence of insects, rodents or openings unprotected
- Spoiling of food

Comparisons of the latest 2 inspections noted 12 repeat violations. Of these 6 were considered critical. They included:

- Inoperable hand sinks
- Improper chemical storage
- The presence of insects, rodents
- Spoiled food

A total of 7 deficiencies were noted to medical and dental surveys.

- Failure to follow proper sanitization procedures of instruments
- Staff not trained to perform proper sanitization procedures of instruments
- Expired medication
- Lack of evidence of TB testing for 1 employee
- Lack of CPR training

There were no nutritional deficiencies noted in any of the inspections.

Dr. Green said she was happy to see that all the deficiencies have been addressed through statements of deficiencies and there are currently no outstanding deficiencies. She explained that they provide reports of the deficiencies directly to the Department of Corrections but it is unclear to her if in the past the Board has received these reports. She asked for the Board's guidance on how they would like her to proceed in the future. This will be made a part of the Board meetings from this point forward.

The Governor stated that due to the Revised Statutes, she should provide the Board with twice a year reports based on the inspections. The Governor asked when the previous report, to the one discussed today, was conducted. Dr. Green stated that to her knowledge, these reports have not been presented to the Board for the past few years. The Governor asked about previous reports rather than presentations. Dr. Green explained that this was a cumulative report for 2011, combining each facility report for the past year and that inspections are conducted every year at each individual facility. The Governor received clarification that the deficiencies were violations repeated from 2010 reports. Dr. Green confirmed that as of today, there are no longer any deficiencies or violations. Dr. Green explained the continual cycle of inspections to NDOC facilities. She stated that she will provide a breakdown of the facilities with the recurrences.

The Governor asked Director Cox if he had any comments after Dr. Green's testimony. Director Cox stated for the record that he wanted the Board and public to know that the NDOC takes these findings very seriously and have an obligation to correct violations as immediately as possible. NDOC has a staff member in the north and one in the south that look at these types of safety and health issues. He said he has more emphasis on the sanitation issues and that he believes that they have improved. He explained that staff is being trained on serve safe; looking at things from the temperature of the food to how it is being stored. Director Cox discussed chemicals and how they are stored and how NDOC intends to resolve those issues as they come about. Director Cox explained how these reports come to the Warden and he or she reviews them with their staff, usually the Associate Wardens and the culinary managers and then to the food service, the infirmary, the hospital and director of nursing staff at each facility. He stressed again that these issues are taken very seriously and that the NDOC wants to provide the best areas they can to house their inmates.

The Governor asked if there was a reason why these reports have not reached the Board in the past. Director Cox said that as the Director, he wasn't aware of this and that he had attended a few meetings as the Deputy Director and he wasn't aware that Dr. Green had to testify until he pulled NRS 209.382 that requires her or someone to present these issues to the Board. It just hadn't been done in the past.

The Governor said that he understands why it wasn't presented to the Board but wanted to know why it didn't get to the Board anyway. Director Cox said he didn't know; it should have. He said, "I should have assured; the Department should have assured that the Board had that information." Governor said, "So we have processes in place, and Dr. Green has testified that all the deficiencies have been addressed." His concern was that there were 12 repeat deficiencies that should have been addressed. He asked for assurance of his best effort from Director Cox that they should remain in compliance. Director Cox agreed that they should not occur. He said he would not give excuses for repeat violations and that if it is a staff issue, then the appropriate progressive discipline will take place.

The Governor discussed that when we are talking about staff not being trained properly, it is very serious. Director Cox introduced Dr. Robert Bannister to discuss these issues.

In the meantime, the Attorney General suggested receiving thorough responses from the Wardens regarding the statements of deficiencies they receive and she outlined how the responses should be organized. The Governor agreed that was an excellent idea and instructed Director Cox to make it happen. Director Cox explained that they take each issue and provide a corrective action plan. Some issues can be corrected immediately but some require a plan, such as training, that will occur over a certain time frame. After the time period, they go back and check to see that they are in compliance. There is a written report for each facility. The Board will be provided with these compliance reports

from now on. The Governor asked if this satisfied Madam General's request and she agreed that it did.

Dr. Bannister said that what was missing here was the explanation for each violation. He explained that he had not had first hand knowledge in the compliance issues personally but was able to acquire this morning was that in regards to the TB, it was one person and in regards to the CPR it was one person as well. He said that rather than speculate he would get responses to these issues that were made for the individual allegations. The Governor thanked Dr. Bannister and there were no additional questions from the Board.

#### VI. Discussion/possible action regarding State Administrative Regulations [Attachment 6](#) Greg Cox, Director.

The Governor said it was his understanding from Mr. Penrose's testimony that he was going to withdraw AR 350. Director Cox concurred. Then the Governor asked Director Cox for his summary of the regulations. The breakdown and modification in the Administrative Regulations (ARs) were given to the Board previously.

It was discussed that there are approximately 93 more ARs that need to be reviewed by the Board to be brought up to date. Director Cox gave a brief overview of the AR committee and the actual review process. He discussed his plan to eliminate the plethora of temporary ARs.

Secretary of State Miller complimented Director Cox on his endeavors in regards to the ARs. Additionally, Director Cox agreed that a summary of the substantive changes to the ARs will be pointed out on them when they are submitted to the Board. After the next Board meeting all the ARs are expected to be brought up to date. From that point forward, Director Cox plans to stay in compliance of AR 100 and keep the ARs current. Any temporary AR's will be addressed at the very next Board meeting.

The Governor moved to approve the proposed ARs as outlined in the agenda with the exception of AR 321 and AR 350 which Director Cox asked to be withdrawn. Attorney General Masto seconded the motion. All members signified by saying Aye. The record reflects the motion was accepted.

Before moving on to the next agenda item the Governor readdressed item number 4 regarding NSP. He asked Director Cox if the Interim Finance Committee (IFC) or the Legislative Commission had been made aware of the recent change to the NSP closure plan. Director Cox stated he has talked with the Department of Administration. Due to the budget and overtime, he said he needs to move forward with the new plan and bring it to their (IFC's) attention. He said he is trying to take as much information in and has been talking with Assemblymen from the Carson City area. He's trying to come up with a plan that complies with the intent of the Legislature and given the next two weeks he can do that. The Governor strongly encouraged Director Cox to make the Legislature aware of the current status of what is happening at NSP. Director Cox agreed to do so.

#### VII. Board Member Comments.

There were no comments from the Board members.

#### VIII. Public Comment.

Miss Hines had a question on AR 258. Why are ACA numbers listed on the AR since she didn't think more than 2 people knew what the ACA is. Director Cox explained that ACA numbers she is asking about is the American Correctional Association standards. This is a nationally accredited association. NDOC continues to list them to show that they review their standards and incorporate them into

NDOC's ARs to insure that NDOC is compliant with national standards. It puts NDOC in a better measure when they go to Court, it reflects on the Departments ability to insure that they are good regulations that incorporate standards that are used across the country.

She recommended putting the ACA number into the text of the ARs exactly where it relates. She asked about where to find the ACA manual. Director Cox stated he did not know if she as a citizen can obtain it. He said he would discuss her suggestion with the AR committee.

Miss Hines also discussed the VERA report in reference to grievances. She asked if he would give a status report on the VERA report 18 recommendations and if they were followed through on, at the next Board meeting.

Jim Penrose of NCA, formally offered his statement and attachments for the record. [Attachment 7](#)

Steve Kozlowski. Joseph Kozlowski read his fathers notes which were submitted for the record. [Attachment 8](#)

Michelle Kozlowski submitted her statement and attachments for the record. [Attachment 9](#)

Tonja Brown submitted letters from two inmates:

- Jeremy Crozier #77906 [Attachment 10](#)
- Joseph Carpino #25421 [Attachment 11](#)
- She also submitted a letter and attachments from Rev Jane Foraker-Thompson [Attachment 12](#)
- She also submitted a letter and attachments from Mercedes Maharis, past Director of Nevada CURE, lifetime member of CURE Washington DC. (these were already submitted by Mercedes Maharis via an email to the Secretary of State's office [Attachment 4](#))

Ms. Brown reiterated that her own letter and attachments are not confidential documents. SrDAG Geddes said they will be accepted and he will look into the matter of their confidentiality before they are disseminated to the public.

AR 711 states that when inmates are moved from one facility to another for whatever reason including medical, they lose their property that had been grandfathered in. She believes it is not fair and that an inmate may give up on medical care in order to stay where they are and not lose their property. She used a jacket as an example of personal property.

Michelle Kozlowski added that the judicial system is failing persons with traumatic brain injury, or the service persons, because they are denied veterans court or mental health court.

Steve Kozlowski commented that, "I think you're wrong with the officers working with criminals; I know personally from being in, that deputies and corrections officers will make money on the sly. I've been in, I know."

IX. Adjournment.

Secretary of State Miller motioned to adjourn; Attorney General Masto seconded the motion. All members signified by saying Aye. The meeting was adjourned. No date was set for the next Board of Prison Commissioner's Meeting.



APPROVED THIS 17<sup>th</sup> DAY, MONTH OF May, 2012

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GOVERNOR BRIAN SANDOVAL

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ATTORNEY CATHERINE CORTEZ MASTO

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SECRETARY OF STATE ROSS MILLER

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

\* Due to a settlement agreement, several documents submitted for posting with these minutes have been specified as confidential and therefore will not be posted. Additionally, information on several other documents needed to be redacted before posting. The settlement agreement affects documents listed as [attachments 2](#) and 12. [Attachment 2](#) was updated and 12 omitted. List of documents [Attachment 13](#)