

Board of State
Prison Commissioners

BRIAN SANDOVAL
Governor

BARBARA CEGAVSKE
Secretary of State

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Attorney General



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DEPARTMENT OF CORRECTIONS



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BRIAN SANDOVAL
Governor

E.K. McDaniel
Interim Director

MINUTES

Of the meeting of the
BOARD OF PRISON COMMISSIONERS MEETING

JANUARY 14, 2016

The Board of Prison Commissioners held a public meeting on Thursday, January 14, 2016, beginning at 9:00 AM at the following locations:

Meeting Location:

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

Video Conference:

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

I. Call to Order

The meeting was called to order by Governor Brian Sandoval. Secretary of State Barbara Cegavske and Attorney General Adam Paul Laxalt were present. Present from the Nevada Department of Corrections were, Interim Director, E.K. McDaniel; Deputy Director Support Services, Scott Sisco; Acting Deputy Director Dwight Neven and Inspector General Pamela DelPorto. Also present were members of the public who were asked to sign-in. [Attachment 1](#)

II. Public Comment. Governor Sandoval called the meeting to order. Paul Corrado commented from Carson City. He stated he been a volunteer at jails state prisons and federal prisons since 1994. He stated that for four weeks in a row last fall there were not enough staff at Warm Springs Correctional Center. He said it was no fault of the Warden; however, they could not have religious services for four weeks in a row. He said that when Correctional Officer Trainee staff graduate from the training academy, the jails offer them jobs for \$50,000 more per year than NDOC so they leave and take the better paying jobs. Additionally, he would like the federal prison reentry initiative to be looked at in order to reduce the number of people committed due to mandatory sentences. He stated the best way to stop a bullet is with a job. He spent \$5,000 for training and obtained offender workforce development specialist training. He believes he can help reduce recidivism. He believes removing mandatory sentencing requirements would allow judges to use alternative sentencing. He discussed how many prisoners past begins with prescribed painkillers and then when they couldn't get them anymore they moved to heroin. Next he discussed the aging prisoner population and dementia.

He recommends also providing classes in money management for inmates so they can better understand personal-finance.

He said he has attended nine parole hearings where he took notes that he sent to the Parole Board. He said a volunteer has better credibility than someone from the government in handing these types of things, which is why he made the offer.

Governor Sandoval stated for the record that he received a letter dated January 11th 2016 from Ned and Sharon Cole regarding inmate number 115014. He believed the other commissioners also received a copy of this letter. [Attachment 2](#)

Additionally, the Secretary of State's office received an email from Barb Sprouse with information she wanted put on the record. [Attachment 3](#)

III. Acceptance and Approval of Minutes – September 15, 2015 meeting. The motion passed to approve the minutes.

IV. Presentation and Discussion on Hospital Health Inspection Overview pursuant to NRS 209.382 - Dr. Tracey Green, State Health Office, Nevada State Health Division. [Attachment 4](#)
Dr. Tracey Green introduced herself as the Chief Medical Officer for the Department of Health and Human Services. She also introduced Mr. Vincent Valiente an Environmental Health Specialist with the Bureau of Health Care Quality and Compliance. Dr. Green discussed the biannual inspections of Nevada State Correctional Facilities and presented a summary regarding medical and dental services, nutritional adequacy of the diet of incarcerated offenders taking into account religious and or medical dietary needs with respect to the National Dietary Guidelines, and the sanitation, healthfulness, cleanliness and safety which includes a focus on food safety practices. Dr. Green's report provided spreadsheets summarizing critical violations identified during the annual inspections conducted at each facility from 2009 through 2015.

Dr. Green Stated that all critical violations are remediated prior to them leaving a facility or immediately thereafter so none of the violations listed are currently a violation, they have all been corrected. She said that their relationship with the Department of Corrections is quite good and they are always happy to work with them and correct any violations. She said they have seen significant improvement in some of the facilities across the state.

She made a point that prisons contract with a dietitian and the dietitian and prison staff adhere to the national dietary guidelines when it comes to their creation of the diets for the inmates. Additionally there is a large list of specialty diets based on medical and religious requirements. Mr. Valiente created a nutritional assessment tool. They also review inmate charts and checking the records to determine if in fact the foods are being provided but are they being documented and are their medical needs being met based on their nutritional requirements; such as inmates with high blood pressure that need low-sodium diets. She went on to explain that Mr. Valiente and the environmental health staff do meet with both staff and inmates with regards to what they are receiving in regards to their nutritional diets. Governor Sandoval asked for the percentage of inmates who require special diets, whether for health or religious reasons. Interim Director McDaniel said that he believes it is less than 10% and may be between 3 to 5%.

He added that the percentage would vary from institution to institution depending on the number of inmates housed there. For example when he was the Warden at Ely State Prison out of 1,000 inmates they probably had 10 inmates per day on a medical diet and may be 25 to 30 on a religious diet. Governor Sandoval asked how the special diets were identified for particular inmates. Director McDaniel said that, per regulations, inmates may apply for religious diet. He brought up the kosher diet and confirmed to Governor Sandoval that kosher diets had been the subject to prior litigation and that the NDOC is in complete compliance with the resolution of that case.

Dr. Green said there were two other mechanisms for the determination of the diet. The physician and/or nurse may make a dietary request or requirement as an order that is given on their chart. Additionally inmates themselves may request additional food or a special diet in the form of a kite or a request to be seen by medical. Governor Sandoval asked if everyone not on special diets are on the same menu every day. Director McDaniel said he believed the menu rotation was on a five-week schedule. He explained that the menu can change depending on several factors such as an "opportunity buy" of food items and such substitutions are nutritionally approved by the dietitians.

Mr. Valiente discussed the compliance of the religious and common fare menu. He described the kosher kitchens blessed by the Rabbi *and* there is video surveillance so that the Rabbi can view the kitchen and food preparation. Additionally he discussed the nutritional adequacy tool and how the NDOC is in compliance. He reviews the food in regards to the storage, the serving and the preparation. Governor Sandoval asked if he tasted the food, but he said no that's not part of the inspection. Director McDaniel explained that at every facility, at every meal, a supervisor tastes the food prior to it being served and documents their comments on the taste and quality of what is being served.

Dr. Green explained that they are looking at the delivery and documentation of assuring that inmates are receiving their special diet at meal time. She also discussed; how do they align an inmates' level of physical activity and their caloric intake? Inmate's activity is self-determined as some perhaps like to work out while some are sedentary. They are looking at ways of aligning minimum mandatory physical requirements and how does the individual's weight and age and options for physical activity align to that? There are many elements to a person's decision on how much exercise they have. They are trying to do all they can to align with their statutory requirements given some of those variables that there is not a control factor for. Mr. Valiente researched other states before he created this tool to see how they accomplish this process. He reached out to other states and left many voice messages, however did not receive many return calls. He can't speak for other states, but he can speak to this state's in-depth review that what we have here is one-of-a-kind. He could not find other examples of environmental specialists around the country conducting this type of in-depth audit.

V. Update on the of the joint project between the Nevada Dept. of Corrections and the Department of Public Safety, Division of Parole and Probation to provide approved residence

for Parolees at the Casa Grande Transitional Housing facility in Las Vegas – DPS Director Jim Wright, Chief Natalie Wood, and Warden Jo Gentry. [Attachment 5](#)

Director Wright thanked Director McDaniel and his staff for their assistance in getting this program started. He said they had a great partnership with the Department of Health and Human Services (DHHS) and the Department of Employment Training and Rehabilitation (DETR) as they have become active participants in this process. Chief Wood said the program began on October 7th, 2015 and to date have had 63 participants. She said the current success rate is 86%. She clarified for Governor Sandoval that this is slightly higher than parolees successfully discharging from parole so they are very pleased with these results. She said they are working collaboratively with 14 different Parole and Probation (P&P) programs, DETR and DHHS in particular to assist with some of the mental health issues. There have been some technical IT challenges with the firewall that they are working through. They would like some additional support with substance abuse counseling as their resources are stretched thin. Overall the program is going very well. Governor Sandoval asked if there are people who are offered this program and turn it down. Warden Gentry said that she works closely with Lieutenant Cummings from P&P. She agreed that this has been an incredible joint effort between both agencies and wanted to acknowledge the line staff and program staff at Casa Grande. Warden Gentry explained some of the reasons why inmates are not accepted into the program.

Secretary Cegavske asked if the drug counseling is in-house or do you have people coming in from the outside. Chief Wood said they have an in-house substance abuse counselor that goes to Casa Grande however they are connecting with local agencies. They would like to develop their partnership with Health and Human Services to tap into their resources to permanently provide assistance as this program grows. Governor Sandoval asked if any of these individuals are Medicaid eligible to get services. Deputy Director Scott Sisco said that in many cases they are eligible however when the NDOC qualifies them it is only for 24 hours at a time. They try to get them all the paperwork they need so that they may submit it once they are released. Governor Sandoval commented that this goes back to what Mr. Corrado said earlier in regards to recidivism that we can provide resources but if we don't continue that, when they leave, it is likely they are going to be back. Lieutenant Cummings from P&P said they have taken several different approaches to substance abuse and resources and are trying to use the Affordable Care Act as one vehicle to get additional in-house counseling. Additionally they are looking for halfway houses, sober living and 12-step programs etc., to address these issues. Secretary Cegavske said she planned on touring Casa Grande and invited the other members to join her.

Governor Sandoval asked if this was exclusively for male population and would become available to the female population. Chief Wood said she would like to create a firm foundation of success before they branch out. She knows discussions have been taking place between Major Kim Madras and Deputy Director Sheryl Foster in regards to adding females to the program. She added that the program is a success and that she could see the program expanding to possibly 100 inmates within the next month or two.

Director Wright said he's excited about this project and reaching out bringing resources from all over to get these kinds of programs done. He is very pleased with the numbers of success to date. Governor Sandoval agreed this is good for the inmates and for the Department and this is a win-win situation.

VI. Update regarding the Association of State Correctional Administrators (ASCA) Study on the Nevada Department of Corrections (NDOC) Use of Force Policy, Prison Practices and Staff Training – Interim Director McDaniel. Director McDaniel went over a 12 page status report presentation to the Board of Prison Commissioners. [Attachment 6](#)

Governor Sandoval asked for clarification, he recalled that there were vacancies so he asked if these positions were in addition to filling the vacancies. Director McDaniel explained that these positions were not vacancy filling positions but to improve the relief factor. The relief factor had not been updated for many years so this brought them up to par in order to relieve staff from current posts. Governor Sandoval asked if eliminating the furloughs helped with this and Director McDaniel said that yes that made a difference making it easier in managing shifts and knowing who's going to be on duty and not have to furlough them off. Director McDaniel explained they have authorization for the remaining 55 positions that will be hired in 2017. They were allocated with the interim finance committee to be released to the Department upon reporting back to the IFC. Secretary Cegavske asked when they were given the first 45 positions was anything done in regards to salary, benefits or are they the same as what an existing officer is getting. Said the reason she was asking is because this discussion comes up at meetings as to who takes who has trained people to their agency the fastest. Have they been able to retain the new staff. Was there any salary or benefits increase given by legislation. Director McDaniel said there have been no changes to salary and benefits. Secretary Cegavske asked if they had lowered any of the qualification requirements for correctional officers and Director McDaniel said no, they follow the POST standards that are set and the qualifications have stayed the same.

Director McDaniel explained that the second part of the ASCA study recommended that the NDOC hire an additional 399 posts. The NDOC disputes their report that it has the highest prisoner to staffing ratio of any Department of Corrections in the country at nearly twice the national average of 6.27 prisoners to one security staff. He said they were not provided how ASCA came to that conclusion. He said he suspects they only counted correctional officers and not the other staff that are trained to supervise inmates that are not in the correctional officer category such as; food service staff, maintenance staff, caseworkers and most staff except for administrative. Director McDaniel explained NDOC's actual ratio is 5.08 inmates per trained staff. He said they have a pretty good ratio however some of the recommendations for new correctional officer posts would increase efficiencies and enhance security. He said those recommendations will be revisited after all the new shift relief factors have been filled. He explained that all Wardens and Associate Wardens have attended the American Correctional Association weeklong training program on how to develop and determine staffing recommendations based on inmate population the size of the facility and the physical plant. He

explained the NDOC plans to conduct its own study and evaluation before the next budget cycle to determine the new ratio and possible additional staffing needs.

Director McDaniel discussed the revision process for AR 405 Use of Force. He explained that the facilities have written operating procedures to immediately improve the management of this policy. He said the Administrative Regulation itself is out for final review and comment by staff before it becomes a temporary AR. He explained they've included less than lethal rubber Stinger rounds as well as clarified wording for understanding by staff. Additionally although they have always had a review process for every serious use of force incident, per this study they have added a section specifically outlining the review process to the revised AR. Director McDaniel touched on the increased training process on use of force. The use of force training will only be conducted by the Warden or Associate Warden of each facility. Secretary Cegavske asked about the range conditions and locations. Director McDaniel said they have ranges at Northern Nevada Correctional Center (NNCC), Southern Desert Correctional Center, Ely State Prison, and Lovelock. He said the range at NNCC is utilized by the FBI, local law enforcement and the Carson City NDOC sites. He said the auditor talked about the range at Lovelock not having a restroom or classroom at the range however they have plans to make improvements. However the range at LCC is close to the prison facility. He said a particular improvement he would like to see at the ranges would be to have a tower the same height as the perimeter towers around the facility's so that staff that would man the towers could practice various scenarios. They are in the process of creating several training scenarios. Secretary Cegavske inquired about upgrades in regards to lead removal at the ranges. Director McDaniel said that although this study did not include that issue, they have contracts in place to handle this.

Attorney General Laxalt asked if it was Director McDaniel's view that some of the complaints about Lovelock range are not necessarily directed at effectiveness of actual on range practice and ability of the officers to be able to shoot. Director McDaniel said the range is adequate for staff to qualify and it is safe and secure. He said the complaints were more about the amenities such as having a restroom on-site. Attorney General Laxalt confirmed that it was a comfort issue, and not in issue with shooting. Governor Sandoval said that the National Guard has a new facility at the airport in Reno that is state-of-the-art and recommended exploring NDOC's ability to utilize it as well. Director McDaniel went on to explain that POST requires 24 hours per year training for certification and ACA requires 40 hours per year. Moving forward, NDOC is implementing that all staff, not just correctional officers, will begin receiving 40 hours in – service training per year. They have added a class in verbal judo which is a de-escalation technique, chemical agents, interpersonal communications skills, inmate supervision, safety security reviews, cultural diversity/lifestyle, social media in law enforcement, and health and wellness for staff as well as the inmate population. The study asked that NDOC include training, certification, and issuance of oleoresin capsicum (aka: OC or pepper spray) for custody staff. This training has been implemented and completed which included in part: crowd management, retention of OC containers, physical and psychological effects and levels of contamination, decontamination process and medical evaluation. OC has been issued to every correctional officer that works with or is assigned to positions with inmate contact. Director McDaniel went on to discuss ongoing training on collapsible batons that are available to

correctional officers depending on their posts, as needed. Governor Sandoval asked if this would be provided to all correctional staff. Director McDaniel said they are still reviewing whether or not every staff would need one as the OC is working. Next he discussed that handcuffs are available in central work locations where staff can check them out as needed. The report recommended 37mm launchers are issued to all posts covering inmate movements. Director McDaniel explained this weapon is used mainly outdoors and only for very specific applications and specific staff including emergency, riot and tactical response staff have had 32 hours of training on the 37mm and 40mm chemical agent launchers. He said that this weapon is not needed in all of the armed posts. Director McDaniel explained that with the use of rubber Stinger rounds, the use of the shotgun with 7.5 birdshot has been reduced.

Governor Sandoval asked if all staff have completed the new training. Director McDaniel said that the new 40 hour training will start being implemented in February and all staff will have cycled through this training by the end of this year. He went on to explain that staff who will be utilizing the rubber rounds have gone through intensive training. Governor Sandoval asked for Director McDaniel's interpretation on ASCA's recommendation, "discontinue the routine deployment (of the 7.5 birdshot)." Director McDaniel said deploying 7.5 birdshot has never been routine. However, once they implement numbers one through seven, utilizing it will only be a last resort to stop someone from seriously injuring or killing another person. Governor Sandoval asked what other states' last resorts are. Director McDaniel said many states do not use firearms of any kinds inside their facility. There are many states that do but their policy is to only use them as deadly force. He brought up the California policy which basically says if there is an assault taking place and they believe serious injury or death is imminent, they shoot to stop the perpetrator. They use a live round and they do not skip it on the ground. They use batons or pepper spray and, if necessary, go directly to deadly force. Director McDaniel explained that using the intermediate rubber rounds is one more step before having to use lethal force. He said that they are dealing with some very serious people who have the intention of killing the other person when they get into these fights. He believes the way they implement the use of the 7.5 birdshot that they have saved lives and prevented many people from being seriously injured or killed. Governor Sandoval asked that if Nevada is one of the few states that use this, and it saves lives, why aren't more states using it. Director McDaniel said he was asked this question recently and he said because we are right and everyone else is wrong. He said that really, he believes that this method was developed over 20-30 years ago within the NDOC to handle specific problems that were occurring, and they found it very successful. He said they were challenged in court and even the Ninth Circuit, in two separate cases agreed that it was an appropriate method to utilize, to prevent inmates from seriously injuring each other. Because of the success that it had, the Department continued to use it. He said he believed other departments may not use it because of the perception of shooting someone with a live round.

Director McDaniel said he expects AR 405 to be issued as a temporary soon and it will be presented at the next board meeting. Governor Sandoval said that if there is a resource issue such as needing to purchase more batons to let him and the Board know.

VII. Discussion/possible action regarding State Administrative Regulations – Interim Director McDaniel. Governor Sandoval said he remembered from the last meeting discussing AR 100 and AR 339. He asked if sufficient notice given to everyone including staff and have they had an opportunity to respond, and received meaningful notice in regards to these AR's. Director McDaniel said yes and that per AR 100, they actually document staff comments and the subject matter experts responses to staff. Governor Sandoval asked for clarification that all staff input was addressed and there were no additional issues with the temporary AR's before the board for approval. Cynthia Keller, Executive Assistant and the Interim AR Policy Coordinator confirmed that all staff issues have been addressed by subject matter experts. Director McDaniel discussed that after the last board meeting, they updated and clarified wording in AR 100 to include tracking of staff input and responses. Additionally, once the AR executive policy panel has tentatively approved a draft, the AR coordinator will send out all draft AR's for final comment and input from staff. He said this means each AR actually goes out twice for staff review.

Director McDaniel discussed AR 339 employee code of ethics and conduct. He said this AR was drafted by NDOC's subject matter expert, Inspector General Pam Del Porto, as well as a member of the Attorney General's office, Deputy Attorney General Janet Traut; assuring that they were in compliance with all processes. After the last board meeting, this AR was sent out again for staff's second and final review before it would be brought before the board today to be made a final AR. IG Del Porto said that since the last board meeting one staff member contacted her regarding the word loyalty being included in this AR. It was agreed that the word loyalty would be removed from the AR. There were no additional concerns from staff. Janet Trout explained that the revisions to this AR actually began in 2011 due to a statutory change regarding all classified state employees prohibitions and penalties along with the process for discipline. She also discussed progressive discipline in relationship with Chapter 284 – State Personnel System where discipline is included. This AR was compared line by line with both Chapter 284 and chapter 289 – Peace Officers, to make sure the NDOC is compliant with the NRS's. She said they clarified language in AR 339 that had been problematic. Governor Sandoval said he appreciated all the hours of work and attention to detail that it took to get the AR to this point. Secretary Cegavske wanted to make it part of the record that employees sign this pre-service which is well before they actually begin work. She said she recalls this being worked on for the past two sessions and appreciates everyone's hard work. Governor Sandoval took a motion for approval of all of the administrative regulations that were presented under this agenda item and the motion passed.

Before moving to the next agenda item Secretary Cegavske asked the Commissioners for approval for the agenda and packet materials to be put online rather than having Secretary Cegavske's office provide hardcopies to the Commissioners. Governor Sandoval approved that these materials may be provided electronically from this point forward.

VIII. Public Comment. There was public comment from Las Vegas. Mercedes Maharis said she believed that the word loyalty was important. She also said instead of verbal judo they might change it to verbal civility for de-escalation. She said she would like to see cameras and not

chemical sprays throughout the department. She said the special needs; sex offender population is in desperate need of their own facility. She said the ratio of deaths among the sex offender population compared to the rest of the inmate population is too large and that something needs to be done about it. Ms. Maharis said she does not know if Stickney versus List is still operational because there is still overcrowding at NNCC. She said she would like to see hog tying banned not only with NDOC but all law enforcement in the state. She said she was very impressed and happy about the progress made with less shootings. [Attachment 7](#)
There were no additional public comments.

IX. Governor Sandoval motioned for adjournment in the meeting was adjourned at 11:06 AM.

APPROVED THIS DAY, MONTH OF , 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