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Governor

CHARLES DANIELS  
Director

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**STATE OF NEVADA  
BOARD OF PRISON COMMISSIONERS**

**MEETING MINUTES**

The Board of Prison Commissioners held a public meeting on Monday, January 25, 2021, beginning at 9 a.m. Pursuant to Sections 2 through 9, inclusive of Chapter 2, *Statutes of Nevada 2020, 32<sup>nd</sup> Special Session of the Legislature*, pages 9 through 11, there was not a physical location for this meeting due to the public-health crisis caused by COVID-19. The meeting was held virtually. The meeting was listened to and viewed virtually; hosted by the Nevada Department of Corrections website.

**1. Call to Order/Roll Call of Board Members/Confirm Quorum**

Action: The meeting was called to order by Governor Steve Sisolak at 9 a.m. Governor asked for the clerk to take roll. Dena Mantelli, Executive Assistant to Director Daniels, Nevada Department of Corrections, took roll call and a quorum was confirmed.

Board Members Present via Zoom:

Governor Steve Sisolak  
Secretary of State Barbara Cegavske  
Attorney General Aaron Ford

Nevada Department of Corrections (NDOC) Attendees via Zoom:

Charles Daniels, Director  
William Quenga, Deputy Director Prison Industries & Acting PIO  
Kristina Shea, Deputy Director Support Services  
Christina Leathers, Chief Human Resource Officer

Harold Wickham, Deputy Director Programs  
Brian Williams, Deputy Director Operations  
Dr. Michael Minev, Medical Director  
Chris Franklin, Policy, Programs & Grant Admin.

The Governor moved on to item number 2, the first session for public comment to address the Board of Prison Commissioners on agenda items (2 minutes). Governor Sisolak asked how many public comments we had, or how many callers were waiting to provide public comment. Moderator said there were more than 30 callers waiting to provide public comment. Governor stated that he was sure most of the callers were going to comment on Administrative Regulation 258, Inmate Banking, and stated that if callers comment now [AR 258], they will not be able to comment when the item is heard; therefore, it can be one or the other, comment now or when the item is heard later. Governor Sisolak asked that the comments be tracked so the Board will know who's commenting now and who is going to comment later. Governor went on to ask if there were any public comments and callers have 2 minutes for comments, and to spell their first and last names.

IT moderator gave instructions to callers and stated that callers will be identified by the last four digits of their phone number when it is their turn to speak. Moderator also announced again that the meeting is being recorded. Public comments were accepted live by telephone. Written comments were also accepted by email before and during the meeting.

**2. Public Comment: (1<sup>st</sup> Period)**

- Ashley [NLN]: My name is Ashley and I'm here with Return Strong Families United for Justice for the Incarcerated, to address my concerns with the Director's proposed changes to AR 258. I am here to express my thoughts about these changes and the impact on an incarcerated person, as well as a victim of two crimes. My father was murdered and my uncle was killed instantly by an underage drunk driver. I have had my share of loss and the truth is that no amount of restitution will bring them back. There is no monetary amount that will make it less painful. There is no number of zeros that could ever replace them in my life or my children's life. Both perpetrators of the crimes against my family are doing Life sentences. The loss of their freedom was the punishment for the crimes that they committed. I think about the people that hurt my family, and at the end of the day, I finally believe that they still need to be treated as human beings with dignity and the opportunity to have some degree of life inside of prison. Yes, my family got restitution in both cases and it is unlikely that we will ever see that money, and at this point, the money would just feel like blood money; especially, when I know how critical that money would be for the incarcerated person because I also have a loved one in prison, I am very aware how critical a few dollars can be to their survival.

I understand that without the money we send to my loved one that is incarcerated, he would really struggle to survive and maintain any level of human dignity. He would be hungry all the time because honestly, the prison does not provide adequate nutrition and he has serious health conditions that make that a necessity. He would not have money to buy minutes for the phone to be able to speak to his family. He would not be able to purchase hygiene products, and the one hotel-size bar of soap and a roll of toilet paper that he gets, just doesn't cut it. I think about the two people that caused such devastation to our family and realize that their families are going through this too. They are facing maintaining in prison, and also their punishment is their loss of freedom, but they still need to be able to survive. The state chasing money should not make victims out of incarcerated people. We are all struggling to survive through COVID-19, and inside, they are fighting for their life. Every one of them is affected; it has affected everyone inside and outside. It affects everyone mentally, physically, and emotionally. People are chasing money instead of looking at the reality of the bigger picture of downward spiraling, it's like short and long-term...

*(Moderator stated caller had 15 seconds to wrap up.)*...when do we stop and look at them as human beings and have compassion. This is a really [inaudible] destructive policy by the state [inaudible]. In addition, it's my understanding that the state reached out to victim services and told them to come here today to speak in support of their policy, that is truly manipulative and disgusting. Public comments are a place for the public to freely come and speak, so for the state to attempt to have enough people to support their policy is really horrible. Many of us are families who have an issue with this change to policy. Director is out of bounds by interfering in this matter and public comment. Please vote no in the proposed agency 258. Thank you.

Governor Sisolak: Asked if NDOC staff could give an email address for people to submit written comments to after the next caller.

- Keisha (sp?) [NLN]: My name is Keisha and I'm here as a member of Return Strong Families United for Justice for the Incarcerated. I'm here to speak in regard to concerns with Director Daniels' continued disrespect to both the people he is supposed to be responsible for, as well as his blatant disregard for the direction given to him by the Board of Commissioners. At the October 8<sup>th</sup> meeting, Director Daniels and NDOC have shown to unilaterally create and implement standards without the Board's authorization and oversight and failed to take into consideration the public interest. It was previously determined that the AR 258 was to be suspended and go back to the status quo [inaudible], to which it has not in its entirety. For example, inmate deductions have been put on hold; however, Director Daniels has not reinstated the gift coupon program. It

was brought into the public comments, that exchange of this magnitude required many more conversations and vetting out through the true implications of Marsy's Law before any action can be taken. Governor Sisolak agreed that both families of victims and families of the inmates should be afforded the opportunity to be heard. While today would be a second opportunity for people to have a voice, in honesty, comments were ended at the October 8<sup>th</sup> meeting because there were so many people and so much chaos that only a few people were actually able to speak. Today is now the second opportunity, but no further comments have been heard or taken into consideration by the Director. Director Daniels has not taken the time to hear out families and provide for transparency in this issue. It was also requested that the Director adopt the policy of the previous Director in meeting with the Nevada Cure, as well as other organizations, such as ACLU and Return Strong who [were] very involved in bringing the voice of the incarcerated people and their families concerns to the fight. Director Daniels was to begin meeting with these organizations to allow for discussing any issues allowing for input and on any AR changes and new ARs, and allow involvement in the vetting process. Governor Sisolak encouraged this to occur...

*(Moderator stated to caller that she had 15 seconds to wrap up.)...he has produced the same exact proposed policy after being told by the Governor and the public that 80% is unreasonable. There is no revised proposal for this either for the Board to review. These are the things that Director Daniels [inaudible] before AR 258 can be properly and ethically implemented. The Director has had a fair opportunity to prepare a revised policy. He did not do as directed, we ask that you...*

Moderator: For those folks who would like to submit written comments via email; please email them to [bopc.doc.nv.gov](mailto:bopc.doc.nv.gov).

Governor Sisolak: What happened to the last caller? Did she get cutoff midsentence?

Moderator: I think she was told she had 15 seconds to wrap up her comments and I think she ended that call.

Governor Sisolak: If I could ask the callers please, limit your comments to 2 minutes for public comment. We have a lot of people who want to talk. We've given out the email address and we'll give it to you a few more times during the meeting, so you can send in your written comments.

- Jen [NLN]: Good morning my name is Jen. I'm here with Return Strong Families United for Justice for the Incarcerated, and I have a loved one incarcerated in the Nevada Department of Corrections. I'm here today to speak to the proposed changes to AR 258 under the guise of Marsy's Law and express my deep concern with what appears to be actual disdain for the lives of incarcerated people, in addition to blatant deviance by Director Daniels. On September 1<sup>st</sup>, when the temporary AR was enacted, there were multiple levels of harm that impacted incarcerated people who owed restitution. At the October 8<sup>th</sup> meeting, the Board voted and directed NDOC to revert back to the original AR 258 that is dated May 2018. We left that meeting believing the deduction would be corrected the same day [and] that the AR would be fully reinstated in its original form. That never happened. The gift coupon program is critical to many incarcerated people and would have been the only protection that many had from the Director's unreasonable garnishment. The gift coupon program gave incarcerated people \$500, twice a year that would be protected from deductions; \$1,000 a year to buy underwear and socks, and a blanket or pillow. Maybe a few dollars to [inaudible] music, hygiene products, a game of chess, coffee. Let's really break this down, the gift coupon, if well managed, gave them \$83 a month to take care of all their needs because as we have previously addressed, NDOC does not take care of them, they are not living in luxury or excess, they are barely surviving. The Director blatantly ignored the directive by the Board to return to the status quo, the original version. We are here today, to ask that

you not only vote no on the revised proposed version of AR 258 but also order that the Director reinstate the gift coupon retroactively as promised by their own employee in November of 2020. Thank you.

- Holly Wellborn: Good morning Governor Sisolak and Commissioners, we appreciate your time this morning, especially with this frustrating technology. This is Holly Wellborn, Policy Director for the ACLU Nevada. I have three quick points to make, but I'll be on the line for the duration of today's hearing for AR 258, but I first wanted to point out some facts about Marsy's Law and what Marsy's Law means in this context. The intent of Marsy's Law is to create a cause of action against the government when they violate a delineated right, not to impose those duties on a criminal defendant, the accused, etc. Outside of the prison setting, indeed a judge can order restitution and they can seek to garnish wages, but they must do so...they cannot do so at a rate that leaves the person destitute. Yes, Marsy's Law requires that all monies collected must first be paid toward restitution, but that means collected by the government, not all monies earned by the individual. If that were the case that would be a clear violation of the takings clause.

Second point, incarcerated individuals, the state law is quite clear, they have a property interest in the trust accounts and any funds deposited therein. Yes, the government may garnish those accounts, but it must be reasonable and an 80 to 90 percent deduction cannot be objectively reasonable. Finally, the proponents of Marsy's Law during the deliberations on that law in both 2015 and 2017, made clear that nothing in Marsy's Law was meant to interfere with any constitutional right of the accused. As to the restitution's provisions, the proponents of Marsy's Law made clear that it was meant to make victims whole [*sic*]not to leave victims destitute, not to affect the property interests of those individuals, and not to affect the income and deposits of families. Anyone claiming on the record today that somehow Marsy's Law entitles them to nearly all of an individual's money in a trust fund should review that record very clearly, and otherwise, that claim is false and made in bad faith. I wanted to make that clear. I will remain on the line for further deliberations. Thank you.

- Michelle Serbin: Good morning my name is Michelle Serbin, S-E-R-B-I-N, and I was a victim of a gentleman who had taken money unwillingly from both my family and I. He is currently incarcerated. I would just like to make the comment that we have not received any of our money back from this gentleman. In my opinion, he gets three square meals a day, he gets free health care, which I do not get, and I would certainly hope that we would continue to take as much money from them so that we could have our money returned to us. Thank you very much.
- Tyler Ingram: Good morning this is Tyler Ingram. My last name is I-N-G-R-A-M, I am the Elko County District Attorney. I'm also the President of the Nevada District Attorney's Association. As you probably already know, our association is made up of the 17 elected DAs throughout the state of Nevada, and we took a vote and discussed this issue that we're talking about with Administrative Regulation 258. I just wanted to point out that we had 16 DAs participate in that vote and all of them were in favor of supporting the deductions. I think that speaks volumes about our association's position. What I'm going to do is simply reiterate what arguments you've already heard about this particular policy, but I think they are important nonetheless. Our Legislature twice, and our voters in the state of Nevada, overwhelmingly supported to amend our constitution to protect the rights of victims, and this sort of policy in 258 is exactly supportive of those constitutional protections, and as you already know, the two rights that speak directly to this issue in our constitution Article 1, Section 8, Subsections 1, letters L and P, Section L being...to full and timely restitution.

I think that I can speak on behalf of the victims that full and timely restitution is nearly non-existent. Section P entitles victims to have all monetary payments, money, and property, collected from any person who has been ordered to make restitution, be first applied to pay the amounts ordered as restitution to the victim. I

think we all have stories about victims who have not received their restitution, and \$20 here and there may not seem like a lot of money to some people, but even a \$20-dollar payment to some victim could mean the world to them and could be the difference between paying bills and putting food on their own table. So as the Elko County DA and also as the President of the Nevada DA's Association, we urge you all to support the amended regulation 258. I appreciate your time.

- Jodi Hocking: Hello my name is Jodi Hocking, I'm the founder of Return Strong, and am here today to really protest the implementation of the very unreasonable restitution that the revised revisions to AR 258 would implement. I want to take a minute and give some examples of how restitution is implemented in other states under Marsy's Law because we are not against victims getting restitution, but we are in favor of being fair to both victims and people who are incarcerated. In Wisconsin and North Dakota, there is a maximum to the garnishments allowed from outside sources. In Florida, community work inmates, who work outside of the confines of the community release center and private industry are required to use 10% of their net wages to pay court-ordered restitution. In South Dakota, they use a sliding fee scale that's determined, in part, by the incarcerated person. They fill out an inmate financial worksheet and then determine what percentage of their money will be distributed to court-ordered obligations. This is really a very rehabilitative approach giving incarcerated people life skills needed when they return to society.

According to Stephanie May from the South Dakota Penitentiary Operation Sector Secretary, the majority of court-ordered obligations are not people [*sic*] [but] the offenders incarcerated, they're paid when the offender is working in the community after their release or parole. There's nothing in the Illinois revised statute, or the Department of Corrections' policies that allow for the garnishing of money sent in by families for the payment of restitution. Illinois is able to meet the full and timely restitution laws by requiring that whenever possible restitution is to be paid within 5 years of release. It excludes periods of incarceration. Again, the Director did not do his due diligence in finding a reasonable policy for restitution. Families have never asked or called for an end to restitution, but just for a fair policy that is reasonable and means an undefined definition.

Governor Sisolak: Asked if everyone who is not speaking, please mute their phones so that the speaker can be heard.

- Denise [NLN]: Hello, my name is Denise, and my husband is an inmate in the Nevada Department of Corrections. Like many others that you have heard from today via letter and voice, our family has been affected by the garnishments placed on inmate accounts at NDOC. Director Daniels deemed it reasonable to deduct up to 80% of the money received by inmates to pay restitution. He says that only impacts 1,800, but that is not true. It may be 1,800 that specifically owe victim restitution, but his plan doesn't focus only on victim restitution, he's collecting on medical bills and child support, court-cost fees, even the state-ordered DNA tests, and ultimately, this garnishment is falling on us. The families of the prisoners in Nevada. We and our children are paying the price and the impact of these deductions. Speaking for a family, for my family specifically, we did not know if the garnishments would apply to us, but we also literally could not afford to take the risk. We tested an amount to see what the outcome would be and he [husband] got four dollars out of the \$20 that I sent as a test. The state left him indigent with less than \$10 in his account.

We are a blended family with six children and in financial stress that was already there, was made five times worse by this, literally, five times worse. The only way we can make it financially each month is by sticking to a very strict budget, and even then we live paycheck to paycheck with little to no wiggle room like so many other Americans. Our monthly budget includes all of the normal living expenses, but it also factors in \$120 for my husband to spend on hygiene and food, and what they are given by NDOC and deemed as significant is in no way significant in either quality or quantity. With this garnishment, I would need to send my husband

\$600 a month for him to continue to have that \$120. I would need to take on a part-time job to be able to afford this, but with our children, distant learning, and cost of child care, it is not sustainable [*sic*] for us, not to mention dealing with all this during the pandemic. We must remember that regardless of the crime...

*(Moderator stated to caller that her 2 minutes were up and to please summarize.)*...my husband like thousands of others are humans before they are inmates. As such, they are worthy of being loved and thought of and cared for. The money we send to our loved ones is how we can convey those things, especially, at times like this. Just vote no on the AR 258, please.

- Tiffany [NLN]: My name is Tiffany and I'm with Return Strong Families United for the Incarcerated. I'm calling to speak on the AR 258. I'm calling as a victim, even as a victim, and with the harsh reality of what things could have happened to me from the people that are currently incarcerated, I still do not believe that the AR 258 is a fair and reasonable percentage amount to be taken from the incarcerated. I do not believe an individual should have to pay for his or her restitution until they are no longer incarcerated because this comes from their family, not them. Marsy's Law states that it is timely and fair in this so-called revision of the AR 258. It is not timely or fair. I truly believe other victims would feel just as such but haven't had the chance of public comment or just haven't heard about it. I truly hope you find it in your heart to understand that this is inhumane and not all right to do to your family members or to anyone that is your loved one. We forget to realize that the money given from family members, is not only if they get Top Ramen or not [*sic*] a pack of M&Ms, and also helps them to get hygiene products like toothpaste, deodorant, shampoo, conditioner, things that people like me and you could not live without, but they are having to do so because of the so-called revision, but the Deputy Director and the Governor have that in place and it's not a revision. The only person that can change this is the Governor and the Deputy Director. Please do better on this revision. That's all I have for now, and please just vote no.
- Tammy Irvine [sp?]: Hi my name is Tammy Irvine and I am with Return Strong with concerns with AR 258. I have a friend at High Desert State Prison, a while back when I went to visit, I noticed that the vending machines, the food was astronomical, when I walked back, I asked why and I was told that the majority of the money goes to victims, I was like oh okay, that makes sense that's a good idea. What I don't understand is why this law wants to take up to 80% or more. The people living in France pay 40% of their income and they get what they need, why would an inmate need to pay that much when they work pretty much slave labor. Don't get me wrong, it's good they're working, also how can inmates in general population pay any kind of restitution, when they were working 5 days and then they went down to 2, and now they were told they're not going to be working for 3 weeks. I hear the general population inmates working in the cart room [*sic*], they went from 100 inmates now down to 60, and they're supposed to work and do the work of 100 inmates, with employees. How can an inmate pay anything if the Prison Industries in High Desert is not hiring anyone? The inmates pay for their bare necessities such as toilet paper and shoes and they are not living in a life of luxury, they are living in the conditions of lockdown 23 hours a day. Please take no action at this time, thank you.
- Nicole [NLN]: My name is Nicole and I'm a member of Return Strong, and I'm calling regarding the matter of AR 258, and the actual harm that this could do to many incarcerated persons and their loved ones. On September 1, 2020, AR 258 was modified without the discussion or approval of the members of this Board. During the October meeting, this lack of discussion, the hardships that this has caused, as well as the ratios of withholdings were discussed, and thus, the decisions were made to halt the changes and revert AR 258 to its previous form. Unfortunately, it was not reenacted in its true form as evidenced by not reinstating the gift coupons, which allowed individual biannual deposits without deductions, although it is currently stated as available on page 5, on the active AR 258. Another point that came to light during NDOC's inability to follow

procedure modification of policy, the process of being vetted through multiple layers of NDOC, DAG, and the Office of the Secretary of State, and that was the review sent to the Board that was not signed. It was discussed that this would be rewritten and re-proposing change and yet here we are again with the same proposal that was already determined to not be reasonable. Something that did not change since the last meeting, however, is the hardship that this would cause for those inside and their loved ones. We are still in this pandemic, leaving many suffering financial hardships adding [to] the increased burden to ensure that their incarcerated loved one has enough food and hygiene products to survive in prison, which is less than sufficient. Let's remember these are people and not numbers on the computer.

Does anyone find it odd that Director Daniels has to seek approval for the revision of office letterhead, but does not require approval to change the financial withholdings of thousands of individuals or even the entire closure of an NDOC facility as discovered in the previous meeting? It is this unilateral-decision making power that I find utterly disturbing. This Board exists for a reason, and these types of issues should be vetted through the Board prior to initiating these policies. I not only ask that you vote no to the changes in AR 258, but also, enforce any policy changes be discussed with members of the Board prior to initiating them so that these types of events will not happen in the future. Director Daniels, more than any other previous Director of prisons in Nevada in recent years, requires oversight and accountability; he has repeatedly shown that. Please vote no, or at a minimum take no action to this, make him do what was asked on October 8<sup>th</sup>, and I would also like to add that prisoners do not receive three square meals a day, they do not receive free health care, we actually pay for that as well and it is just unthinkable that you would continue to take money from people who obviously don't have it. Thank you and have a good day.

- Barry Lenhart: My name is Barry Lenhart, L-E-N-H-A-R-T, I'm a victim of an inmate that has been incarcerated for a few years now, who took money from us, from me and my daughters and other family members, and other members throughout the county. He was incarcerated for this, followed his chain of events, and I see that he has gone from prison to prison, unwilling to work, unwilling to do anything, and unwilling to be able to participate to give our money back to us, or even give something back, even \$5 would be nice, but he has shown no remorse. He also has filed lawsuits against district attorneys, police officers, at no charge to him, but of us, if we've been charged with it for legal fees that we need to obtain to do this [sic]. So he's had plenty of privileges. Again, I'm former law enforcement and I can tell you that he showed no remorse and I'm sure there are inmates that have probably performed as a good inmate, but I'm speaking on behalf of the one and the following that I've seen of this inmate and recommend that you continue with AR 258 and enact the new one. Thank you.
- Ayana [sp?] [NLN]: Good morning my name is Ayana, and thank you Governor for your time and your attention to this matter. I'm a member also of Return Strong. My husband is incarcerated at the Nevada Department of Corrections and I am here to express my concerns with the proposed changes to AR 258. Director Daniels has stated that this Marsy's Law calls for full and timely restitution, and at the last meeting said that he would implement these changes due to the requirements of Marsy's Law, but what requirements? There is no time period nor specific monetary values listed in the Marsy's Law, and there are no definitions from the terms of full and timely in the Nevada constitution or NRS; therefore, how are the values of AR 258 determined. How is a policy based on a change to the state constitution become implemented, when there are no requirements except that it be reasonable? Is it reasonable to garnish 80% of anyone's funds let alone some of the most indigent and marginalized people in our state, I say, absolutely not, and I ask that you vote no to the changes of AR 258. There are many states that have implemented Marsy's Law that was fair to both the victims of crime and to the people who were accused or convicted of the crime. In South Dakota, the incarcerated person sits with the caseworker and determines these things.

Also, I would like to add that this is double jeopardy because the families are paying the restitution and the inmates are doing the time, therefore, if they're not getting inadequate, I mean, if they're, I'm not receiving proper health care, they're not. They have to pay for all these different things, but they don't work a job, but a dollar an hour, 25 cents an hour in some cases, we go to work, we go to work, we submit the money so they're doing the time and we're making the payments, that is unacceptable. We don't mind paying the victims, but 80%, that's astronomical. If the living conditions in the Nevada Department of Corrections were fair and humanized, it would be one thing. If we treated our pets the way that the inmates are treated, we would be criminalized and incarcerated as would they. It is unacceptable and with that, I close.

- John Carson: My name is John Carson C-A-R-S-O-N, and this is in regards to AR 258. On November 7, 2010, my daughter Michelle was murdered. Strangled to death with an extension cord, set on fire, and buried three and a half miles out in the Las Vegas desert. She was just 25-years old, a college graduate, and getting ready to work in the criminal justice system. The pain of losing a child to murder is unimaginable. When I was told that my daughter was murdered and the details of how she died, I went into complete shock; I went completely numb. At the same meeting, I was presented with several documents to sign. One of the documents was to forfeit my right to restitution. I really was not processing anything at the time, all I cared about was to find the person that murdered my child and bring him to justice, and I did sign not to proceed for restitution. I really wish I had not signed as it turned out he was captured 4 months later and it took 8-long years before the murderer accepted a plea deal. He put my family through so much stress for 8 years through the legal system, and he is continuing to do that. Thinking back, I should have waited to sign anything because of the state of mind I was in finding out my daughter was murdered. In closing, I will always be grateful for both myself and my family for how I was treated by the Las Vegas detectives and the legal team with the DA's office. They were so kind and compassionate. I had two victim advocates, Joanna Rash, [and] Chelsea, they were both remarkable and caring along with Robert Daskas the prosecutor. Robert was always so kind and compassionate, and very patient. He was very honest with both myself and my family. Robert would always keep us informed of all the legal process that was going on for 8 years. I got a life-time sentence of grief knowing I will never see my daughter again. Thank you.
- Denisse [NLN]: Good morning my name is Denisse [sp?], with 2 s's, and I am here with Return Strong Families United for Justice for the Incarcerated and I would like to briefly speak on concerns that we have specific to the proposed revisions of AR 258. Specifically, regarding NRS 176A.430, Section 6. In the NRS, it specifies that failure to comply with the repayment of restitution, while on probation or parole is considered a violation unless it involves economic hardship. This is regarding those able to work and provide for themselves, those who are incarcerated are not able to do so and are wards of the state, and dependent on family members and friends to support them. On the streets, a person would file a waiver for economic hardship and have their case reviewed by the court. There is a basis to review the appropriateness of the repayment schedule in order to ensure that the person can meet the conditions of the repayment. Why then do we not stop and create a policy that allows for fair and timely restitution to both parties? That would reflect a thoughtfully planned policy that both protected the victim's right to restitution and the convicted person's right to humane treatment by the state. Many of the court documents for these cases stipulate that the restitution would be paid upon the offender's release from prison. Since Marsy's Law seems to be the stated basis making this revision necessary, please know we are fully aware that Marsy's Law does not require this level of abuse.

As we have shared, most Marsy's Law states do not take money sent by the family they take reasonable deductions from inmates who are working and have their own income. Family contributions are not considered income. In South Dakota, inmates sit down with a caseworker and work on a budget from their fund and commit to restitution payment; that is a rehabilitation focused approach to restitution. An inmate



on death row sent us a very powerful letter, and in it, he said, the restitution I was ordered to pay confused me because I'm legally forbidden from earning a wage because I'm on death row. I cannot work prison labor. I am expected to suffer in isolation due to the status until the day I'm executed, have no access to rehabilitation, as I am condemned to death without hope or expectation of rehabilitation. You cannot have it both ways, either you want me to pay for my crime monetarily or you want me to pay with my life. By choosing the latter, you can't have the former. Governor Sisolak, Attorney General Ford, and madam Secretary, please vote no on AR 258 revisions today. The Director had an opportunity to come back with something reasonable and refused to do so. Thank you.

Governor Sisolak asked that the address to send written comments be given again. Moderator gave the address again: [bopc.doc.nv.gov](mailto:bopc.doc.nv.gov).

- Melody Hutchinson: Good morning, my name is Melody Hutchinson [sp?]. I would like you to please take a minute to walk in my shoes. It was almost a year ago that visitation was suspended in Nevada. States have gotten organized to maintain family connections crucial for mental health and rehabilitation. Some have even managed to reopen visitation safely for months now without an increase of their [COVID-19] cases. In Nevada, there is no such thing, no communication, no plan or perspective, not even a bit of reassurance that we will ever see a loved one again. Then and despite the toll, this pandemic took on everyone's finances, the rules changed with no warning, and my loved one started to get only a fifth of the little money I was able to send him. Despite the two free phone calls a week, there is no such thing as a family connection when the lines are so long, your loved one can't make it to the phone, or when they are again on lockdown. When my loved one tested positive for COVID, I couldn't sleep, I could barely eat. I was worried sick he was in bad shape and I could barely speak to him. No treatment was given to alleviate the pain, but thank God he pulled through, and now we found out the new rules for the mail starting in February. No more greeting cards or kids' drawings. The only thing my loved one had left to look forward to. Imagine you love someone, you can't see them, you can barely talk to them over the phone, you can't support them financially, you can't send them a card to cheer them up, and you can't take care of them. You can do nothing but worry and wonder how you will survive this when this should be a moment to treat each other with a little extra kindness with compassion and flexibility. The pain of the families of the incarcerated only gets worse and remains ignored. Thank you.
- Lisa Rasmussen: Good morning, attorney Lisa Rasmussen here. I'm going to address something a little bit different than what everyone else has been addressing because I'm hoping Governor Sisolak and Attorney General Ford, that you can ask some difficult questions regarding the upcoming agenda for this morning's meeting. We lack, as attorneys, any sense of transparency from the Director with regard to COVID and inmate infections and treatment, and what is being done with regard to the inmates at the Nevada Department of Corrections, and the problem with no transparency is that it doesn't allow us to make decisions as to how to further the interest of our clients. For example, I have clients who are in the hospital and we have no information about them whatsoever, zero, nothing, and then the hospital says that they're [clients] not there and we know that they're there. Here's another example, I have clients who are at various institutions within NDOC and we were told that the staff is bragging to them about not getting vaccinated. So, I'm hoping that you can address whether or not there is some policy as to staff vaccination because we all know that that's how inmates get infected because staff bring the infection or the virus in.

We are the only state that has not enacted any kind of system to address elderly, frail infirm inmates. In many instances, they're close to release and we have no way to get them out. I know that this has come up at the Sentencing Commission meetings, and nothing was done and there is currently no system. In federal court, Attorney General Barr [sp?] enacted by Executive Order, a system where inmates could ask the

Director or Warden at their institution for early compassionate release to home confinement, and in many instances, they were granted if they were close to the end of their sentence, they were old, or they had health conditions. They're subject to recall should the pandemic subside. If they are still serving their sentence in federal court, we are allowed, if the Bureau of Prisons doesn't grant that request at the administrative level, we can file a motion and we can ask that a court hear it. We don't have any system in Nevada that addresses any of that. So I'm hoping that you can ask these questions in the upcoming agenda and that we can have a robust conversation about what we are doing to make sure that inmates don't die and that the public can actually have information about what's going on, and more importantly, we as the attorneys can have information about what's happening with our clients so we can take appropriate action. Thank you.

- Kimberly Mull: Good morning, for the record, my name is Kimberly Mull, M-U-L-L, with Kimberly Mull Advocacy Consulting. I'm an advocate and policy expert on victims' rights and with one of those swinging votes in favor of Marsy's Law. [Inaudible] in 2017. Six months later, I also became a rape victim in Reno [Nevada]. Now, there's nothing I would love to tell you more than [that] my rapist is in prison but it's been 3 years, 1 month, and 3 weeks since Chris Hicks' office has proactively reached out to me, so I'm guessing my rapist is not behind bars, but what I can tell you is that if he was in prison, of course, I would want every penny of his commissary money taken away, not because it's going to come close to paying restitution, it's not going to pay my counseling...*(Call was lost, Governor asked the caller to call back in to finish her comments and she will be moved to the front of the line of callers.)*
- Shirley Evans: I am Shirley Evans, wife of inmate 1239389, age 79, convicted of DUI with fatal 2 to 5 years; he has no priors. He has the disability of Parkinson's with [inaudible] body which affects his reasoning ability. Pacemaker for [inaudible] cardia, orthotic for foot dropsy and sleep apnea, and letters of high-risk for COVID. He has been at HDSP for 60 days; 40 days hospitalized for falls, 20 days quarantined by himself with a bed, toilet, and sink. Entire 60 days without phone or mail, CPAC machine, and foot orthotics. My husband was physically able to care for himself at home before prison. He could not be responsible for finances or driving. He fell and had a laceration on the back of his head requiring a trip to the hospital that lasted 20 days. The Director of Nursing described to me, after the first hospital stay, that he is in a wheelchair and needs help with everything he does and he was quarantined again. I called to check on him and the Director of Nursing told me he had fallen again and was at the infirmary getting stitches on his arm. He said he would call me when he came back, he never came back. After a week, the Director of Nursing called to tell me he had a subdural hematoma and COVID, and was in the local hospital. He has been in the hospital for 20 days. I have not talked to him since Thanksgiving. This is inhumane treatment for a person with a disability. He needs help filling out necessary paperwork. I do not know how to speak with his caseworker, and a nurse (Bonnie) told me they will call me when he is dying. Thank you.
- Adrian [NLN]: Hello my name is Adrian, I'm with Return Strong. I'm concerned about the policy to take deductions of 80% for victim restitution. There's no other state that is taking this high amount. Many states that pass the version of Marsy's Law, do not take these deductions from families and when California passed Marsy's Law, they increased the deduction from 40% to 50% that is a 10% increase. Nevada's gone from 20% to 80%. What is the justification for increasing this deduction 60%? What purpose does it serve and what research was done to decide this number? Several court cases have been heard on the issue of ex-post-facto issues with tedious restitution. Different courts have provided different opinions on the question of expectations and restitution. The constitution denies ex-post-facto changes to punishment after a crime has been committed, meaning the new law cannot increase the penalty of someone who has already been charged for a crime. Is restitution a punishment; most courts have said restitution does not qualify as punishment but they have not ruled on this situation where inmates are virtually deprived of the ability to

receive money from their family. This is putting inmates under financial duress and depriving them of supplemental food and other important supplies and it is cutting them off from their support system. I ask you to vote no on AR 258. I think more research needs to be done. It is clear that this was put in without any consideration of how other Marsy's Law type legislation has been implemented and there are a lot of humanitarian implications; there are a lot of legal implications, especially, as the law guarantees victims the right to bring to court cases against public employees in the implementation of this law. There needs to be a full review of what exposure there is to this implementation. Thank you.

- Kimberly Mull: This is Kimberly Mull again, for the record, the phone system told me I was muted by the host last time, so returning back to what I was saying, of course, I would want every penny of my rapist's commission money taken away from him, but that is not going to come close to paying for restitution or my counseling, my monthly medications, or things to that extent, but Marsy's Law was lobbied for and passed to give us victims equal rights under the law; now so the state has an excuse to create a new category of victims, our abusers. Keeping those who have harmed us from having access or easy access to the things the American Red Cross considers basic necessities, such as toothpaste, tampons, and Tylenol is not going to make victims whole, but do I want all of my rapist's commissary money taken away, absolutely, but that comes from a place of vengeance, not justice. Invention personal place and policy decisions. Look, if we're talking about 1,800 people, then cap all deductions, restitutions, and operating costs, and pay 100% of that to victims until restitution is paid, but do it at the normal rate, then go back to collecting money for the operating costs and other fees. That's one way we can work this out if the state has finally decided that paying victims' restitution is such a priority, but doing it in a way that is respectful and humane to the decency of people who are also incarcerated. I want to please urge you to re-examine the current proposal for AR 258, and please understand and remember that Marsy's Law those of us that were in the trenches lobbying for it and begging people to pass it, did not have this or things like this as an intention while doing so. Thank you.
- David Figler: My name is David Figler, D-A-V-I-D-F-I-G-L-E-R, I'm an attorney in Las Vegas in the criminal justice system. Prisons were developed as a means to proficiently, if not coldly, punish large populations of humans who have been convicted of a wide range of felonious conduct, some for the first time. By depriving them of liberty, stripping them of as much agency [*sic*] and humanity into compliance as they can, and presumably, rehabilitate or at least scare them into better behavior upon release. In the best of times, this model is cruel and inexact. The legislature creates ranges of time for punishment, the judges take a term of punishment, but make no mistake there is zero evidence-based data that the specific time assigned to a person's incarceration in any way is a precise measure for the stated goals. Indeed, it is clumsy and often inhumane and some of the most vulnerable are left to myriad force is counterproductive to any sort of rehabilitation or betterment. In the best of times, they live in fear, are isolated from familial support, subject to exploitation, violence, gangs, and PTSD.

Disease is not uncommon in our prisons at much higher rates than in our community, as the Hepatitis C crisis has proven. A crisis we continue to pay for both in terms of resources and human life but nothing as much as the current pandemic. In a word, prisons are ill-equipped to handle a pandemic of this magnitude. This is evidenced by the fact that not a single Executive Order has mentioned any specific protocols as applying to the prisons because, by nature of the prison system, such basic protocols are impossible. We have heard NDOC say they will do everything they can to protect prisoners and staff, but they can't. The release numbers are finally catching up to the predicted reality. The only answer all along has been some measure of depopulation. Depopulation is possible and it is the only humane thing to do; it is the only moral course to take. County jails do it all the time and federal prisons, as have been mentioned, have been doing it for far worse criminal offenses since the pandemic began. The Nevada statutes provide for a means for the prison

Director, who answers to this Board, to evaluate who is at risk, who can qualify, and finding alternative means for them to finish off their sentences including residential confinement. He is not doing that. As a side note, an Executive Order from the Governor in an emergency such as this and or the Pardons Board can also accomplish the same.

There are hundreds if not thousands of people in NDOC right now who can qualify for a statutorily compassionate style release to residential confinement under existing statutes if the Director is given a clear directive to do so because it is clear it will not happen. (*Moderator advised caller that his 2 minutes are up and to summarize.*) There can be a less arduous process since there are ample resources and communities who identify these older individuals, non-violent individuals, vulnerable humans with a home right now to return to in a safety net to allow them to comply with any terms of such a release. Thank you for your consideration, please direct the Director to do what he is charged with doing.

- Kevin Ranft: Good morning Governor and Commissioners, my name is Kevin Ranft, Labor Representative with AFSCME Local 4041. Respectfully, I was hoping to see exhibits A, B, and C posted on NDOC's website. Those exhibits were not posted as of this morning; therefore, I cannot see the detailed changes being proposed. I'm thankful just to receive a summary recently by NDOC on AR 100 and AR 307; however, AR 114, section 401, subsection 6, highlighting Prison Board of Commissioners meetings requires the Department of Corrections to post the ARs and the exhibits that are being changed, this was not done. Respectfully, therefore, I have to oppose the ARs being presented today. Thank you for your time.
- Mercedes Maharis: Thank you Governor Sisolak. I just have a few points, to sum up. First, I definitely agree with Mr. Figler and Ms. Wellborn, and no, on AR 258, please. Number 1, we've asked for a Use of Force update from 215, from our office Freedom of Information Act starting about a couple of years ago. NDOC has never given us a reply so that we know if we're making progress against violence or not, we need that report. Number 2, we're please asking to certify prisons to standards like schools and hospitals in Nevada. Very important, I've been asking since I believe 2001. Number 3, I can find no answers as to whether the June 20<sup>th</sup> USDOJ letter was ever answered and whether the recommendations have been fulfilled for individuals with disabilities in prisons. Number 4, we need to reform the grievance system and use neutral decision-makers instead of people who know the individuals who are filing grievances. I believe that probably 95% of grievances are turned down. Number 5, verbal abuse classes are needed for all to quell violence. Number 6, extremely important, COVID reports [we have] say that they're [inmates] not getting their results in a timely fashion and it's causing tremendous psychological unrest.

Number 7, will you please eliminate the thousands of work hours of transcribing these meetings and we can save freight trainloads of money by adopting total transparency with no untruths. I'd like to please have the 25<sup>th</sup> meeting of November corrected in which the words musical activities were purported to come out of my mouth. They did not and to correct an action I did not attend the March meeting in 2020 because no notification ever arrived though Tammy and Cynthia assured me that it would. That's why I missed your first meeting to welcome you. Number 8...(*caller advised to wrap up comments; two minutes up*)...I'm wrapping up now by begging you to please support AR 258...I'm sorry, to support bill draft 496 on removing slavery from our Nevada constitution because slavery is what it is in small plantations and you can hear the pain in everyone's voice. Thank you.

Governor Sisolak asked if there were any other callers, and there were not. Governor closed the first public comment session and moved on to the next agenda item.

### 3. Acceptance and Approval of Minutes – October 8, 2020

Action: A motion to approve the minutes was on the floor from General Ford; no discussion on the motion. There are two votes in the affirmative and the Governor asked if Secretary Cegavske was still on the line. Not hearing a response, Governor asked NDOC staff to call Secretary Cegavske and get her back on the line if she is available. Minutes were approved and Governor Sisolak moved from the minutes on to item number 4, corrections update from Director Daniels.

### 4. Nevada Department of Corrections Update – *Charles Daniels, Director, Department of Corrections – For Discussion Only*

Good morning Board of Prison Commissioners this is Charles Daniels Director of the Nevada Department of Corrections. As of January 22, 2021, NDOC has an offender population of 11,015...**(Governor Sisolak interrupted stating that Secretary Cegavske just texted him stating that she was on but somehow cannot get unmute. Governor asked if staff could work with her on getting her phone unmuted and asked Director Daniels to continue.)**...and 2693 active employees. This number excludes pending transfers from local jurisdictions and any new hires. Since our last meeting, NDOC has been actively working with both the COVID-19 Task Force and DHHS on our agency protocols on PPE, testing, and vaccinations.

NDOC continues to experience critical staffing issues at Ely State Prison. Unfortunately, due to various reasons, the institution averages roughly 90 vacancies, 45 of which the vacant positions have been reassigned to other facilities across the state, not due to lack of need, but attributed to the lack of an applicant pool. NDOC has presented a reclassification request of both Ely State Prison and High Desert State Prison to the Governor's Finance Office to consider as a solution to our chronic understaffing. This afternoon NDOC will be presenting the agency's budget request to the Legislative Commission's Budget Subcommittee. Also this week, we will appear before the Executive Branch Audit Committee for the presentation of the first of a series of fiscal audit findings and recommendations. Additionally, Christina Leathers, who is our Chief of Human Resources, and I continue to actively participate in labor negotiations. Finally, I would be remiss if I failed to publicly acknowledge and extend my gratitude to NDOC's hard-working staff, both uniformed and non-uniformed. Despite the extraordinary and debilitating impacts COVID-19 has had on staffing, changes to protocols, and challenges to their personal lives – their tireless commitment has directly contributed to our ability to remain agile and steadfast in the fight against COVID-19. Please allow me to turn this meeting over to Dr. Michael Minev, Medical Director, of the Nevada Department of Corrections and he will provide a brief overview of both Hepatitis C and COVID-19.

Dr. Michael Minev, NDOC Medical Director: The Nevada Department of Corrections has been proactive and flexible during the COVID-19 pandemic through the implementation of agency-specific CDC and local health authority guidelines with the advent of the COVID-19 vaccine. The Nevada Department of Corrections is currently prioritizing vaccination efforts on all eligible staff members. Given that staff members are constantly interfacing with their communities that are most likely to spread the virus to other staff and susceptible offenders. As of January 20, 2021, 746 NDOC staff members have been vaccinated for COVID-19, which is approximately 28 percent (28%) of all NDOC staff members. Town halls and education of staff and offenders continue on a weekly basis with the aim of increasing compliance with this life-saving vaccine. Offenders will be vaccinated in order according to the designated age, and cohorts created by the Department of Health and Human Services. The Nevada Department of Corrections has been approved to administer the COVID-19 vaccine at its major facilities and will continue to work with local health authorities to procure sufficient vaccines to administer to inmates and staff members. The close collaboration of the Nevada Department of Corrections with the Governor's Finance Office and the Division of Emergency Management has yielded personal protective equipment for all NDOC staff and offenders.

At this time, NDOC staff and offenders have sufficient personal protective equipment through April 21, 2021. In addition, the acquisition of approximately forty thousand BinaxNOW rapid COVID-19 test kits has allowed NDOC to more effectively identify infected staff and offenders in a timely manner. NDOC tests staff and offenders for COVID-19 on a weekly basis. Weekly testing for COVID-19 has not only reduced the frequency of offender outbreaks. It has also facilitated the clearance of staff to return to work in a more timely manner. The Nevada Department of Corrections continues to identify and treat offenders infected with Hepatitis C. As of January 21, 2021, our medical providers have identified 749 offenders with active Hepatitis C infection, 166 of these offenders are priority level one offenders according to medical directive 219. Initially, the Nevada Department of Corrections had forecasted a total of 2,400 Hepatitis C positive inmates based on our internal intake data in addition to estimates provided by the American Association for the study of liver disease. NDOC medical has partnered with Host clinic to facilitate the treatment of these offenders.

Director Daniels: Thank you Dr. Minev. I would like to pause for a moment and turn this over for questioning or send back to Governor Sisolak to move forward.

Governor Sisolak stated that Secretary Cegavske was on the line and wanted to know if the minutes had been corrected. Director Daniels stated that the minutes were corrected [October 8, 2020, BOPc minutes]. Governor stated that he was still having trouble connecting to Secretary Cegavske and asked if staff could continue to work on the problem. Governor asked General Ford and Secretary Cegavske if there were any questions or comments; there were no questions and Governor moved on to item number 5, Dr. Azzam.

**5. Chief Medical Officer Report Update – Dr. Ihsan Azzam, PhD, MD, MPH; State Chief Medical Officer – For Discussion Only**

Dr. Ihsan Azzam, PhD, MD, MPH; State Chief Medical Officer: Good morning Governor and esteemed members of the Board; good morning everybody. For the record, Ihsan Azzam, State Chief Medical Officer, you already have a copy of my report so I will briefly highlight some important points. As required by the NRS, the Division of Public and Behavioral Health conducts regular inspections of state correctional facilities. Our inspections include medical and dental services, dietary and sanitation, and nutritional adequacy inspections. Five deficiencies were identified during the medical and dental inspections at two surveyed facilities in 2020. Seven state prisons were inspected for dietary and sanitation services, four of those had no violations and the other three each had either one or two violations. Deficiencies were corrected during the inspections; however, violations that couldn't be addressed and resolved by the end of the inspection were promptly addressed by the prison compliance officers. Nutritional adequacy of inmates' diet was verified by on-site direction or direct observations, document reviews, and interviews with correctional facility staff. Non-nutritional adequacy violations were identified during our inspections.

The Department of Health continues to support the efforts of the Department of Corrections to prevent and contain COVID-19 outbreaks. Our epidemiologists recently inspected the facilities that were experiencing severe COVID-19 outbreaks and practical recommendations were generated to control these outbreaks and prevent future ones in prison facilities. Prison guards as Dr. Minev mentioned and staff in prison were prioritized for vaccination and currently receiving their COVID-19 vaccines, with this I'm concluding my update, thank you. I will be happy to answer your questions.

Governor Sisolak asked if General Ford or Secretary Cegavske had any questions and if Secretary Cegavske was back on the line yet. Secretary Cegavske answered that she was back on the line and had been muted and now unmuted. She stated that she did not know how that happened since she was on the line at the beginning of the meeting.

Secretary Cegavske asked Director Daniels and all if the Board could get the comments written instead of verbally. Director Daniels stated that there is a portion for public comment and person's wishing to comment can write their

comments as well as call in that is their option. Governor Sisolak commented that he thought the Secretary was asking if they could get the reports from Director Daniels and Dr. Azzam written as opposed to just hearing them verbally. Director Daniels stated that it would not be a problem, and certainly, a written copy can be included in the binders.

Governor Sisolak closed item number 5 and moved on to item number 6, Administrative Regulation 258.

**6. Administrative Regulation 258 “Inmate Fiscal Procedures of Inmate Banking,”** *(for discussion and possible action)*

Director Daniels turned this discussion over to Deputy Director Kristina Shea. Ms. Shea is the Deputy Director of Support Services and will discuss AR 258. Secretary Cegavske stated that she could not understand what was being said and she would like at some point when the Governor wants to hear from her office, that he ask Chief Deputy Scott Anderson to discuss his conversations with the Governor’s office and Director Daniels, and stated “we did do it in a very timely manner, just saying,” and thanked Scott. Governor thanked Secretary Cegavske.

Kristina Shea, Deputy Director Support Services (DD): Good morning Governor Sisolak and members of the Board, this is Kristina Shea, Deputy Director of Support Services and I just want to do a brief overview of AR 258, how we got here and then I’m going to pass over the floor to our Chief of Inmate Banking, sorry, Inmate Services and Purchasing, Venus Fajota, and she’s going to walk the group through the recommended revisions for the Board’s consideration. In November 2018, the citizens voted in favor of the amendment to the constitution to expand the rights of victims of crime formally known as Marsy’s Law. Specific to victim-specific restitution, the Nevada constitution now states that each person who is the victim of crime is entitled to the following rights: to full and timely restitution, and to have all money payments, money property collected from any person who has been ordered to pay restitution to first apply to pay the amounts ordered as restitution to the victim.

As background, prior to Marsy’s Law, statute allowed the Nevada Department of Corrections to deduct victim-specific restitution from deposits and payroll greater than minimum wage, and therefore, as we’ve heard today, the Department had a policy of deducting 20% and just as a sort of large overview, that 20% represented 1% of our population at that time. However, the current population that we are referring to is roughly 16% that this would impact. So to be compliant with Marsy’s Law, the temporary AR 258 included an 80% recommendation for victims of crime restitution deductions and the Department recommended this based on the law. It appeared reasonable that 80% was recommended based on the law as it writes and as it stands currently. At the last Board meeting, the Board requested some additional information about additional states, and the Department was able to do some research and 13 states have some version of Marsy’s Law. Nevada appears to be more aggressive in the rights now guaranteed to victims. California and Nevada require victim-specific restitution to be paid first, and California currently collects 50% toward victim-specific restitution plus a 5% administration fee. The temporary AR, expanded population as I stated, impacts the victim-specific restitution deduction is going from 1% to 16%. Between September 1, 2020, and October 8, 2020, the Department collected approximately \$220,000, and these funds are sitting in the trust account for final determination.

Since, the last Board meeting, the Nevada Department of Corrections has worked with the Governor’s office, the Secretary of State’s office, and the Attorney General’s office, and we’ve reviewed feedback from the ACLU, other advocacy groups, and inmates and victims. We’ve analyzed the various Department obligations by the population. The Department has taken into consideration the concerns expressed and today the Department is presenting an updated revision for the regulation, so I’d like to introduce Venus Fajota to the group and she can take it from here and go through the specific revisions for the Board to consider.

Venus Fajota: Good morning members of the Board, my name is Venus Fajota I'm the Chief of Purchasing and Inmate Services. I'm here to provide an overview of the revision of AR 258 presented for your consideration in approving today. First and foremost, this updated version prioritizes restitution deductions so that the Department is compliant with Marsy's Law. The restitution deduction has been updated to 50% and will be applied to all payroll and eligible deposits. The percentage is a reduction from 80% and the temporary AR presented at the last Board meeting. To clarify restitution, restitution is ordered by the courts during an offender's judgment of conviction and is payable to a specific person. Restitution is not used for the benefit of the Department. The Department of Corrections collects that restitution and sends 100% of what is collected to the Division of Parole and Probation, from there, Parole and Probation sends 100% of what we sent them directly to specific victims.

With this revision, we closely evaluated all deductions allowable by statutes and the percentages that have been and could be applied. We focused our efforts on finding a balance between being compliant with the intent of Marsy's Law; while alleviating the strain on inmates and their loved ones. As a result, we also reduced the deduction for the amount collected toward Department debt reimbursements from 50% to 20%. In general, we assessed that reducing this deduction would result in our inmate population keeping more funds received from their families compared to the temporary AR. We're also aware of their concerns that because of the increase in the restitution deduction, that our inmate population would not be able to purchase items through the commissary, such as additional food or hygiene items, or even phone time. The Department does offer a package program where loved ones can purchase specific items directly, families can also prepay phone time through our phone vendor other than the restitution deduction. The AR revision also includes an increase in the minimum limit for the savings account from \$400 to \$550, it eliminates the gift deposit program, and simplifies our internal processes for transfers between an individual offender's sub-accounts. With that, if you have any questions we'll be happy to address them.

Governor stated that he believed there would be quite a few questions and asked the Director if that completed the presentation. Director answered yes on Administrative Regulation 258. Governor opened this up to General Ford, for questions or comments. Governor opened the discussion up to General Ford and Secretary Cegavske.

General Ford: Very good Governor, thank you. I will say this, I have obviously been briefed on this and done some independent research on the issue related to AR 258, and I'm persuaded that Nevada law allows NDOC to deduct from an inmate's trust account monies for specific purposes, and per Marsy's Law, that the first monies collected from an inmate, with the restitution order, have to be first paid toward restitution and that the victim in that regard has a right to and I quote, "to full and timely payments" in that regard. I understand that some advocates, although I don't think we've heard many on public comment today, but some advocates of Marsy's Law, have suggested that every dollar that is placed in an inmate's trust account must be collected and distributed as restitution first and that NDOC has no discretion in that regard. I don't ascribe to that view and in fact, I'm reminded of a colloquy I had with proponents of Marsy's Law during the hearings on this matter when I was in the state senate, where in response to one of my questions, the proponent testified that the word timely, factors in a payment schedule and are based on an analysis of the convicted person's ability to pay and that the constitutional right simply affords the order for restitution. If a defendant cannot pay, they can't be forced to do so because there cannot be debtors' prisons in this country, and that's a quote from the advocate there, so in view of this, I agree as others have suggested that the NDOC does, in fact, have some discretion in determining the amount to be deducted and that that discretion will be upheld as long as the amount is otherwise composed with Marsy's Law, especially, the full and timely components.

Again, having researched the issue I'm further persuaded that the revised proposed rule setting the amount to 50% as opposed to 80%, which was the earlier suggestion, actually complies with Marsy's Law and I would support that proposed revision to AR 258, and Mr. Governor, I would turn the mic back to you, but I'm absolutely open to having further discussion on this issue.



Governor Sisolak: I just want to fully understand your position, are you proposing or suggesting 50% in addition to this 5% administrative cost that they're talking about, or that the 5% come out of the 50% that is used for victims.

General Ford: I'm saying 50% in total. Maybe I didn't understand exactly what the proposal was, but dropping the 80% number to 50% was sufficient for my purposes relative to this discussion of how much of the inmate trust accounts NDOC would collect from it because based on that collection, they have to turn out first monies toward restitution to those who have orders for restitution.

Governor Sisolak: Director Daniels is the administrative cost of 5% that was brought up today, comes out of the 50% or 80% that's allocated for the restitution.

DD Shea: This is Kristina Shea for the record and just to provide clarification, that 5% was a comparison of California; in California, they're taking 50% plus 5%. The revised AR 258, does not include 5% for an administrative fee.

Governor Sisolak: What are we doing for an administrative fee?

DD Shea: The AR does not include any administrative fee; NDOC is not charging anything for an administrative fee.

Secretary Cegavske: I would love it, if there was an opportunity for Scott Anderson to speak about his experience working with NDOC and we did have this done in a timely manner, just to let everybody know. My biggest question is did the people that talked in public comments see the revised revision online or are they going off of what was on there before, that's my big question, but I do want to say that I am very happy with this new version and would also support it as the AG has stated so elegantly, but I just wanted to see if anybody else has seen this revision.

Governor Sisolak: Let me ask, are you supportive of the 50% or the 80%, and do you want staff member Scott Anderson to say something?

Secretary Cegavske: The 50%.

Scott Anderson: This is Scott Anderson, Chief Deputy Secretary of State for Secretary of State Barbara Cegavske. I do appreciate the time that we were able to spend, I believe it was last October, with the Department of Corrections' staff, going over some of the concerns that we had. A lot of those were just in the form of content of the AR and I appreciate them taking those into consideration and making most of the changes. The concern that we had was a concern with the amount that was being deducted and with some of the comments that we were hearing in relation to so much being taken and inmates not being allowed to have some of their funds. Our biggest concern now is that we just received this. We did not receive the briefing that the AG, Mr. Ford was able to receive and we received this with the rest of the meeting material, excuse me after the initial meeting materials were sent on Thursday, late Thursday. It doesn't give us a whole lot of time to do a real thorough review. My suggestion would be in the future, as we're looking at these [ARs] is that we get some sort of executive briefing as to the rationale behind the change prior to it coming to us. Like the AG, we agreed that the NDOC has the authority to set these amounts. Again, we were concerned about the amount of the deduction. It appears that this has now changed to be consistent with what many other states are doing and hopefully will satisfy both sides of the argument.

General Ford: Mr. Governor, if I could clarify real quickly, the briefing I'm talking about is an internal work product briefing that I got from my staff, not from anyone else from NDOC or otherwise. I just wanted to be clear on that so people understand that component, and further, I would note that California likewise albeit before Marsy's Law has a 50% deduction rule separate apart from the 5% that you talked about. So you know it is in line and there is some

precedent at least for that level of deduction for restitution, but I did want to clarify that my briefing wasn't from NDOC per se, it was an internal analysis that I had to do to be certain that I was ready for today.

Scott Anderson: I appreciate the time that NDOC gets with us to spend with us. After the last BOPC meeting, again I would just stress that it would be nice if we could have some sort of briefing as to the rationale behind any AR change, and get these a little further ahead of time, as we've said in previous meetings, so that we have adequate time to review.

Governor Sisolak: Asked Director Daniels if he could get Secretary of State a briefing ahead of these meetings would be very helpful. Governor also asked a couple of questions. What is the order of restitution, if there is money set aside for restitution and there's more than one victim or there's several areas of restitution, what is the order? Is that all decided by the court? General Ford maybe you can answer that or NDOC. General Ford stated that he did not have that information at the moment, and if NDOC does not have the answer, he would absolutely assign that to some research and get the answer.

Randall Gilmer: This is Randall Gilmer, Deputy Attorney General for the Department of Corrections. As AG Ford stated, we can certainly look into that issue with regard to the prioritization among victims; however, I would just like to point out, again, we collect the money and forward 100% of the money we collect to Parole and Probation. So Parole and Probation may already have that information and I will obviously speak to my colleagues at Parole and Probation on that issue, but the money that we give, we give all to Parole and Probation. Parole and Probation then divvies that out to the people who are entitled to restitution pursuant to their rules and obligations that they have.

Governor Sisolak: This coupon program that several people mentioned, do I understand that they can get a coupon or whatever you want to call that voucher twice a year for up to \$500 that no restitution comes out of, is that right?

DD Shea: Governor, this is Kristina Shea, just to connect with you on that, right now the temporary AR would eliminate that program. So currently, with the 2018 AR that's correct, that gift program is in that AR, but this AR 258 revisions would eliminate the gift program. Governor asked, when someone said they can purchase prepaid phone cards or phone minutes, do I understand that a family member or friend or someone on the outside, can buy prepaid minutes for an inmate to make phone calls?

Venus Fajota: This Venus Fajota for the record, yes, Governor, the families can place phone time funds directly through our phone vendor.

Governor Sisolak: Okay, but if they do not, and the person buys the full minutes out of their commissary account, whatever their account is, then it's subjected to the deduction, correct?

Venus Fajota: Correct, if families send funds in directly to corrections, those funds are subject to deductions.

Governor Sisolak: Then I'm going to ask General Ford to make his motion much more specific. What sense does it make that if the family member puts it directly into minutes, there's no deduction, but if they put it into their account and then use it to buy minutes, there is a deduction.

General Ford: So I'm going to offer this per your question, and I'd love for my DAG to chime in as well. In the interest of truthful transparency, I think there is a reasonable debate on how Marsy's Law is intended to operate and supposed to operate under the language of the law. When it relates to and it states that money is collected from an inmate, I heard one of the first testifiers say that money put in a trust account is not collected from an inmate unless that money is collected by the government. Garnishment being an example or NDOC saying, I'm going to take money

from your account, that is money collected from the inmate under those circumstances, Marsy's Law would require that before the government does anything else with that money it has to first pay restitution in a full and timely fashion.

An argument on the other side, is that restitution doesn't apply or Marsy's Law wouldn't apply to the monies in this trust account at all because it's not money collected from an inmate, its money collected by an inmate and so it seems to me that the interim you're talking about, lends credence to this reasonable minds debate. My suggestion would be that we afford the level of discretion to NDOC to determine how they want to employ it as long as it comports with a reasonable interpretation of the law, and in that regard, I would suggest that if on the one hand you won't be removing money from someone because they purchase a gift card, then on the other hand you should not be removing money from someone, if it's placed in a trust account because that's elevating a form of deception, especially, in terms of the debate that can be had over the phraseology of Marsy's Law.

There is a tenant that talks about legislation and constitutional law that wants to avoid rendering things that have been passed unconstitutional and I'm endeavoring to do so as well by supporting the 50% component recognizing that there are ways to implement that, that would more directly comport with the language in ways that are more indirectly aligning with it, but nonetheless; potentially defensible so it's a roundabout answer to your question, but I think the direct answer is in my estimation, if you won't be removing money [inaudible] from an inmate if the family buys a gift card then you shouldn't be removing money from the inmate if that person puts that amount of money into the trust account. It's tough to segregate that money, but I think it lends to part of the debate that could cause future problems. Reasonable minds can disagree, including my DAGs so if my Deputy Attorney General wants to chime in and offer a contrary view feel free to do so, but that's my position on this Mr. Governor.

Governor Sisolak: Thank you and I'm going to ask my legal counsel to chime in to if they choose to. If your DAG wants to say something please go ahead.

Randall Gilmer: Hello this is Randall Gilmer, Chief Deputy Attorney General for the Department of Corrections. Thank you for the opportunity Governor and AG Ford, and with regard to the Governor's specific question, I do think, and AG Ford indicated that this is one of those issues where reasonable minds may differ, but I do believe it goes down to the fact that once money is put into a trust account, which I will refer to as a bank account because generally speaking the trust accounts for inmates are treated as if it were a bank account in a private sector, once money is in there, the position is that money is available for restitution because it is very difficult to segregate funds because of the fundamental nature of funds, and so that would be the distinction we would make with regard to why if money is taken and 50% could be taken, whereas, if prepaid phone cards or packaged items are provided to inmates that is money that never went into their account to begin with, so it was money that was never collected by, to use the phraseology that was referenced earlier, and that AG Ford mentioned by the inmate because it was a gift that was provided, and so therefore, there is no money in the account with regard to those issues to be collected from the inmate by the government entity here. I hope that answered your question Governor and I hope that AG Ford understood my distinctions there as well, is there any other follow-up questions.

General Ford: Mr. Governor, I just want to be clear as well to anybody out there contemplating a litigious response to this analysis, recognize that there are absolutely ways to refine the process such that any challenge would be dismissed in court outright. So what we are trying to do here is facilitate the purpose and intent of Marsy's Law in a way that doesn't elevate from [inaudible] substance and would appreciate everyone recognizing that as we continue this discussion.

Governor Sisolak: Thanked General Ford and asked Director Daniels if the families are all aware of the fact that they can put minutes on someone's account and not send in money.

Director Daniels: This is Director Daniels for the record, we have published that information, and the inmates utilize the program. To the extent to whether everyone is aware, I can't tell you that, but it's clearly posted and it's available for the inmates to share with their families.

Governor Sisolak: They can also send a package of items a couple of times a year, is that right, I remember that part whether it be toiletries or food items or whatnot.

Director Daniels: Yes, Governor, and if Ms. Fajota would like to chime in since that's your area of expertise.

Venus Fajota: This is Venus Fajota for the record, families can purchase about \$150 of food and \$275 in clothing and hygiene items per quarter.

Governor Sisolak: Thank you. Does Secretary Cegavske have any further questions?

Secretary Cegavske: No, I can't think of anything else and I just want to tell you that I've enjoyed listening so thank you both very much.

Governor Sisolak: I appreciate the very robust discussion and the public comment and I am very heart warmed by a lot of the victims that are saying that they think that there needs to be an adjustment because they don't want to see someone punished even more and not be able to get access to these things. I know there was some emotional testimony and I sincerely appreciate everyone taking the time to participate. That being said, General Ford could I ask you to make the motion you said you were ready with the specifics as it relates to the items we talked about the coupons, prepaid cards, etc.

General Ford: Mr. Governor, I would move as we have discussed and move to adopt the policy as amended per discussions.

Governor Sisolak: With the deductions being 50%?

General Ford: Yes, sir.

Governor Sisolak: What about the administrative fees, do we have any idea with Parole and Probation what this fee is, what this cost is to administer a program like this?

Director Daniels: I don't Governor, but Deputy Director Shea or Ms. Fajota, would you happen to know that figure, the administrative costs?

DD Shea: This is Kristina Shea for the record, as far as the figure to operate this specific aspect of the deductions, I mean in general, we have a Division in inmate banking that performs a significant amount of calculations and deductions as a whole and all of that is taken into consideration, so one of the things I will again reiterate is that in order to make this 50% work, the Department is reducing the NDOC reimbursement from 50% to 20%, so therefore, the Department's really trying to make a collaborative effort to take everything into consideration. So I think in our mind, the 5% fee doesn't appear to be something that would be recommended at this time.

Governor Sisolak: So it would be your intent, General Ford, that this motion and this change be done retroactively for this quarter of a million dollars that's already on deposit that they're [NDOC] waiting to get direction on?

General Ford: Yes sir, it would be.

Governor Sisolak: We have a motion on the floor. Does everyone understand the motion, Secretary Cegavske?

Secretary Cegavske: Yes, the only question that I would have is, does this have anything to do with the Director coming back to you for approval on any changes, or is this just on this Administrative Regulation 258?

Governor Sisolak: My understanding is on this Administrative Recommendation for 258 as it relates to inmate banking.

General Ford: That would be the purpose of my motion as well, frankly, I would not want to venture into other processes that the State has already laid out for purposes of adopting ARs.

Governor Sisolak: Okay, we have a motion on the floor, is there any further discussion? This motion will change the deduction to 50%, correct?

General Ford: Yes sir, retroactively.

Governor Sisolak: All the people on the line, we have a motion on the floor for the discussion all in favor say...

General Ford: Mr. Governor, I'm sorry, I don't think you got a second.

Governor Sisolak: I don't normally get one.

Secretary Cegavske: Did you need a second, I'll second.

Governor Sisolak: We have a second motion on the floor; all those in favor signify by saying "aye." Motion passes unanimously. Thank you, Director. If you could move on that retroactively to the money that's being held that would be appreciated.

General Ford: Mr. Governor, hold on one second, if I could just ask Mr. Gilmore to chime in on the 50% issue that was just raised, just in case we need to revisit this before we go further because I may have not been appropriate, Mr. Gilmore can you chime in, please?

Randall Gilmore: Yes, thank you AG Ford. NDOC definitely understands that the 50% will be the amount taken moving forward and a temporary AR will be drafted in that regard. With regard to the money that was already collected, I would humbly request that we have some time to review that particular issue because since that money was collected under a temporary AR, I think there might be some additional legal research that needs to be done as to whether or not that money can be returned as opposed to providing to the victims because, at that point in time, the money has been collected by the government, so I have concerns and obviously knowing the Board's desire, we will look to see if that is possible to do, but I do believe that we might need some additional legal opinion and research into whether or not 30% of that money could be returned to the inmates and/or however, the breakdown of 80% versus 50% works. I have some concerns about that since it was already collected, and so I think we might need some additional research on that particular component.

Governor Sisolak: It was collected under a regulation that this Board never approved of, correct?

Randall Gilmore: Yes, Governor, Randall Gilmore Chief Deputy Attorney General, that is correct Governor; however, it was collected under a temporary regulation that Director Daniels and the Director of NDOC is provided authority under law to do until the Board of Prison Commissioners gets to decide to approve or not approve, and that very well may be the reason why we can do it, but I do think that we should take a look at that particular issue before we make any definitive decisions with regard to the amount of money that had been collected.

Governor Sisolak: Okay, do you want to bring that part back to us at the next meeting; I'm fine with that if my colleagues are fine with that, but today moving forward, 50% will...[inaudible].

Randall Gilmore: I'm sorry Governor you broke up a little bit can you just repeat that, but yes, moving forward, 50% will be all that will be taken and nothing has been taken since the last meeting.

General Ford: Mr. Governor, I'm sorry to muddy up your meeting here, but I think we have to take some procedural steps to effectuate all of this discussion here. I think I have Board council on the line, but it seems to me we probably have to rescind the previous action. I need to issue a new motion that only talks about perspective and then NDOC can bring back the 80% subject to us to talk about on motions previously carried.

Governor Sisolak: Let me do it this way, do I have a motion to reconsider the last action?

General Ford: So moved.

Secretary Cegavske: Yes, second.

Governor Sisolak: All in favor signify by saying "aye." Motion passes. Now, go ahead with the new motion.

General Ford: Yes sir, I move as I recently stated, but not retroactive.

Governor Sisolak: We have a motion on the floor, do we have a second?

Secretary Cegavske: Second the motion.

Governor Sisolak: And the motion would be that they [NDOC] would come forward with a plan at the next meeting.

General Ford: Yes, that's part of the motion as well.

Governor Sisolak: All in favor signify by saying "aye." Motion passes.

Director Daniels: Governor, since this will go back for further discussion, I would like to recommend that Parole and Probation be a part of it, based on the fact that they have a better understanding of their administrative fees to which I am not comfortable with trying to define what those may be.

Governor Sisolak: Yes, that's great, they're welcome to come to the next meeting and voice an opinion as it relates to administrative fees, any burden this might cost or whatever. Moving on now to item number 7.

**7. Administrative Regulation (AR) 100 "Administrative Regulations," please refer to Exhibit B (for discussion and possible action)**

Director Daniels: Thank you Governor, this is Director Daniels, NDOC, and Christina Leathers, our Chief of Human Resources will present this issue.

Christina Leathers: Good morning Governor and members of the Board. The major change to Administrative Regulation 100, is the timeline for employee reviews, reducing from a two (2) 14 day review period to a 7 day review period, as well as, identifying an Executive Administrative Regulation policy panel, consisting of a minimum of a Deputy Director, Warden, Chief, or Medical Director to oversee revisions. The benefits of these changes is reducing the timeframe for Administrative Regulations' revisions to be completed, and the Executive Team will have direct involvement over timely updates. That is all I have.

Governor Sisolak: Okay, do we have any comments from the Board on that? None, do we have a motion on this one?

General Ford: I move for approval.

Governor Sisolak: A motion for approval, any other discussion? All in favor signify by saying "aye." All responded "aye." Motion passes unanimously. On to item number 8, Administrative Regulation 307, Furlough Policy.

**8. Administrative Regulation 307 "Furlough Policy" – please refer to Exhibit C (for discussion and possible action)**

Christina Leathers: Christina Leathers, Chief Human Resources Officer for the record, Administrative Regulation 307, Furlough Policy, the revision is based on the 31<sup>st</sup> Special Session of the Nevada Legislature identifying the period of furloughs, the required number of hours, and the impact to benefits. Thank you.

Governor Sisolak: Do we have any questions on Administrative Regulation 307, Furlough Policy. None, do we have a motion?

General Ford: Move approval.

Governor Sisolak: We have a motion on the floor, is there a second?

Secretary Cegavske: Yes, second.

Governor Sisolak: With second motion, all in favor signify by saying "aye." All responded "aye." Motion passes unanimously.

**9. Public Comment: (2<sup>nd</sup> Period)**

Governor Sisolak: Item number 9, this is the second time set aside for public comment. Anyone wishing to show support for any item, please step forward identify yourself for the record. Comments must be limited to 2 minutes.

- Michael Cat (sp?): This statement is regarding Ely State Prison, Warden Gittere, excuse me if I am mispronouncing his name, has been running Ely State Prison by a series of memos used to circumvent the established policies and in turn, the NRS Chapters. Examples: mail deprivation, enforced by staff via memo, further defining prohibited mail; with language not present in AR 750, Inmate Mail. Indefinite property deprivation, specifically used to retaliate against prisoners who set fires to protest conditions. The pretense of an ongoing arson investigation of personal property, that invalidates ARs 704, 705, 711, and AR 707, Inmate Disciplinary, which was revised in 2017, according to nationwide prison reform standards. My tax dollars pay for the salaries of public servants voted into office, and employees underneath them, including

the Wardens and staff of NDOC. I do not pay taxes to have people appoint themselves to supreme authority in this country of law and fairness. As an entity of the criminal justice system, I expect NDOC by extension Ely State Prison, to abide by the laws it represents under the Nevada State Legislative body, not to subvert those laws to further oppress an already oppressed group of people who act in protest. As the grievance system has also been rendered ineffective, subverted by memos, denying grievances outright, without review and restricting grievance access to one per week, I would like to vote for an investigation into the administration of Ely State Prison.

- Patricia Adkisson: My name is Patricia Adkisson, A-D-K-I-S-S-O-N, I tried to make comments 2 hours ago, but wasn't able to get in, or they didn't call my number. Please include my comments in the minutes. My comments relate to a possible action related to agenda item numbers 6, 7, and 8. The notice of today's meeting and agenda was posted on January 21<sup>st</sup>; however, the agenda directs the public to submit the supporting materials to this Board by January 19<sup>th</sup>. This unfortunate oversight effectively prevented submission of supporting material by the public that this public body would otherwise reasonably rely on to look to deliberate today's action. Foreclosure in this way implicates violation of NRS 241.035, Subsection 1D, and the deliberative process contemplated by the agenda as required by Chapter 241 preventing the general public's written remarks from becoming incorporated or deliberated upon before taking action. The violation of the provisions of Chapter 241 in this way, renders any action this Board takes today void, pursuant to NRS 241.036. The elected public officials that serve on this Board were not elected to be a rubberstamp for the Director's policies; we did not elect the Director. This Board's apparent refusal to comply with the Nevada Administrative Procedures Act, when establishing minimal procedural requirements for regulation-making and adjudication procedure, renders all actions by this Board a de facto rubber stamp. The Legislature establishes minimal procedure requirements for the regulation-making and adjudication procedure of all agencies of the Executive Department, empowered to improve regulations in state government for the judicial review of both functions except for those expressly exempted pursuant to provisions of NRS 233B.

The fact that this Board is charged with regulation-making duties and not expressly exempted clearly envision the Board's compliance; however, the Department's exempt status stems from the fact that the Department lacks authority to approve regulations not already defined by limits set forth by the Legislature without the oversight and minimum due process safeguards provided for by law, whereby, this Board is acting as the ultimate authority or head of the Department. Attorney General opinion numbers 96-24 recognize this distinction but simply to be the head of the Department does not reduce this Board's legal obligation in this regard, it increases it. Governor, the proverbial fox is guarding the henhouse as Chief Executive Officer. You are responsible for the Department's actions. I have appeared before this Board and the Board of Examiners, I reported Department actions that implicate criminal conduct including the Department's unilateral criminalization of USC second amendment. If the Board wants to review some of these facts, you can see NDOC grievance 200-631-05130. NRS 239 contemplates approved minutes at the Board's next meeting; however, because the Board does not meet regularly, certain chances like that...*(Moderator advised caller that she has exceeded the 2 minutes and is advised to submit written documentation at [bopc.doc.nv.gov](http://bopc.doc.nv.gov).)*

- Nick Shepack: Hello my name is Nick Shepack, S-H-E-P-A-C-K, I am a policy [inaudible] at the ACLU of Nevada, quickly, for the record, AR 258, the proposed one, was never posted for the public to review and some confusion earlier, I just wanted to get that on the record. My comments are regarding COVID though. As of today, there have been almost 5500 confirmed cases of COVID in Nevada's correctional facilities, with 45 deaths among prisoners and 4 among staff. We are rapidly approaching a 50% positivity rate of all incarcerated people. As a state, we have done almost nothing to slow this threat with incarcerated people moved off of the vaccine priority list. It is critical that we take action now. Failure to do so will lead to more preventable deaths. States across the country have implemented a variety of approaches to slow the spread



in prisons with the two most popular options being Executive Orders from Governors to release those close to expiration who meet certain criteria, and the increased use of Parole, Probation and Pardons Boards. Some Governors have released the medically vulnerable and at least half a dozen Governors have used their commutation powers to reduce the population. Louisiana created a temporary medical release program and Connecticut gave their DOC discretionary release powers. Wisconsin, Maryland, and West Virginia have released those who are being held on probation and parole violations, while New York released pregnant women. Hawaii created a system to allow public defenders to petition for release.

This is all to say that Nevada is in the minority of states who have done nothing and its incarcerated population is now paying the price. It is not too late to do so, as so many others have done. Once again, we are asking the Board and Governor Sisolak to act to save lives. We offer assistance in developing a plan. Failure to act will lead to the death of some of Nevada's most vulnerable people whose health and safety is the sole responsibility of the state. We must act now and I thank you for taking my comments.

- KeKe [NLN]: Hello my name is KeKe and I am with Return Strong Families United for Justice for the Incarcerated. In the next 2 minutes, I will do my best to [paint] [inaudible] a picture for you of what my brother's life looks like inside. At this time, he is currently housed in NNCC, he has suffered excruciating pain for months and knew the cause of the pain was cancer that he had been told was gone. Despite his medical history, he was not being treated, he begged to see a doctor and sent kite after kite requesting to be seen. I know for a fact he asked many times because I was out here doing the same thing. Leaving messages after messages with different people from the Wardens, Medical staff, and have attempted to reach the Director to try to get him some help but got no response. Finally, in his desperation, he punched himself in the face hard, so he could get blood into his mouth so that he could cough up blood. Only then did he get to go see a doctor, at that time. They discovered he did in fact have stage-3 lung cancer and he [doctor] had to perform emergency surgery on his chest, which caused two broken ribs. The doctor prescribed medication [morphine (inaudible)] however, his ribs never healed.

He has also been told that the cancer is progressive and as he sits in his cell day after day in quarantine not able to receive packages, not able to receive any of his clothing items that have been ordered for him. Due to being ill, he's not able to receive any sort of commissary. He still waits day after day for treatment. As of today, he was brought, I'm sorry, as of yesterday, he was brought a wheelchair because he was unable to walk. It has been two and a half months and he since has been told that he will be sent to get chemo immediately, and he has yet to receive medical treatment. My brother was not sentenced to life, so therefore, I'm not understanding why he is not given the right to fight for his own medical treatment. I'm asking for someone to step in and allow my brother, Terry, to be seen by a cancer doctor. Thank you.

- Adrian [NLN]: Hello my name is Adrian, NDOC never explained how they came to the number 80%, they were requested to provide that information. During this meeting, they revised the amounts but we the public have not had the opportunity to view the revised revisions. I thought that the open meeting law required materials to be available to the public before they are voted on. Is there any reason that we were not allowed to review it? I received an email that implicated there were no changes to AR 258 since it was last presented. Even now, after this motion has been voted on, we don't know what it contains. I don't feel like NDOC is being above-board on these issues. They're making decisions without sufficient research and without due process and scrambling to handle the fallout. This is especially the case in the handling of COVID-19. We have said Nevada is responsible for the well-being of the people they house in corrections facilities and its failing. In retrospect, they need to take immediate steps to protect inmates and to release any eligible inmates. We need to have an independent investigation into the NDOC handling of COVID-19

and I would like to also express that and ask that you take immediate attention to Terry Clark who is fighting cancer in the correction facility. Thank you.

- Kevin Ranft with Local AFSCME 4041: I would like to thank NDOC for directing me to the appropriate area for the exhibits for review. In the future, I would like to make a suggestion, respectfully requesting that any ARs be submitted with redlines to be able to see the changes. I was unable to do that with the short amount of time that I could review them this morning. With that being said, prior NDOC administrations were tasked by prior Commissioners to submit the changes with the redlines. It's easy to read and identify the changes to be transparent. We appreciate your time and thank you.
- Mercedes Maharis: This is Mercedes Maharis, M-A-H-A-R-I-S. The elephant in the room is what has happened to the IRS stimulus checks for prisoners? Does the same deduction happen to the IRS checks? I remember that not nearly all prisoners got the applications for the \$1,200 check, and I sent in four myself, and it's been months, and they have received nothing that I know of as of this morning. So how much is NDOC going to deduct from the IRS stimulus checks of \$1,200? Number 2, the COVID positive inmates are unable to get counsel from their MDs in order to find out whether they qualify, if they have had COVID, such as Robert Ramsey who was in Centennial hospital 11 days with COVID and pneumonia, he does not know. So all prisoners who have had it should have a consultation with their doctors, in my opinion, to be safe in taking this vaccine. Please assist them in that. And, double taxation of the families, I say who are already living in poverty, is inhumane. They only want to give their loved ones hope and a chance.

President Biden said in his inaugural speech that we need to get back to the truth, that is why I am urging you once again to stop transcriptions of meetings and I didn't get to say earlier, transfer everything from recorded audios, videos, and or Zoom, or future technology, we can be leaders in this practice and much safer mentally and physically for everybody so that the truth gets out there. I don't know...*(Moderator advised caller that her 2 minutes were up and to submit written comments to [bopc.doc.nv.gov](http://bopc.doc.nv.gov).)*

Governor Sisolak: Are there any other callers?

Moderator: There are no other callers.

Governor Sisolak: Thank you for attending. Do I have a motion to adjourn?

General Ford: Mr. Governor, if you would allow me just to reiterate something. First off, I want to be clear what we have not done today because we have heard some comments about OML and people not seeing the draft of the AR. We have not today, my motion was not to adopt an AR, we have directed the Department of Corrections to come back to us with this draft per our instruction. I contemplate that they are going to be doing a temporary regulation pursuant to what we've said to effectuate that in the meantime, but let's be clear that under OML, we have not violated it because we have not voted on an AR in particular. I do want to have my DAG chime in to the extent he thinks we need some clarifying language, but I want to say that for the record because I heard a lot of folks reference not being able to see a redline [version] or whatnot.

Randall Gilmore: Thank you AG Ford. Randall Gilmore, Chief Deputy Attorney General representing the Department of Corrections. I agree, AG Ford, your motion was not to pass any particular AR 258 and in my previous comments, when I was speaking to or in response to Governor Sisolak's question about the retroactivity, I think I indicated in there that we will prepare a temporary regulation based upon the Board's approval today of the 50% number that temporary regulation will probably be in effect even today or by the end of this week certainly and then we will have

the permanent AR prepared and posted pursuant to OML so that it can be voted and approved based upon the Board's indication of agreement with the 50% number at the next meeting. Thank you.

Governor Sisolak: Thank you very much for that clarification. Anything else General Ford or Secretary Cegavske?

Secretary Cegavske: No, thank you sir.

Governor Sisolak: Thank you, do I have a motion to adjourn.

General Ford: So moved.

Governor Sisolak: We have a motion on the floor. All in favor signify by saying "aye." All responded "aye." We are adjourned thank you everybody.

**10. Adjournment:** Meeting adjourned at 11:12 a.m.

APPROVED THIS 20<sup>th</sup> DAY, MONTH OF APRIL, IN THE YEAR 2021

\_\_\_\_\_  
GOVERNOR STEVE SISOLAK

\_\_\_\_\_  
SECRETARY OF STATE BARBARA K. CEGAVSKE

\_\_\_\_\_  
ATTORNEY GENERAL AARON D. FORD

Transcribed by D. Mantelli, Executive Assistant, Nevada Department of Corrections