



STEVE SISOLAK  
Governor

CHARLES DANIELS  
Director

BARBARA K. CEGAVSKE  
Secretary of State

AARON D. FORD  
Attorney General

## STATE OF NEVADA BOARD OF PRISON COMMISSIONERS

### DRAFT MEETING MINUTES

The Board of Prison Commissioners held a public meeting on Thursday, October 8, 2020, 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 via Zoom. The meeting was listened to and viewed through a Zoom link 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 for the Nevada Department of Corrections, took roll call and 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  
John Borrowman, Deputy Director Support Services  
Christina Leathers, Chief Human Resource Office

Harold Wickham, Deputy Director Operations  
Brian Williams, Deputy Director Programs  
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 (3 minutes). Public comment was accepted live through Zoom or by telephone. Written comments were accepted by email or mail before and during the meeting. There were 10 written public comments. Two files from "Return Strong," had numerous letters from inmates, and family and friends of inmates, protesting NDOC's Administrative Regulation-258 (AR) *Inmate Fiscal Procedures for Inmate Banking*, and the inmate deductions noted in the AR. The two files combined totaled 119 letters.

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

- Public Comment was heard from Paul Corrado, NVDOC Volunteer/OWDS, regarding agenda item number 6, NRS 209-417, "*Offenders not to have access to telecommunications devices, exception.*" Mr. Corrado stated that none of the Board members would allow their children or grandchildren to graduate from elementary school without being able to use a computer. With new emphasis on computer instruction and use, it is imperative for everyone who wants to be successfully employed to have basic computer skills, especially, the incarcerated. Chances of recidivism increase without the ability to get a good paying job. The Urban Institute, through research, identified five (5) ways to reduce crime. Number 3 stated, "help ex-offenders find secure living-wage employment. Securing a well-paying job can help returning prisoners remain crime-free once they go back to their communities. Our studies found that the more they earned during the first 2

months following their release, the lower their chances of returning to prison.” When offenders have access to tablets, in a conversation with Mr. Norton of Computer Corps, headquartered in Carson City, he suggested that a used, clean, and tested keyboard with an adapter, would cost around five dollars. Given the State of Nevada’s tight budget, Mr. Corrado offered to fund a keyboard pilot project in northern Nevada, up to \$1,000, starting with Northern Nevada Transitional Housing.

- Patricia Adkisson read a prepared statement, “In the age of enlightened awareness regarding built in biases from our past, it has become of critical importance to the public interest that we take steps to deliberately review unilateral actions taken by the NDOC that have not been authorized by this Board. Social justice and public trust hang in the balance. NDOC’s unilateral implementation of AR-258, without the Board’s authorization of the revisions, renders the actions taken by NDOC absolutely void. NDOC’s proposed revisions convert gifts received by inmates into revenue, effectively causing the person providing the gift, to suffer liability for the restitution. More importantly, this has revealed a longstanding practice by NDOC to unilaterally create and implement standards without authority.

As public interest matters, we must review the other NDOC standards unilaterally created and implemented without this Board’s oversight or knowledge. Recently, the Nevada Supreme Court reversed and amended a case because of an NDOC standard to treat an additional penalty for “Use of a Deadly Weapon” as a category felony conviction, Green vs Baca. This Board issued a command to NDOC by way of Administrative Regulation 504, that no Nevada citizen may be imprisoned without a felony conviction. When considering “Use of a Deadly Weapon,” no felony is under consideration. So the NDOC unilaterally created and implemented a standard to treat non-offenses as actual convictions without consideration or approval of the Board. This conduct cannot be allowed to carry forward the errors of our past, our Nevada government must take the lead to provide transparency. Secret standards unilaterally created and implemented by NDOC, threaten the validity of the actions of our elected officials.

- Holly Wellborn with ACLU: Commented that she did not want to read her letter verbatim, but wanted to point out that she does believe there are many more conversations that need to be considered before this Board adopts Administrative Regulation 258. ACLU encouraged the Board to hear individuals that called the number on the agenda, and asked if those individuals should get on the line now to present their comments or wait until a later time. The Governor stated that those individuals should present their comments at this time.
  - 1) Denise [NLN]: Spoke on the issue of the implementation of the deductions that were recently in effect. Caller stated her name as Denise and that her husband is an inmate in NDOC, and like many others that have spoken today via letter or verbally, families have been affected by the garnishments placed on the inmate accounts, and NDOC’s Director Daniels deemed it reasonable to deduct up to 80% of the money received by inmates to pay restitution. Although, Director Daniels said it only impacts 1,800 people, it may be 1,800 people that owe victim restitution, but the plan doesn’t focus only on victim restitution. There are collections being placed on medical bills, child support, core costs, fees, and even state ordered DNA tests. This garnishment is falling on us, the families of these prisoners in Nevada, ourselves and our children are paying the price of the impact for these deductions. Speaking for my family specifically, we didn’t know if the garnishment would apply to us, but we literally could not afford to lose 80% of what is sent to my husband. We tested the deductions with \$20, and out of that \$20, he only received \$4. The state left him indigent with less than \$10 in his account. We are a blended family with six children and this has made the stress we already have five times worse by these deductions. I need to send him five times more money for him to receive the same amount budgeted in our monthly expenses. That money goes toward things

like hygiene and food because frankly, what NDOC gives them [inmates] is in no way sufficient in either quantity or quality, and maybe treat himself to a small indulgence like an ice cream. That seems so little, but it means a lot inside prison walls. We must remember that regardless of crime and culpability, my husband, like thousands of others are humans before they are inmates and are worthy of being loved, thought of, and cared for. The money that I send my husband, and that we send our loved ones, is how we convey these things to them, especially when we can't see them. These are trying and unprecedented times with all that's happening around us and we are all struggling, and these garnishments add so much weight to an already heavy situation. It's my hope that a solution will be found and that it takes into account the hardships we're facing, and gives priority to the wellbeing of people over profits by instituting this very unreasonable deduction on inmate funds, the Director created an additional layer of victims to the ones that already exist, which are the mothers, wives and families of the incarcerated people. Please think about the impact this will have on us and vote no to the revisions of AR 258.

- 2) Betty Welk [sic]: She has a son in Lovelock Correctional Center and she wrote this letter under a lot of distress after finding out the percentage taken from my son's funds that were given to him were up to 80%, this abrupt change, was done very underhandedly blindsided many families without giving them a choice in how much funds should be withheld. An investigation of this decision needs to be presented to the families. I understand that there are victims who have not received restitution for the crime against them, and I'm not oblivious to their pain; however, restitution in my opinion is the responsibility of, and belongs to, the inmate when he is released and beginning the process of restoring what is required of him or her. For this reason, the funds I send my son, are for his college education and an investment to help my child by giving him a new direction in life. For the first time in his life, he is recognized as an honor student and graduating Summa Cum Laude, and aspires to create a new future for himself. When you take funds away to pay his restitution, it creates a hardship on myself and the goal I'm trying to achieve for my son. Restitution was not part of my budget. Families were never meant to pay fair and timely restitution. The state of Illinois is also a Marcy's Law state and has created a plan that holds the offender responsible for restitution. They allow a previously incarcerated person 5 years after release to pay their restitution; that is reasonable. Please vote no on the revised AR today for the sake of our incarcerated loved ones, and the families supporting them.
- 3) Nicole [NLN]: Stated she was also calling to make a statement against AR 258. She currently has a loved one incarcerated within NDOC. On September 1<sup>st</sup>, NDOC instituted the new deduction system with regard to inmate funds, which resulted in a drastic change in the money allotted to be taken from inmate trust and savings accounts, as well as the money that we have deposited to their accounts. This new change as previously stated, allowed for 80% to 100% deductions of all inmate fund sources, which is simply egregious. Let's face it, the majority of inmate funds are from their hardworking family members. Even if the inmate is offered employment, it only pays pennies a day. These families work hard to not only support themselves and their lives at home, but also provide for their loved ones who are incarcerated. This money is not provided so that our loved ones can live in the lap of luxury, it is in fact the opposite. It is done to assist in providing food and hygiene products, since the amount provided by NDOC is not adequate nor sustainable for the average person. To put it simply, this change is just not fair. Information was not announced to the inmate population nor their families regarding these changes until days after the changes had taken affect, and money had already been taken from the deposit and trust accounts leaving those incarcerated with many questions. Marsy's Law is being used as a caustic agent in a sequence of events. It was passed in 2018, so why start these changes now during a pandemic that has left many unable to work and

struggling to provide for themselves and loved ones. NRS 209.274 gives the purview to the Director of NDOC to deduct an amount that he determines to be reasonable. I cannot see under any circumstances how this amount can be determined reasonable under anyone's standards. Also compounding the problem, was the removal of the bi-annual gift deposit, which was an amount of \$500 to be gifted to the incarcerated individual that would be exempt from the deductions. The change to AR 258, has little to do with Marsy's Law evidenced by the fact of how and when it was done. NDOC raided inmates' accounts and put unreasonable pressure and stress on the families and inmates alike. Vote no to changes in AR 258, and immediately return to status quo until this policy can be vetted out legally and legislatively.

- 4) Sherrie (last name inaudible): Caller has a loved one incarcerated, and read a letter that was written by someone else to the Board members (no copy of written letter was received by the NDOC). Letter began, "my name is Laura, I am writing in regards to the recent deduction taken from inmates' accounts. My husband is incarcerated in Nevada, and I am very concerned about his situation. He is not financially impacted, but I am standing in solidarity with the families who are directly impacted, because the truth is you have put all of them in a horrible position. The decision impacts us all; those who have money and those who do not. My husband does not have deductions taken from his books, he is still able to make purchases; however, he has already noticed a shift in dynamics in his care. Inmates who no longer have money available, are starting to pressure or bully other inmates, and are causing major tension in the unit. I fear if this situation continues and more tensions arise over the struggle to survive, inmates will find a way to get their basic necessities met, and we will only see more violence in the prisons. They must have their basic needs met first. With tension already high due to limited movement and no visitations, it is clear that this new deduction policy could very well be the tipping point. I am a concerned wife, citizen, and voter who actually supported this law when it was on the ballot, but this is not what I believe it to be. This is pure greed on the part of NDOC, and a disgusting play of power. Vote no on the revisions, before you see the real ramifications of this decision played out before your eyes. Nothing good will come of it. Thank you, Laura."
- Mercedes Maharis: She asked if NDOC received her written submissions and attachments, as well as the letter from Ely and if her items were accepted. Director Daniels stated that we had received her items and those items were accepted. She also asked Director Daniels to post ahead of time, at each institution, when these meetings are going to take place with the Board of Prison Commissioners. Ms. Maharis thinks it is important because the entire inmate population lives the drama day-to-day, and that includes deaths. The death of Alex Bumgarner on April 26<sup>th</sup> by smoke inhalation, was unacceptable and she would like to know why individuals did not just breakout the glass in his door if they were afraid to open it. This is extremely disturbing, as well as the air quality which is not covered by OSHA or EPA, in any institution, jails, or prisons. The Quality Air Act of 2017, does not even mention our institutions. It does say leased and old buildings but there is nothing referring to the quality of air, which she has reason to believe is severely affecting health now. She asked Commissioners to please have the air ducts professionally cleaned. She asked if they could imagine being in a cell, locked down two to four days, and what it's doing to people's lungs.

Moderator interrupted Ms. Maharis stating she only had 15 seconds left to speak. Ms. Maharis went on to ask the Board to institute change, and get rid of slavery in our Nevada institutions.

Attorney General Aaron Ford stated that he wanted it noted that they had received an indication that there were apparently hundreds of letters that were submitted, 200 or so into the record, in two emails. This is what Nick Shepack from ACLU indicated. The Governor stated that he was told that there were seven comments submitted,

and asked Director Daniels how many written comments were received. The Director stated he was told seven comments. During this time, Secretary Cegavske commented that she was now able to call into the meeting. She had been listening to some of the public record comments and had received quite a few emails yesterday, a stack of which she was going through now. She had not received the comments until late yesterday.

Governor Sisolak went on to say that they would discuss agenda item number 7, but not vote on it today. There is too much unanswered information about it, and at Secretary Cegavske's request, a lot of unanswered questions. There were no further public comments and the Governor closed this public session.

**3. Acceptance and Approval of Minutes – November 25, 2019** (Posted on NDOC website/Board of State Prison Commissioners–Minutes–November 25, 2019)

Action: Secretary Cegavske stated that she would like to accept and approve the minutes with the caveat that the minutes be approved with the suggested corrections, sent by her office to NDOC. She stated that her office can work with the new Director and go over the corrections if that was okay with the rest of the committee. Governor stated that was fine, and if she would work with Director Daniels that would be great. The motion to approve the minutes with corrections to be submitted to Director Daniels was passed unanimously.

**4. Nevada Department of Corrections Update – Under New Director – New Mission Statement/Vision/Goals – Critical Staffing Issues w/Ely State Prison – Temporary Closure of Ely Conservation Camp – Charles Daniels, Director, Department of Corrections – For Discussion Only**

Director Daniels began by thanking the Governor and also extended his appreciation to Secretary Cegavske and Attorney General Ford for being here today. Before the Director's presentation, he stated that he was just apprised of an issue with the emails and wanted to correct the record. NDOC did in fact receive seven emails, but one email had two files attached, which contained a total of 119 scanned letters so NDOC did receive a large amount of letters contained in one email and wanted to state so for the record.

As of October 6, 2020, NDOC has an offender population of 11,756 and 2,600 active employees. This number excludes pending transfers from local jurisdictions and any new hires. Since the onset of the Governor's emergency declaration, I initiated pandemic mitigation protocols by moving NDOC into modified operations and restricting visitation on March 7, and by restricting non-NDOC employee access on March 16<sup>th</sup>. In anticipation of a prolong response, I ordered the activation of an incident command system structure, and established emergency operations centers at every institution. All COVID-19 communications and activities are annotated, directives disseminated, and COVID-19 test results logged to include staff and offenders. Further, emergency operations centers, track staff and offenders who came in close contact with staff or offenders who tested positive for COVID-19. Due to the implementation of the centralized COVID-19 management protocols, NDOC has been able to monitor costs and activity associated with the pandemic, resulting in a significant amount of expenditures qualified for the CARES Act reimbursement.

Also, NDOC implemented a strategy to identify and control the potential outbreak within our prison walls. This strategy given the code name "Firewall," is a strategy that creates multi-layers of institution entrance procedures consisting of temperature checks, a verbal COVID-19 assistance questionnaire, visual symptoms observation inspection, mandated nose and mouth coverings, and mandatory reporting requirement of any staff or offender displaying any symptoms of COVID-19. We believe these and many more of these strategies result in the saving of lives of both staff and offenders.



The implementation of our efforts have resulted in a combined total of 39 having tested positive for coronavirus since testing began in May. Currently, there are only three offenders in the state with a positive diagnosis of COVID-19. Before transitioning into other topics, Director Daniels stated how proud he is of the men and women who comprise the NDOC team. Their efforts have been no less than extraordinary. Every employee in the agency is declared essential, whether post-certified or not. As you know, prisons are open 24-hours a day, 7-days a week, and must still operate in a manner consistent with the U.S. Constitution's 8th Amendment that demands, among other things, that offenders must be housed in safe and humane conditions. Although the agency is mired in a significant staffing shortage, my team rose to the challenge and embraced the many hardships while being there for one another. As public safety officials and corrections professionals, we will remain vigilant and man the line as we serve the citizens of Nevada. Remember, there is no 911 to call in prisons.

Director Daniels gave further updates on what is occurring in the agency. Attorney General Ford interrupted, telling the Governor that people listening to Director Daniels were having a hard time hearing him and asked the Director to move the mic closer to him. After doing so, the Director was told to proceed. Director further stated that NDOC has established a new Mission Statement, Vision, and Goals. Every facet of our operations is geared toward public safety, staff safety and offender safety, which is inclusive of re-entry efforts to include education, vocational training, mental health treatment, and gender-specific criminogenic needs. We are also stepping up efforts to interdict offender-continuing enterprises, such as extortion, human trafficking, narcotics distribution, and other inmate criminal and/or predator behavior.

NDOC is experiencing a critical staffing crisis at Ely State Prison, specifically, COVID has had the largest impact to our rural institutions and camps, especially Ely. Staffing at Ely has proven to be difficult based on a lack of housing in the local area and limited employment opportunities for staff and their family members. In addition to that, our recruiting efforts have been vigorous, but have not produced many results and we are going to try to work along these lines. Ely State Prison is averaging 60 to 90 correctional officer vacancies. The bulk of these vacancies have been reassigned to other facilities across the state, not due to the lack of need, but attributed to the lack of an applicant pool. Since the onset of COVID-19, Ely State Prison has increased staffing challenges with large numbers of staff being quarantined. These numbers include: March–87, April–89, in July–115, that's the range in which we are experiencing our challenges and we think it is important for everyone to know, this is not a few people calling in sick, these are tremendous shortages that we are having to overcome, and in which we are utilizing staff members from all around to fill in where needed.

NDOC is also purposing a mission change between Ely State Prison and High Desert State Prison to reduce staffing and ensure appropriate coverage. Our goal is to swap approximately 750 offenders between the two institutions. There is a cost for overtime and transportation, at roughly 170 thousand for a one-time cost. In July, I ordered the temporary closure of Ely Conservation Camp, which is approximately 31 miles away from Ely State Prison, and we did this as a result of staff safety. This temporary closure was necessary to mitigate violence directed at staff and offenders. We maintain a continued partnership with the Nevada Division of Forestry to provide fire-fighting assistance throughout Nevada and California. Additionally, on the downside, we continue to struggle with staffing in the rural areas despite retention and other recruitment efforts. At this time, the Director presented Dr. Michael Minev, who serves as NDOC's Medical Director, and Ms. Jennifer Bauer who serves as NDOC's Medical Administrator.

**5. COVID-19 and HEP-C updates and issues – Dr. Michael Minev, Medical Director, and Jennifer Bauer, Medical Administrator; Nevada Department of Corrections – For Discussion Only**

Dr. Minev stated that the Nevada Department of Corrections has been proactive in mitigating the spread of COVID-19. Efforts have included, an early discontinuation of visitation, screening of all staff prior to entry of any facility, a coordination of all departments by ensuring staff and offender safety, regular Town Hall meetings with offenders and

staff at every institution for COVID-19 education, aggressive COVID-19 testing, and use of personal protective equipment; up-to-date precautions and the activation of emergency operations centers at each facility. Director Daniels developed the concept of the screening firewall, comprised of the medical and custody staff engaged in the task of preventing COVID-19 from breaching our facility walls. The Nevada Department of Corrections has been highly successful in preventing the spread of COVID-19 amongst the offender population, which is currently composed of over 11,000 offenders. Declaring all staff essential, has been critical in accomplishing our mission of public safety, staff safety, and offender safety. Without these critical measures, NDOC would not have been able to obtain our effective firewalls and protections for the offenders and the community. NDOC has maintained an offender positive cumulative positivity rate well below one percent today. In comparison the state of Nevada, COVID-19 cumulative positivity rate is currently 10 percent (10%). Only four states, Rhode Island, North Dakota, Maine, and New Hampshire have a lower COVID-19 offender case count. As of October 8, 2020, NDOC has not hospitalized a single offender for COVID-19 or lost a single offender life to COVID-19. Also, as of October 8, 2020, the NDOC has only three offenders currently positive for COVID-19.

Governor Sisolak stated that he wanted to correct Dr. Minev's state positivity rate, which is 9.7 percent (9.7%) cumulatively, not 10%.

Jennifer Bauer: Ms. Bauer is the Medical Administrator for NDOC. She provided a brief high-level overview of the status of Hepatitis C testing and treatment in relation to the current class action lawsuit. In February of 2020, the U.S. District Court granted a motion for classification in the Hepatitis C lawsuit filed against NDOC. In August of 2020, with significant assistance from the Attorney General's Office, the Department and Class Counsel reached a proposed settlement to this lawsuit. Therefore, for consideration at the October Board of Examiners and the Internal Finance Committee meetings the Department submitted a request for funding in the amount of \$10,491,564, which will allow NDOC to begin treating patients and carry out the terms of the Consent Decree. For example, the Consent Decree terms include, treating 1,200 patients within the first 12-month period, treating 600 patients within the second-month period, and treating 600 more patients within the 12-month period to resolve the backlog of patients awaiting treatment for Hepatitis C. Ms. Bauer closed and asked if there were any questions.

Governor Sisolak asked if anyone had any questions thus far of what had been presented, and asked if either Attorney General Ford or Secretary Cegavske had any questions; they did not.

**\*Chief Medical Officer Report Update – Dr. Ihsan Azzam, PhD, MD, MPH; Nevada State Chief Medical Officer – Dr. Azzam did not speak during the meeting nor was he on the agenda; however, he provided his report and other documents for submission to the meeting and on record, and if time allowed, for discussion during the meeting.**

**6. NRS 209.417 "Offenders not to have access to telecommunications devices, exception;" use of tablets by offenders; internet issues; security issues – Brian Williams, Deputy Director Operations – For Discussion Only**

Brian Williams, Deputy Director Programs discussed NRS 209.417 "Offenders not to have access to telecommunications devices, exception." Due to the unprecedented times of COVID-19, NDOC is committed to transforming our daily programming opportunities to virtual learning. Since March 2020, many agencies have either been working from home, on limited schedules, or have been on administrative leave, it has been challenging to collaborate and retrieve information due to delays experienced during this pandemic. Education and program services have been limited in the delivery of daily program activities. Based on the aforementioned challenges, we have been working with the Attorney General's office, Assemblyman Steve Yeager, and the Department of Education to revise NRS 209.147, and provide clear and concise verbiage regarding the Director's authority when creating Administrative Regulations to be submitted to the Board of Prison Commissioners for approval. This clarification will

allow NDOC to use various telecommunication devices with internet access and provide offenders the opportunity for educational success, better communication to NDOC administrators, and re-entry back into society.

NDOC will also solicit services to deploy a strict firewall to prevent unauthorized access in or out of the secure network. Some of the telecommunication devices consist of tablets for the offenders. NDOC recently proposed a Request for Proposal, also known as an RFP, for tablets. The tablets would support various applications to include, educational and vocational programming, possible video visitation, better facility communication with administrators at each facility, and music for the inmate population. NDOC is also looking at computer labs. Each facility would create and establish computer labs for all assessment tests, which require instructor supervision, and educational, vocational, and re-entry services. These labs will provide opportunities for one-on-one monitoring, guidance and assistance from staff in the following areas: Apprenticeship Programs, ASC Certification, Heavy Equipment Operator, High School Equivalency tests and several others as well. Deputy Director Williams concluded his discussion on NRS 209.417, and opened up for any questions.

Governor Sisolak asked if there were any questions relating to NRS 209.417, issuing devices. There were none. Governor Sisolak moved on to the next item on the agenda, which was Administrative Regulation 258, *Inmate Fiscal Procedures for Inmate Banking*. The Governor stated that he received a message from Secretary Cegavske, and he agrees with her, that the Board will not take a vote on this AR today. There are too many questions at this time pertaining to AR 258. Governor asked Director Daniels if he wanted to open up for discussion or presentation first of AR 258 and then move on to questions. Director Daniels responded that he felt a presentation was warranted at this time. Director Daniels introduced John Borrowman, Deputy Director Support Services, to present item number 7.

**7. Administrative Regulation (AR) 258 “Inmate Fiscal Procedures for Inmate Banking” – Deduction Sequence for Marsy’s Law – AR was signed by Director Daniels on September 1, 2020, as temporary AR – John Borrowman, Deputy Director Support Services – Presentation of AR; vote required for acceptance/approval as Final. Exhibit A**

John Borrowman, Deputy Director Support Services (DD) presented the proposed revisions to Administrative Regulation 258, *“Inmate Fiscal Procedures for Inmate Banking.”* This regulation had previously gone through revisions generating some inconsistencies and inefficiencies for particular sections that are being resolved with this revision. This version of AR 258 also attempts to address the incorporation of Marsy’s Law requirements. This regulation is currently effective as temporary under the Director’s authority. I understand the substantial interest and appreciate the comments and feedback from the public and stakeholders. I understand that the Commissioners have also expressed their interest in considering that feedback and deferring the action at this time. I am going to defer the greater detail of all of those items in the presentation, and when the Board meets again for action we will go ahead and have the presentation address those concerns for the Board. DD Borrowman opened for questions.

Governor Sisolak stated that he was not comfortable with this being in effect until the Board takes action, and asked if the regulation could be removed or put on hold until the Board took formal action on it. DD Borrowman responded that there are two options: 1) immediately suspend AR 258 and resume under the previous regulation terms and work with the inmate banking software provider in order to make that occur; and 2) doing the first, but making it retroactive would be a substantial hardship given that some of the money has already been delivered to the victims and trying to recover those funds would be extremely difficult. The recommendation would be to suspend it immediately and revert back to the original regulation, but not make it retroactive to September 1<sup>st</sup>.

Governor Sisolak asked how much money is retroactive. DD Borrowman stated that he did not have that information immediately in front of him and will defer the question to his banking expert in Casa Grande for that information. Secretary Cegavske stated that she was on the Board with Governor Sandoval when the procedure was approved, and thinks that the whole thing needs to be redone. Secretary Cegavske asked Director Daniels if this was the hearing and process for this Board, and if this is the only time that anything’s been discussed or talked about.



Director Daniels stated that he was unfamiliar if there is a secondary process, and had not been briefed on it, however, he introduced Chris Franklin who is the Management Analyst and who deals with this quite a bit. Chris Franklin stated that currently, there is not an alternate process for this. It's vetted through multiple layers with the NDOC, as well as the DAG and Secretary of State's office who usually gives us a review before we enact it into a temporary status.

Secretary Cegavske commented that unfortunately, she did not think that that happened. There was not a review with her office, and stated that she would like to wait and not take any action at all, until a review of both the past and present AR, as well as what has been given to her office, then get back to the Governor and maybe at that time call a special meeting for discussion, but she is not comfortable voting on AR 258 today until the whole thing is dissected. The Governor stated that he did not disagree with calling together a special meeting, but his concern is that in the interim, NDOC will continue to keep taking 80%. Secretary Cegavske stated that she understood and that's why she is asking for some time to work on it now and let her office work with Director Daniels and staff then come back to the Board for a regulation. The Governor asked Secretary Cegavske if it was her desire to suspend the 80% that is currently being taken until we come back to meet. Secretary Cegavske stated that she did not know how long it may take them or if suspending it would be the best direction and that not taking any action today and coming back to the Board with a recommendation would be the best if that were possible.

Governor Sisolak stated that he was in favor of coming back to discuss, but didn't know if he wanted the regulations to stay during this interim period and still have 80% taken. Attorney General Ford stated that he wasn't sure what exactly was being suggested. He understands the Governor is suggesting that we suspend it and go back to the status quo ante where it's not 80% being taken out and whatever the rule was beforehand would be reinstated for now, but not sure what Secretary Cegavske is asking, and if she is saying we let the 80% stay right now while the Secretary of State's office works with NDOC on this. Secretary Cegavske stated that yes, that was correct, and that her office wants some time to work with the Director, and not take any action at this time. Her office and NDOC will work on AR 258 as soon as possible, and of course, get back to the Board with a direction to go with. She also stated that she understands completely what the Governor is saying, but she hates to undo something that was done in a previous Board meeting. She would much rather be given time, even if it's a week or two, and then come back to this regulation to relook at. This is her preference, but is asking if this is okay with the other Board members. Governor responded that it was his understanding that the Board did not do this at a Board meeting; this was done at the Department level and this is the first the Board is getting to review it. Secretary Cegavske asked Director Daniels if that was correct, and she thought the Board had approved this AR under Governor Sandoval. DD Borrowman responded to the Secretary's question and stated that that is correct. NDOC had the previous Administrative Regulation 258 approved by the Board of Prison Commissioners that was vetted through the end of August. Revisions to the AR were done through the change process and signed by Director Daniels, under his authority, as a temporary order pending action by the Board of Prison Commissioners, on September 1, 2020.

Secretary Cegavske stated to the Governor that she stands corrected and thanked DD Borrowman for his explanation. She commented that she remembered approving the AR and that's why she hesitated to take action now, but she now agrees with the Board to go ahead at this time and suspend the Director's directive. Her office will work with NDOC on this issue and then return to the Governor and Attorney General for discussion if that is acceptable. Governor Sisolak and Attorney General Ford both agreed to suspend the deduction of 80% until something reasonable is presented. The Governor stated that he did not know what Marsy's Law qualifies for or how much can be taken, and those are all important discussions to have. General Ford commented that he, from a discussion perspective, would like to understand what the rationale was for NDOC setting it at 80% instead of 60% or 50%, since other states have not gone so high. Attorney General Ford asked that when the AR is brought before the Board, he would like an explanation in that regard. The Governor agreed wholeheartedly, and wants to make sure the Board did not vote on this to certify or implement, and understands that Director Daniel's did what he thought was right,

but would also like Secretary Cegavske to see how long 80% has been in effect, how much money was taken and sent to victims, and what the total dollar amount is and what our intention was, and to work on a more thorough vetting and process for AR 258.

Governor Sisolak thanked Secretary Cegavske for her willingness to do this and bring the AR back to the Board when it is ready. Attorney General Ford stated that he does not, and believes that no one on the Board or calls from the public, blame Director Daniels for pursuing Marsy's Law nor an issue with his operation of NDOC, and that Director Daniels absolutely has the discretion from a temporary regulations perspective to do what he did. The question is why 80% and not some other number. Absent an understanding of that, this Board should not vote on AR 258 at this meeting. The Governor stated that he agreed and also thinks it's important to let the families of both sides, victim and inmate, speak as it relates to the terms of what they thought the intent was and make sure that everybody is heard. He wants all to be transparent about this. The Governor made the motion to suspend the regulation effective immediately until we get a detailed update led by Secretary Cegavske in terms of the history of this and where we want to go moving forward. Secretary Cegavske thanked both the Governor and Attorney General for their understanding. Governor Sisolak also asked Secretary Cegavske how long this will be worked on and did not want to wait 6 months for the next revision. Secretary responded that it will be taken care of right away. Motion was put on the floor for a vote, and all members voted aye, motion passed unanimously.

Governor Sisolak stated that before moving on to the next item, he wanted to return to item number 4, which was a discussion only, about the Ely camp closure. To make it clear on the record, this was done as a result of the COVID-19 situation, because it may be possible to receive some money for it. Director Daniels stated that yes, there were multiple things that happened and all converged at the same time, and unless something bizarre happens, we should qualify for it. Governor Sisolak thanked the Director and wants this knowledge to be part of the record as it relates to item number 4 the closure of that camp, and thanked the Director for that clarification.

**8. Administrative Regulation 122 "Official Correspondence" – Charles Daniels, Director, Presentation of AR; vote required for acceptance/approval as Final. Exhibit B**

Director Daniels presented AR 122 which is NDOC's adjustment to official correspondence. There are really only three things we are doing and they are fairly superficial, we are revising the AR to modernize the format of NDOC communications. Also, revising the agency letterhead for letters and memorandum formats, and standardize all agency communications. Unfortunately, it appears that the way we communicate as an organization has been piecemeal for a very long time. We made a conscientious effort to fall in line with what should be expected of a professional corrections organization, so that the restructuring and the information you receive, any of our constituency group, or the general public should be the same and should be standardized and professional. This is just a brief change to get us in line and so we all communicate in the same way.

Governor Sisolak asked if there were any questions related to this item. There were no questions concerning this item and a motion was presented for approval. All responded aye and the motion passed.

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

Governor stated that this concludes item number 8 and we move on to item number 9, which is the second session of public comments. Governor asked if there was anyone wishing to address the Board on any item, to please come forward, identify yourself for the record and all comments are limited to 3 minutes. The moderator host announced that there were some callers on the line.

- PeggyLee [NLN]: Thanked the Governor for revisiting this issue [AR 258] that was brought up today. We are very excited that there's going to be another decision as to balancing this issue out and many of the families

that are connected to this decision are very excited that we could come together on this and see a more positive outcome. She thanked the Governor for taking the time to care about how the families feel and how this affected their loved ones in prison.

- Jodi Hocking (founder of Return Strong): Return Strong has been a very vocal voice in trying to bring this situation to light along with other families with incarcerated loved ones, and would like to express their thanks and gratitude for taking the time to really do the right thing and look at all the pieces of this, and most importantly, really looking at the plight of our loved ones that are really suffering from this decision that was made, and appreciates the Board members taking time to thoroughly examine it.
- Craig Caples (vice-president of Nevada CURE): CURE is an advocacy group that helps inmates transition back into the community. Tried to call in earlier to basically support the efforts which I already heard were taken care of. We really wanted to try to get three things done. One: suspend AR 258, and return to what it was prior to September 1, 2020; another thing would be that a committee be appointed to review AR 258 so it is not just NDOC. Organizations like Nevada CURE, ACLU, and Families United for Justice and Incarceration, so that there is some kind of an input that can be made in regard to this AR that will assist both inmates and families with the dollar value.

Prior to Director Dzurenda's departure, he met with Nevada CURE about twice a year so any problems could be discussed that would arise and we would very much like, and suggest, that Director Daniels adopt this policy as well. We as an organization would be happy to provide input. Director Dzurenda also allowed CURE to provide input with respect to new ARs or changed ARs, and in fact, if this would have happened, it may have possibly reduced the blatant problems that are currently in front of this Board.

Governor Sisolak thanked Mr. Caples and asked him to reach out to Director Daniels' office, and hopefully get involved in the decision making and input situations.

- Patricia Adkisson: Comments are related to agenda items number 6 and 5. Wants to voice support to allow inmates to receive tablets for educational purposes and to provide communication between family and friends. However, this Board should be aware that in-person visits are of critical importance to the health and stability to both the affected public and the inmate population. Access to tablets should not be utilized to negatively impact in-person inmate visits in the future.

As far as comment on item number 5, acknowledged the efforts of NDOC, Director Daniels, and this Board to safeguard the inmate population from COVID-19. To date, no deaths related to COVID-19 have been reported in our state; thank you. However, as the inmate population ages in Nevada, this becomes an at-risk group and presents a significant potential risk impacting NDOC's ability to treat COVID-19 patients and NDOC's budget. This year, over 200,000 Americans have lost their lives to COVID-19 and a vaccine is not yet available. As a public interest matter, in order to mitigate this eminent condition, I ask this Board to seek Legislation that would allow Nevada inmates, at significant risk to COVID-19, receive a compassionate release.

As significantly important to public interest, is the underwhelming NDOC treatment of inmates with Hepatitis C. Despite available antiviral treatment with a 98 percent (98%) success rate, Nevada inmates must first suffer years of irreversible damage before receiving treatment. This policy does not serve the public interest. Nevada inmates are also public and many are family members. Each year, 400,000 Americans die from Hepatitis C. She asked the Board to seek Legislation allowing Nevada inmates with Hepatitis C, receive a compassionate release, or that this Board direct the NDOC to provide an antiviral treatment for all affected

inmates immediately. This was brought up earlier, and we're talking about 600 inmates one year and another 600 inmates another year, but if you have an inmate or a loved one that has Hepatitis C, you don't want them to wait 3 years before they receive treatment.

- Mercedes Maharis: Thanked the Board for their action on AR 258. Asked the Director to add the Ely prisoner letter for this meeting as submission. She believes that Ely must be closed because across the nation, rural prisons, after many studies, in which she can provide, the distance does not work. Hopefully, personnel there can be redistributed and re-educated to possibly assist prisoners when they are out. Please remove slavery for our prisoners from our Nevada constitution. Now is the time to show a good gesture of good faith because of our minority unrest. Regarding communication, that was brought up earlier, please answer phones personally because we have to leave messages that often are not returned.

Social Security for our prisoners must be ready to go when they step out the door and this is not happening. Thank you again for your help and dedication. Let's eventually close our prisons. That's exactly what is happening in the Netherlands with good success and no increase in crime.

- Patricia Adkisson: Had another question, wanted to know if we received her documents that were sent for the meeting. NDOC and Secretary of State Cegavske both confirmed that her documents were received.

Governor Sisolak asked if anyone else had public comments. No one responded and the Governor closed item 9 public comment. Before the Governor took a motion to adjourn the meeting, he asked Secretary of State Cegavske if she would let them know if she needs more time to look at and work on AR 258, and if she needs any assistance from Governor Sisolak or Attorney General Ford.

**10. Adjournment:** Meeting adjourned at 10:15 a.m.

APPROVED THIS DAY, MONTH OF , IN THE YEAR

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

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

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

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