

BOARD OF COMMISSIONERS
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GEORGE J. CHANOS
ATTORNEY GENERAL
DEAN HELLER
SECRETARY OF STATE

STATE OF NEVADA



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DIRECTOR

DEPARTMENT OF CORRECTIONS

Leading Nevada Corrections Into the Future

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July 11, 2006

BOARD OF PRISON COMMISSIONERS MEETING

DATE: July 11, 2006
LOCATION: State Capitol Building, 2nd Floor Media Room
PRESENT: PRISON BOARD MEMBERS

Governor Kenny C. Guinn
Attorney General George J. Chanos
Secretary of State Dean Heller

ATTORNEY GENERAL'S OFFICE

Deputy Attorney General Janet Traut
Deputy Attorney General Ed Oueilhe

CORRECTIONS' STAFF

Director Glen Whorton
Medical Director Bruce Bannister
Deputy Director/Operations Greg Cox
Deputy Director/Support Services Darrel Rexwinkel
Deputy Director/Programs Dorothy Nash Holmes
Chief of Fiscal Services Lori Bagwell
Administrative Regulations Gatekeeper Dennis DeBacco

DEPARTMENT OF ADMINISTRATION

Budget Analyst Debbie Reed

GOVERNOR'S OFFICE

Chief of Staff Keith Munro
Legal Counsel Renee Parker

LEGISLATIVE COUNSEL BUREAU

Senior Research Analyst Craig Hoffecker

PRESS

Brendan Riley, Associated Press
Cy Ryan, Associated Press
Ed Vogel, Las Vegas Review Journal

INTERESTED PARTIES

Tanya Brown, Inmate Advocate
Barbara Ann Fletcher, Inmate Advocate
Pat Hines, FFIP/CURE
Constance Kosuda, Inmate Advocate
Paige Thie, ACLU

Governor Guinn convened the meeting at 10:45 am

GOVERNOR GUINN: Before we take any action, unless there are objections from anybody here, I think we can do it without any concerns and that relates to the first opening remarks by Glen Whorton. I'm going to ask Glen to give an explanation of the policies and the procedures that we are dealing with here today. I guess the real issue is people said they wanted it on the videoconference to Las Vegas. I don't have a problem with that and I don't think any of the Board members have a problem with that, it's just that some of these we want to be careful to make sure that the procedures for some of the specific policies that we have here, we don't give up our right under the law to say to other people we have to get some kind of a commitment from them to support it or get their agreement, I guess you would say. This is rather unique. These policies and regulations that we work with here are set by the Nevada Revised Statute and they are different than the other regulations that we have to have from our public, certain time schedules, certainly the input that we receive, the open hearings that we have on those, because this relates to a prison system. We are not obligated, nor should we be obligated, to go out and have people who have a vested interest in somebody in the prison to have all of our procedures and the regulations input because we are doing this for the safety primarily. Now we don't object to putting things on the Internet so people can look at them, but at the same token, I'm also concerned that people are seeing this stuff here for the first time, then what kind of an issue does that cause for them? Now I've gotten a few remarks and I don't know who they're from but I've got them right here and the information of concerns and I for one am not going to agree that prisoners have a right to have a job while they're in prison. We work very hard to give them a job so when people want to come and start arguing about that then I'm going to suggest that we go back to our program of handling these regulations the way we've always had. We are not going to get into an argument with somebody telling us from the outside what rights the prisoners have. If they want to go to court, let them go to court. We are going to do what we have to do to have the procedures

held in staff control if it relates to anything we are doing with the possibility of safety in a prison. What I want to do here today is to make sure that everybody gets a chance to say something about what we're doing. I don't even want to go so far as this entire book, there might be a couple, two or three in here that are essential that we have to have immediately, if there is, I'm going to do that but the masses of them I don't think there's a problem with holding them in abeyance and getting some input from people. Even if it's a procedure and they want to talk and have some concerns or ask about how you are looking at that, then I think that you should be willing to take that input to see if you can improve a procedure. I'd like to start the meeting, if there is no objection, with the support in the agenda with opening remarks from Director Whorton to give a background at least to the biggest issue we have and that's the regulations we have set forth here.

ATTORNEY GENERAL CHANOS: Governor, can I say something just to clear the air on some of the issues raised regarding the openness of the meeting whether it's subject to the Open Meeting Law or whether or not the public has a right to have input. There are some important distinctions between this body and the prison system and other public bodies as set forth by the Legislature. For many boards and agencies, the Nevada Administrative Procedure Act provides the appropriate steps to take in promulgating regulations. NRS Chapter 233.b: Agency rulemaking subject to the Administrative Procedure Act provides for public input NRS 233.b.061 and NRS 233.b.100. The Nevada Department of Corrections, however, is entirely exempted from the Administrative Procedure Act NRS 233.b.039 (1) (b). As the head of the Nevada Department of Corrections the Board is exempt as well NRS 209.101. Instead, the Director of the Nevada Department of Corrections is charged with establishing regulations with the approval of the Board NRS 209.131 (6). In this instance, the Director has appropriately submitted Administrative Regulations for the Board's approval. No public comment or review is required by law. These who are operating under the assumption that public comment is required, it legally is not in this context. If individuals or groups want to change that, they don't change that with this Board, they change that with the Legislature. So just to be clear the Board is not required to take any public comment under the laws that exist in Nevada. There are reasons why the Legislature would exempt this body from that input.

GOVERNOR GUINN: Reiterated what Attorney General Chanos just stated. I'm still willing to help clarify for those who would have a concern. I do believe Glen if you explain some of the reasons that we have this exemption and we can go from there because there is a number of things on our agenda that we certainly want to move ahead with today.

DIRECTOR WHORTON: Governor, I believe this discussion would be embodied in the context of Agenda Item V discussing the Administrative Regulations and Operational Procedures in the new format. We have undertaken an effort to revise its policy. I am sure you are all familiar with the policies that have come to you in the past have been very large and weighty and detailed which is seen by this Department as a liability. We are in the process of developing a new offender information and tracking system that will be reported to you later and as a result of that we are going to have to change many, many business practices throughout the Department. In fact, our policy has looked, frankly, just like procedure and that has been a problem for the Department, for the Attorney General's Office, and for our operational people as we go about our business. In the past, when previous administration put policy into effect that demonstrated what was essentially Operational Procedures, then there was a reluctance to be able to communicate that to the public because those Operational

Procedures affect our security and the way we react to issues and incidents and that's not appropriate. What we have done here is twofold. We are providing regulations which are clear, concise, and give direction. They are policy. The procedures are coming out of those policies and that is being done so we do have to come to the Board every time we change a business practice based upon the development of our information system and so that those items that need to be secured do not become public and legitimately so. As you look through this you will notice that there are procedures in the old format that we are awaiting the approval of the Board that are much different than the new format. This change is reflected in Administrative Regulation 100 which describes how the Administrative Regulations (ARs) are going to be provided. We are happy to have input on any process in the Department whether it's our regulations or our procedures and if people communicate that to us, we would give that our attention and provide an answer as to why we would not accept that or we would accept that and integrate it. You would be surprised sometime where changes come from and how this process works. If an issue emerges at anytime, people can communicate that to me directly. We now have a person who coordinates this entire activity so that we can be responsible to the needs of the Board, the needs of the organization and the needs of our clients. This still allows me to establish a temporary regulation pending the approval of the Board within twelve months. As you look at these regulations, you will see there is very little change from our policy. We have simply extracted the procedure. There is not a lot of change here. You will also see AR 105 which provides for Operational Procedures. In the past, each institution was responsible for the development of their own procedures and required to reflect the ARs that they were related to but frankly there was no process that really had a check on that system. There was no requirement that they be reviewed by the Deputy Director of Operations, or by the Board, so in reality there could be items in those Institutional Procedures written by Wardens that are different from what is required in the policy. The major change to this particular policy is Division Heads will be responsible for the Operational Procedures that are used within their divisions. The Deputy Director for Support Services will be responsible for Inmate Services, budgets and those kinds of items. The Deputy Director for Operations would be responsible for each of his institutions and facilities and to ensure that those items are consistent with the requirements of the regulations. Further, procedures from this point forward, if this is approved by you, would be reviewed by the Deputy Attorney General to ensure that those items are consistent and that they are appropriate. This oversight has not occurred in the past and we believe that that is important and it will make the Department more accountable and a better and more accessible Department as well. For those individuals that may believe that we're trying to make an organization more restrictive or more less friendly to the community, that is absolutely not the case, the reverse is true that we are trying to be more accountable to the Board and to the community by virtue of having this process. In addition to this, we also have AR 101 in this manual today that we've provided to you. This is a new regulation that provides for an audit process within the Department. This process is an internal process and it is an opportunity to assign staff to perform audits as a neutral party. We did this for two reasons. One, it is very difficult to get staffing and make those requests to the Legislature and get them to provide an internal audit function for us. I'm not hopeful that will happen because frankly my budget request will be for staffing on more basic levels and I'm asking for a tremendous number of staff at the next session. It gives other individuals who serve as auditors to look at what our expectations are. It looks at it in the context at the institution or facility that they're auditing and at the same time, they look at that other institution in the context of their own facility and it reinforces the need to be accountable and

do the things that we are suppose to do to make sure those systems are enforced in order to carry out these regulations. Those are very important to me.

ATTORNEY GENERAL CHANOS: That's AR 101 correct?

DIRECTOR WHORTON: That's correct, 105 is for Operational Procedures, and 100 is for the Administrative Regulations. If it is your desire to have people have more opportunity to look at these, we are more than willing to do so. If I could get those three regulations, AR 100, AR 101, and AR 105 today, I think that would be very important to pushing forward this effort to revise the policy. I would then implement the regulations that you see here as temporary regulations and then they would have to be approved by you within a year. That would give an opportunity for individuals to look at these and make comment before they are finalized. Requests were made to put these on the Internet and we have no problem doing that. Our hope ultimately is to have every single AR on the Internet and accessible to the community, but not the procedure. That does not mean that people can't have input into what those procedures might be. To a large degree there is not going to be a lot of complaints about the policy but there will be concerns about the actual procedure for implementation. The good part is we can change procedure without having to come back to the Board as long as it fits within the policy that's articulated in the ARs.

ATTORNEY GENERAL CHANOS: 100, 101 and 105 have already been put on the Internet. Correct?

DIRECTOR WHORTON: Yes they have, all of these have.

ATTORNEY GENERAL CHANOS: I'm clear on what 101 deals with. What does 100 deal with again?

DIRECTOR WHORTON: 100 deals with the general ARs. That is the regulation that will govern the rest of the regulations. It will establish the review dates, the practice for approving those, the practice for temporary regulations that have to be reviewed by the Board. 101 is the audit process that will look at the institutions to ensure that they are following the regulations and 105 is the process for the Operational Procedures that implement the requirements of the regulation for the individual divisions. The major change there is the review by your staff which hasn't been done previously.

ATTORNEY GENERAL CHANOS: What was the significant changes to 100?

DIRECTOR WHORTON: There really weren't that many significant changes. The big change here is the fact that it's just limited to policy as opposed to procedure. We are doing that for security reasons and operational reasons so that we can react to the needs for our information system and frankly our changing environment.

ATTORNEY GENERAL CHANOS: 101 doesn't do anything to preclude any kind of outside audit, it just allows you to immediately commence an internal audit.

DIRECTOR WHORTON: Absolutely. What it does, it mandates an internal audit. It is an attempt to make us more accountable.

ATTORNEY GENERAL CHANOS: So, 101 there is nothing but benefit from an internal audit.

DIRECTOR WHORTON: Yes, it is an attempt to make us more accountable.

ATTORNEY GENERAL CHANOS: Right. Whether or not anybody seeks to do an external audit, this doesn't preclude that, right, so we should want you to be doing internal audits.

DIRECTOR WHORTON: Absolutely.

GOVERNOR GUINN: Excuse me, they can only do an internal audit but they can ask from the Internal Audit Committee. All three of us sit on it. We can either direct it or you come in and ask for it but they're on a routine basis. I think they've been there because they just did you a couple years ago. They went into a lot in terms of staffing and overtime and excreta. We can't call without going through the Legislative process to get an outside, they dictate outside audits all the time. If they are concerned under ACR 17, then that's what they should do. They choose not to do that, they chose to send me letter but it's a political season, sometimes those people give it this shot rather than take an action. So if they got something they ought to be willing to work with us. I'm all for an outside audit for any organization we got in this state. We've asked for that before, if that's what they'll do then that's fine, but ACR didn't do that if I remember right. (AG: No, they did not, not that I recollect) But, he doesn't have the money and if he did he couldn't do an outside audit because it wasn't approved in the budget and he can't transfer those dollars. But he can ask for or could direct to have, if it would help you, certainly they look at it not so much from someone stealing a nickel, the Internal Audit team that we now have, by the way, we didn't have an internal audit team until we got here, my second Legislative session which has really helped us immensely because it looks at management and what you can do to become more efficient. All these kinds of things come into those audits, but you've had two in the last three years I believe. But we have not had an outside one.

SECRETARY OF STATE DEAN HELLER: Governor, just for clarification, is the audit that your requesting the same as the Executive Audit team?

DIRECTOR WHORTON: It's our internal. For instance we would say that on a count procedure you would have to have certain backup information that has to be conducted in a certain manner and another expert on counts would go to another facility other than their own and he would observe that count process based upon a specific set of audit questions that are developed for each procedure and its related regulation and determine that they are doing it correctly. For instance, we had a delayed count at the Northern Nevada Correctional Center (NNCC) last Friday night and for about 3 hours, I'm waiting for that count to clear to ensure that nobody has walked away. It did clear. We went to NNCC and one thing that I discovered, and it is specifically in the regulation but not being followed that they were maintaining a paper trail as opposed to an electronic trail of the offenders as they move throughout the Department. The system we have in place does away with that paper trail. It has been corrected. They had doubled the work of the control officer and had doubled the opportunity to make mistakes because they are not able to focus on what they are suppose to do.

SECRETARY OF STATE DEAN HELLER: Is there a subsequent audit report from these internal audits and where do they go? Would the Executive Audit team have access to it?

DIRECTOR WHORTON: Yes. They go to the Warden and they go to the Deputy Director of Operations. The audit team would have access if they were interested in that. If you look at all of these regulations as you go through them, the last item on all the regulations indicates whether or not this regulation requires an audit. We are specifically defining which ones we want audited.

GOVERNOR GUINN: In essence your saying, I believe your saying, this entire packet today you would be more concerned with 100, 101 and 105.

DIRECTOR WHORTON: It gives us an opportunity to go forward with the rest of them as temporaries if your desire is that people have a greater opportunity to look at it before they come to the Board, that's fine with us. We have no objection to that and frankly we have no objection of putting it out on the Internet because that is a part of this process is to publish them and have them available. Governor, I might also indicate that any temporaries that we do in the interim between meetings, those would also be on the Internet as well.

DENNIS DEBACCO: Excuse me Governor, as a housekeeping measure if you were to approve 100, 101 and 105 what is noted is the effective date is 6/12/06. I suggest that be pushed back maybe 30 days from today's date. I meant forward, effective August 12, 2006. The reason for the discrepancy is that when this binder was put together we had a meeting scheduled in May and that would have been 30 days out.

GOVERNOR GUINN: I think what we as a Commission would be interested in certainly when times are changing, if it doesn't relate specifically to safety, I think we need to have open discussions and I like the idea of you putting them on the Internet. I like the idea of someone being able to communicate with you. If it goes far enough, those people can come and sit down with you. When we discussed the telephone prison system we got a lot better understanding. I don't see anything wrong with an AR, which is in-house, in terms of a procedure that you're following to get these things done is pretty routine. The same for the audit aspect of it, audit is not doing anything that would be adverse to anybody who would be an inmate that I can think of. You are really looking at procedures here as opposed to day to day operation with an inmate.

DIRECTOR WHORTON: Yes Governor. Our audit process is going to be looking at what staff do, not what inmates do. Our expectation is that it would make it better.

GOVERNOR GUINN: What staff do? Right, so it should be of a concern to people. You are overlooking somebody to make sure that they are following the regulation that you have that you said you are going to publish and put on the Internet. And then 105?

DIRECTOR WHORTON: This is an Operational Procedure that has oversight where it has not been in the past.

GOVERNOR GUINN: Again, if you weren't recommending it, it would be a worse situation than having no oversight.

ATTORNEY GENERAL CHANOS: First of all, I received, I think we've all received a letter from the ACLU that provides some public input to a number of these Administrative Regulations. First of all we got this early this morning and no one has really had an opportunity to review in depth or digest all of the comments made by the ACLU in this document. However, with regard to AR 100, AR 101, and AR 105, which the Director is asking us to approve today, number one, the comments from the ACLU regarding AR 100 do not, I have reviewed AR 100 in full and it contains a number of provisions that I think are very appropriate and useful for the state and I don't see any comments by the ACLU that would change my opinion of that with regard to AR 100. Under AR 100, the Administrative Regulations are public documents but will not contain procedures that affect safety and are thus confidential. I think that's a good idea. Under AR100, they will contain security and confidential security information but other than that information, all information contained in the ARs will be placed in the inmate law libraries and will be made available to all interested parties via the Department's website. That's specifically set forth in AR 100. They will be translated into Spanish. AR 100.05 talks about these regulations not creating a right or a liberty of property interest which I think is also important to safeguard the state. I am completely comfortable with AR 100 and can say that after seeing the input that I do have from the ACLU with regard to AR 100. With regard to AR 101, again I'm comfortable with AR 101 because it provides for an internal audit by the Department which is a good thing. It doesn't preclude an outside audit and if anybody wants to have an outside audit whether that's the Governor or the Legislature or whoever may want to cause an outside audit to occur AR 101 doesn't stand in the way. Instead, what it does, it allows the Department, on its own initiative, to get busy and conduct its own internal audit which is a very good and useful thing. So again, I would support AR 101. With regard to AR 105, which just allows these to be implemented, there's absolutely no comment with regard to AR 105 in the ACLU's letter and therefore I have no reason to believe they have an objection to it and nor do I after reviewing AR 105. So I would move to approve AR 100, AR 101, and AR 105 and hold the other items in abeyance until we have an opportunity to digest the input we have received with regard to those other items.

GOVERNOR GUINN: Is there a second?

SECRETARY OF STATE DEAN HELLER: Second.

GOVERNOR GUINN: Now I have to ask that means we're taking this out of order, is that okay or do we have to go through the agenda?

DAG JANET TRAUT: We really need to go through the agenda.

ATTORNEY GENERAL CHANOS: OK, I will withdraw my motion until the appropriate time.

GOVERNOR GUINN: I want everybody to understand that the only way you can get an outside audit approved is to get the money approved from the Legislature. It's up to you to request it. They cannot divert any of their existing funds at all under the Legislative rules.

DIRECTOR WHORTON: I want to bring you up to date from the last meeting in March 2004. We are experiencing significant growth in the Department since that period of time.

The male population has grown 14 percent which is quite a bit, even more troubling is the fact that our female population has grown 29 percent in that period of time. That's huge and most correctional agencies throughout the country are having to deal with, and that's very difficult. In terms of how that affects us in our day to day operations, we are operating and we were budgeted under a projection that was put forward in March of 05. At this point in time, we are 563 inmates more than what we were projected to have this month and for females we are 165 percent more than what we were expected to have. We have a new projection that we have begun planning with for the next biennium and with the males we are already 264 behind and that projection was done in April of 06. That will be updated in September and hopefully we will catch up. We have our issues with that projection and we will be talking to the contractor directly about that. We presently have 998 inmates, almost 1,000 inmates over our emergency capacity threshold. We have a design capacity at this point in time of 7,980 inmates which means that our population is 155 percent of our design capacity. It is significant. The difficult part of that is our female population where SNWCC was designed with a 291 bed design capacity and we are operating at 622 inmates in there yesterday. That's 214 percent. Our expectation is and our release in the near term is going to be opening SNCC in early September. That is going to be a youthful offender facility and it has an emergency capacity threshold if we need to populate that densely at 612 inmates but to manage the female population we have appropriated Unit 7, which is the old lockup unit of the institution. It is separated from the yard, has its own exercise area, directly assessable to the culinary, and to the infirmary and it has a separate access to visiting. We have appropriated that immediately for women. We opened that unit yesterday with 12 women so that we could get some relief out of the women's prison. That has a capacity of about 92 people and we are going to try to keep pretty much a transient population in there so that women don't go in there and stay for a long periods of time. We have also added beds. We have gone through IFC and got funding to build more beds. At Southern Desert Correctional Center we are adding 50 beds into that institution. There will be programming. We also got authorization to purchase materials to build 192 additional beds at the Ely State Prison. We are expecting material for those beds around July 24th. They should be in place in late August. In terms of construction, we are presently in design of two new housing units at HDSP. These are going to be 560 medium beds and the design is almost complete. We do have funding for the construction of those two units which are scheduled for completion in December 2008. We are working on an expansion of the women's prison, 400 beds. We are in design at this point. 300 of those beds will be medium security beds, 100 will be transition beds with a similar program to Casa Grande Transition Center. This will also include an enlarged infirmary to handle that population. We do not have construction funds for that and we are asking for an early bill out of the Legislature to get going on that because of the pressures of the population and we would like to have that open in July 2008. We do not staff these in plan based upon design capacity. We request them based upon the emergency capacity threshold. Some years ago when we opened Lovelock, someone in the Legislature expressed dismay over the fact that we filled that institution in a space of about a month. The response was we don't ask for them unless we really need them. This state has frankly a good job trying to stay ahead of the power curve but we're starting to fall a little bit behind because of our projections.

ATTORNEY GENERAL CHANOS: Why are you experiencing such a bump in population, 14 percent, and 29 percent in one year, is that historical or is that an aberration?

DIRECTOR WHORTON: We're not sure but I was at a meeting of Directors throughout the country several weeks ago and the consensus was that the meth problem in our communities is

contributing tremendously to that criminal conduct whether it's directly related to being under the influence or as an adjunct motivator to commit crimes in order to engage in substance abuse. Everyone believes, especially with women, that the meth problem is driving this. We are seeing a hardening of our population as well. Just prior to 1995 when we changed all the laws and got Truth in Sentencing one of the driving forces behind that was to use our expensive prison beds for the most serious offenders and divert those that weren't quite so serious. If you look at our distribution of our offense groups over the last 10, 12 years since that occurred, you see a direct 10 percent shift between violence and sex and property and drugs within the male population. In that regard, it's doing well, but that affects our planning in the sense that it makes those minimum custody beds less useful and it requires us to look more towards a medium custody population because of the nature of the offender that's coming in and staying. We have Legislative initiatives we are going to be asking for in our CIP requests based upon the current projection. Again, we'll be getting another projection. We would like to fast-track the Indian Conservation Camp construction of 192 beds with a completion date of 7/08 in the same manner that we're doing the expansion of the women's facility. We would like to construct two additional units at HDSP. This will be another 560 beds with a completion date of 12/08. That would be the complete build out of HDSP. So what we're doing is we're looking at constructing four new medium custody units there. As we do that, the expectation is that we will convert some of the existing units at that institution to close and max custody so that we can accommodate that tougher portion of our population. We are asking for engineering and construction of a Prison 8 and Regional Medical Facility in the southern part of the state for a total of 1,240 beds with a completion date in January 2012. We are also asking for engineering on a Prison 9 of 1,288, a medium security prison, with a completion date in 10/2012.

GOVERNOR GUINN: So you've spent about almost two hundred million so far.

DIRECTOR WHORTON: Yes, at least. We all know with the construction environment in the southern part of the state that would be probably conservative.

ATTORNEY GENERAL CHANOS: Is the long term building plan that you're now contemplating anticipating this trend in increases of population to continue, or what kind of growth rate are you anticipating?

DIRECTOR WHORTON: The way the population projection is working at this point both the male and the female population are projecting about just under 4 percent growth. If you look at our history over the last 10 years, the males have been just right around five or a little more and the women have been up about 7 over the last 10 years so the projection that this is based on from my standpoint is relatively conservative. We're basing this construction plan on the projection which is about four percent each so this is not good news.

ATTORNEY GENERAL CHANOS: So you may be well under what you need in your planning.

DIRECTOR WHORTON: Your right, that's why I said earlier that we are having a very serious dialogue with the contractor that does these projections, very much so in regards to women. If you look at this projection it has about an 18 to 20 percent increase in the first year and then it drops off dramatically. Essentially what they are doing is that they're catching up

and then they're dropping back down to the same problem that we've had in the past. We do not have enough lead time to get a new institution online when we need it. Today, based upon the projection that we're currently budgeted on, we are over four years ahead of where we were projected to be in 2005, four years, and it hasn't been that long since we had that projection.

ATTORNEY GENERAL CHANOS: My point is, aren't we being somewhat unrealistic in assuming a population growth of only four to seven percent or five percent when we see a trend in an increase of methamphetamine use across the state and there is no real reason to assume that the 14 percent and 29 percent increase that you experienced last year is going to drop down to the averages that you've had over the last decade, instead, it's probably more likely that growth is going to be higher.

DIRECTOR WHORTON: Yes, this is the trouble that we have every biennium in the Legislature in terms of doing the population projections. Population projections are frankly a best guess and we do not do them, the contract resides with the Department of Administration. We think that is appropriate because it takes us out of the process. We become an advocate for the Department without having a Legislator say well it's your projection and obviously your padding it, we're not and obviously we are not given these kinds of figures and as I said in September we will be getting another one and frankly we will probably get another one before the end of the session as well.

ATTORNEY GENERAL CHANOS: I will also tell you that when I traveled around the state and I met with the sheriffs and the DAs in 17 counties the number one problem of every single one of them is methamphetamine. It's unlikely the numbers are going to go substantially down just for your planning purposes.

GOVERNOR GUINN: Well we have 2,200 additional law enforcement people that has been approved in Clark County and those individuals do arrests and you have more gang infiltration which I don't think you've even talked about and that's becoming another issue as to how you have to house that kind of diversity as opposed to having it integrated the way you would like too. That is a serious issue.

SECRETARY OF STATE DEAN HELLER: Could you shed some light on the population, citizens versus non-citizens. I hear a lot of statistics out there and I'd like to hear from you.

DIRECTOR WHORTON: I don't know that we've seen a dramatic increase in alien inmates. What we have seen a dramatic increase in what we call Security Threat Groups that other people would call gangs. They are very serious. They are migrating out of the State of California. They are essentially homegrown in the sense that these are not aliens, these are young people who were born in the country, educated in the country, live in this country, their parents are here, but they are affiliated with gangs and frankly they are our most difficult inmate management problem at this point in time. There has been in this Department going back decades a philosophy that you give no credence and give no statement about Security Treat Groups. You just do not discuss them because there's this issue that when you do that you give them some kind of credibility. Frankly, if you don't own it you can't fix it and if I have needs and my agency has needs, I can't own those unless I articulate that, so you can't fix it if you don't own it. That's where we are at today. We own this and we expect to make

some requests. I'm sure you know we've had incidents at the Nevada State Prison on May 15, 2005. We had three correctional officers injured seriously. They were assaulted by a Security Threat Group inside of a medium security unit. About a month ago, we had an inmate seriously injured in an assault by the same group. Last week we had an inmate who died as a result of his injuries in an assault in that same institution and I will tell you, I will not articulate, but I will tell you that we have a substantial response planned for that group.

SECRETARY OF STATE DEAN HELLER: Do you have any percentage of what your alien population is today?

LORI BAGWELL: We have about 10 percent of our bed days are for undocumented.

ATTORNEY GENERAL CHANOS: I understand that you have a really difficult problem and you have an every growing flood of people coming in and you have limited resources to deal with it, not to mention all of the violence and threat you and you people deal with everyday. It doesn't seem to me as a long term strategy going into the next decade and beyond for the State of Nevada that we can simply warehouse these people indefinitely and build an inexhaustible amount of prison to just continue to warehouse them. At some point we need to start moving them out the back end to some kind of program to reintroduce these people into society. So, as part of your planning, what are you thinking about in those terms? Is there a way to take this hardcore recidivist gang group and treat them.

DIRECTOR WHORTON: You have touch on the crux of the problem with corrections in this country. Everybody has the same problem and they are trying to find the same solutions. We have developed a gang renunciation program that is currently active at NSP. It is a positive program. We are not getting a lot of people involved in that because of the pressures not to renounce their membership and the dangers involved in that. Because of the dangers involved in this, they get access to some programs but not as much as you would think because after that they pretty much become protective segregation inmates to protect them from those people. Their incentive is their personal commitment. This is a very difficult thing to do. Dorothy Nash Holmes is presently looking into a program that has been used in England and Canada and we are attempting to bring that program to this state. We've developed some funding for that and we want to do some training on that.

ATTORNEY GENERAL CHANOS: Have you heard anything about the Cliff Program out of Indiana. Do you know anything about that?

DOROTHY NASH HOLMES: No, we actually researched all of the different business groups to see who had done a successful gang renunciation program. Connecticut did one which died when the grant went away, it was successful until then. Some very successful stuff is being done by LA in the community, not in the businesses and there are other programs such as you mentioned. The one that I'm working on now is called One World and it's done in the UK a lot. I agree with you there has got to be, you can't just put them in a special place and lock them up and hope it all works. There has got to be additional work done with them because of all the emotional and psychological reasons that put them in there.

DIRECTOR WHORTON: Our difficulty here today with the things that we're talking about, we're talking about the most essential thing we do and that is housing these inmates and the

cost of doing that. I think you need to understand that the Nevada Department of Corrections is not a rich or affluent agency. Our cost per inmate is right around \$20,000 which is amongst the lowest in the entire United States. We are the second lowest in the West, right behind Arizona.

ATTORNEY GENERAL CHANOS: You don't even have the staff or the resources to really engage in anything other than warehousing right now.

DIRECTOR WHORTON: Absolutely not. We get criticized for lack of programs and things but these do not fall of the tree, they have to be paid for, there has to be a commitment on the part of the state to do it and we are dealing at a most basic level of trying to have a safe and constitutional environment for these guys to live in. What we do beyond that is an absolute struggle every day in this Department.

ATTORNEY GENERAL CHANOS: I think that's the fundamental problem is that you don't have the resources to do what we need to really do on a long term basis in terms of planning and for getting the people out the back door. You are doing everything you can just to deal with the increasing influx of warehousing these people and that's going to be a major state problem that we're going to have to be looking at in broader terms.

DIRECTOR WHORTON: Some of the other actions that have taken place since the last meeting, the Washington/Wyoming inmates, when we did have spare beds, they have departed. The last one departed in August of 05. We have opened the Casa Grande Transitional Center and Greg Cox is going to talk about that. During the last minutes you will notice that there was discussion on the grievance system that is under development and getting close to finishing, that has been implemented and is working at this particular point in time. I mentioned in the context of the ARs the development of our information system. That is under way. It is on budget, it is on time and Lori Bagwell will be talking the specifics about that under another Item. We have moved the Training section of the Department underneath the Deputy Director of Operations, it previously was under a Personnel/EEO area. We believe because the overwhelming majority of people we have trained are Correctional Officers that should be an Operations issue and we believe that we are more effective. We are actively recruiting, we are changing our Personnel Trainers over requiring that they have correctional line experience where that was not the case in the past, so we want people with experience in the business doing the training. In an effort to improve our creditability with the Legislature, we have restored staff to their authorized positions and budgets where we have found that they have been moved previously. Where we have left them in those new positions or those new areas, we've have gone back to the Legislature and adjusted the legislatively approved staffing chart and in the instance where positions were created out of relief factor, we closed them in order to deal with the overtime issues. Frankly, I think we just made it on our Category 01. You mentioned Governor external audits. I'm a great friend of the Governor's Audit Division. In my short tenure I have requested two audits. We firmly believe in the utility of audits and how helpful they can be from a management standpoint. The auditors have completed an audit of the relief factor. They are in the process of writing the report as we speak. I have requested and they have agreed to audit two of our major programs, the WINGS and OASIS programs, the Residential Treatment programs that we have at NNCC and SDCC so we can get an idea of their effectiveness and their efficiencies. We currently have an LCB audit underway within the Department. They seem to be focusing and correct me if I'm

wrong, on the fiscal aspects of Medical and the Pharmacy and also on payroll issues. We have a new Medical Director, Dr. Bruce Bannister. At the present time, we are looking towards accreditation with the National Counsel on Correctional Health Care (NCCH) for the Ely State Prison and the SNWCC. The Fiscal staff assured me they are able to find the funding to bring those auditors into the Department. We currently have a person in charge of that audit. That person has done training. We have assigned individuals as the Audit Coordinator at both of those institutions and that effort is underway. We expect to have the auditors in the Department in a little less than a year to actually come in and look at our operation, documentation and policy to accredit us. I think accreditation is an excellence way of having credibility for our medical treatment facilities and it is a way of ensuring that people understand that we're doing what we are suppose to do. Other than that I'm available for your questions.

GOVERNOR GUINN: OK, thank you. I want to move on to the next Item. Action on the minutes of March 23, 2004 and June 8, 2004 are approved by the Board.

DEPUTY DIRECTOR COX: Casa Grande Transitional Housing (CGTH) consists of a 28,000 sq. ft. administration building containing NDOC Southern Administration Offices, the culinary area which seats 254 inmates at a time, the medical room, and the inmate store. As of this date there are 307 currently residing at CGTH. This facility was initially a 200 bed that went to 400 beds. The two housing units are 26,000 sq. ft. each consisting of 100 four person living units each for a maximum population of 400 inmates. Each housing unit has two bathroom areas, two shower areas, two laundry areas, a library, and a common/activity room area. The outside exercise area is one acre consisting of two covered patios/shaded seating areas, one full basketball court, one volleyball court, and one uncovered seating area. The total land is 7.34 acres. Since its opening in December 5, 2006, CGTH had 25 escapes in six months. Of the 25, we've apprehended 23. We did that basically with the direction of the Director in establishing an apprehension team in the south. We've been very successful in capturing the walk-aways with help from Metro and other law enforcement agencies.

GOVERNOR GUINN: I Think it's important to explain walk-aways because I had to teach myself because I didn't understand. We've had a few walk-aways since I've been here. The thing that most people don't understand is Casa Grande is a great program, now, can you find some faults with it? Sure. Are there enough jobs? Not always but we've been able to go there and say here's a mechanism. To get a job today is difficult for many people especially if you've been locked up. Casa Grande now is a real opportunity to be able to train for a job when they are released. They now have a chance to rehabilitate. It's not a prison, it's more like a motel. People have to understand, these individuals have a different mindset than what most of us would have, but not if we would have been in their circumstances. A walk-away is related to an escape and then you bring them back and then they have to go back for another year or so. It's difficult for them to make that adjustment.

ATTORNEY GENERAL CHANOS: The electronic technology that we appropriated in the last Board of Examiners meeting. Is any of that available for this?

DIRECTOR WHORTON: No, that was for the Southern Nevada Correctional Center. We could look at that to be used for Casa Grande for the future. It's really difficult. If I would

talk about a criticism of the program, I would indicate that again, and Department wide. We need more programming to prepare people for their release. It was originally presumed that there would be a program component for this facility but the way it's been capitalized we're dependant upon paying the mortgage, so to speak, with the inmate assessments. That's hard to do. We have got to get them to work and we have got to get those assessments to pay the bills. This state takes a very conservative view of how that's going to be done. We would like to do more programming. That might prevent some of this but we just don't have the opportunity. Even when we get to the point of having the facility, it's tough to do.

ATTORNEY GENERAL CHANOS: On this whole thing and just the point you touched on Governor about rehabilitation, society normally looks at this as we're providing some benefit to the inmate population and there is a resistance to providing a benefit to inmates who has done something wrong. I think with the increases in population and hundreds of millions of dollars being spent to warehouse these people, we need to start as a state looking at this that it's not in the inmates' best interest that we rehabilitate them, it's in the state's best interest that we rehabilitate them.

DIRECTOR WHORTON: Absolutely. That is what has been called in the past the conservative dilemma.

ATTORNEY GENERAL CHANOS: It's like its penny wise and dollar foolish to not spend money getting these people prepared to reenter society and then spend hundreds of millions of dollars to warehouse them instead because we don't want to spend 10 million dollars to rehabilitate them and get them out.

DIRECTOR WHORTON: Realistically, to a large degree, this is a community problem in the sense that we did not create these individuals in prison. They came to us from the community and to some degree these issues need to be resolved in the community.

GOVERNOR GUINN: We get very little money from the process of General Fund. How we really get the money, if you have a job, they have to take a certain percentage of that to help pay for their building but they still can save a little bit. That money is coming directly out of them. Did you read the paper this morning. Look at California. Arnold Schwarzenegger said we have a problem in the prisons. Sure you do. They have had the toughest lockup laws and then we came along and now our lockup laws are tougher than theirs and then people don't want to pay the bill. They need 51,000 new beds in the next 15 years, that's 3,400 a year, that's over three prisons and that's huge. When you set up certain Truths in Sentencing and the acts of law says the judge has no flexibility, everybody gets treated the same for that. We see that when we go to the Pardons Board. I believe in rehabilitation because that's the only way your going to save these people to some degree, but is it 25 years? Those are tough decisions to make because society says lock them up. We'd better finish with Casa Grande, we're pretty familiar with it unless there is something that you see is a real issue that we need to give serious consideration to the budget to make sure it continues. I think it's an outstanding program.

DIRECTOR WHORTON: Frankly Governor from an operational standpoint, if you don't have any walk-aways then they're all locked up and that doesn't work.

DEPUTY DIRECTOR COX: We have gotten with the community and, also quite frankly, a lot of parents have told their sons to return and they've walked back in. We have had that happen a number of times. Out of our total of breakdown drug violations, 13 have been positive for meth. We do presumptive drug testing and UAs on that population. Our rate is very high, that is to protect the public and ensure public safety. We've had alcohol violations, 14 of those. What is really clear is that we've had 629 inmates in there. So overall, the program has done very well. It has been successful. As the Director said "Do we need more resources" yes, we do. We would like to put more resources at the facility level prior to getting to Casa Grande, prepare them better there before they come out to that type of community facility. When I talk to people in the public they discuss this. The percentage is very low on walk-aways compared to those that have been successful. It's a reflection with them and if you look there is no correlation concerning the walk-aways or the meth. There is nothing you can look at specifically by age or any factor that says this inmate is going to not succeed. There is absolutely none that we can find. We've got some things with Parole and Probation going on, with the Attorney General's Office looking at reviewing a proposal as an intermediate sanction for someone rather than coming back into the system, we could use Casa Grande as an intermediate sanction. There is a total of 307 inmates today. There are 400 beds and we've had discussions also with Clark County in regards to some beds that we could lease them. Our orientation base time is two weeks. Our monthly average population from January 06 to June 06 has been 226. Again today, it's 307. We have increased the population with our classification system, it seems to hold between 250 and 300. Staff there do a very good job. They get out in the community. They check on these individuals at work and again, the vast majority of inmates are doing what we want them to do. They're working, they're coming back. Several of them have very good jobs. We got relationships with 60 employers in the valley and that keeps expanding and of course there is a number of employers that we just can't simply give them enough inmates; different pipeline companies, different resorts, different companies throughout the valley that have been very helpful to us as a Department and for the state and citizens of the state. I would like to reiterate the fact that the vast majority of the inmates, they are succeeding and quite frankly with little resources and we'd like to have more prior to them getting there.

GOVERNOR GUINN: Greg, so we can move along, let me ask you this question just listening to you here. I know it's pretty much self contained. We have a lease that basically we're paying in order to pay off the bonds. Would you Glen bring us back something for the budgeting process? It seems to me that you could augment that in a very substantial way if you could get a proation of a person who is released from prison that would have stayed in prison for the last 120 days of their time but come to Casa Grande and you get your allocation out of that "average \$20,000" on a prorated basis, it would help you transfer, cause your taking them over here and they are paying 100 percent, if you would have left them there, your paying 100 percent out of your budget. If we could get the Legislature to, they can do that, we can't do it. I'd do it in 30 seconds if I could do it and say OK you move from High Desert and your going over there for 120 days, I'm going to allot your 120 days cost to go over there to help get you fortified like the Attorney General is talking about and it didn't cost us anymore other than just saying "let it fail". We got too many that are being successful coming out of there. If we could get the Legislature and we would propose them much like we did with the Drug Court where we went there and got some money from the Legislature to say that a judge, if he had three people stand in front of him and he could keep two of them at home because he had \$180 a month to get some guidance and help and had a place for him to

live, but since he didn't have anymore money he sent the other one by law to prison and he's the only one that could keep him there, then we were able to say look it's better for you to let him have \$180 a month to leave him at home because if you send them to us we know it's going to cost about \$20,000 if he or she is healthy. So, we did get some money released from the Legislature to help Drug Court which I think has been a fabulous program.

DIRECTOR WHORTON: We can do that comparison.

GOVERNOR GUINN: Well then do that comparison and then let's talk about introducing a law. We should get it drafted and get going on it and then send it over there and make that a part of our program in some of these early release programs outside the prison but still under custody 100 percent. I know you have a lot more to say about that but if we don't move along here, I don't want to miss my budget meetings later on, they're more exciting than this. If anybody that is here that hasn't been down you ought to go visit Casa Grande. It's a phenomenal program and I would hope that it just continues to grow and get better. I know it has its growing pains but you just to keep going and we're proud of what has taken place there.

DEPUTY DIRECTOR COX: Right, some of our best advocates are our neighbors around that facility and that's a fact.

GOVERNOR GUINN: OK, let's move along to the Nevada Offender Tracking Information System (NOTIS) report. Lori, you got that?

LORI BAGWELL: I think you have a handout in front of you. I will give some key points for you. The Department was successful last session in getting authority to purchase a commercial, off the shelf, inmate tracking system. We have done that. We have contracted with Syscon. We are approximately 40 percent completed through the project phase. We expect to be able to go live with all components by the end of this fiscal year. We are currently in certain test stages for some of the modules. We're bringing them online as we can. The most exciting element for us is that it will change the business practice of the Department and bring us into the current timeframe of how we process paperwork as we will have one database that all information will be, as of today, the moment that you key it in instead of 24 hours. Everyone will have access in the prisons. That is the most exciting efficiency that we are gaining with this system is we will have up-to-date information for about 1,035 users. Again, the Department is coming out of the old days when we had ten computers. We have training plans that will be very aggressive to bring all of the officers up to speed to utilize this system. We're on budget and we're on target.

ATTORNEY GENERAL CHANOS: I would move to approve AR 100, AR 101, and AR 105 and hold the remaining items in abeyance until our next meeting so that we can digest the input that we've received with regard to those items.

GOVERNOR GUINN: Can we arrange, because if we don't watch out and have another meeting before the three of us are gone then it just falls into another wonderland out there. So let's do one in November, first of December. Take a look and check with our schedules and let's be sure we do that. It will get lost when you go into a whole new Legislative process.

DIRECTOR WHORTON: Governor, we'll begin scheduling on that right away.

GOVERNOR GUINN: Any further discussions on 100, 101, and 105?

SECRETARY OF STATE DEAN HELLER: Second it.

DAG JANET TRAUT: Excuse me, I'm sorry, we do have 101 is actually agenda Item VI and so we'll have to take it separately.

ATTORNEY GENERAL CHANOS: OK, so I'll revise my motion to move for approval for 100 and 105 at this time.

SECRETARY OF STATE DEAN HELLER: Second

GOVERNOR GUINN: It's moved and second. Any further discussion. All in favor say aye.

SECRETARY OF STATE DEAN HELLER: Aye

ATTORNEY GENERAL CHANOS: Aye

ATTORNEY GENERAL CHANOS: I'll move to approve 101 and hold the remaining items in abeyance until our to be scheduled November meeting.

GOVERNOR GUINN: Any further discussion? All those in favor say aye.

SECRETARY OF STATE DEAN HELLER: Aye

ATTORNEY GENERAL CHANOS: Aye

GOVERNOR GUINN: Any more comments from Board members? We now have time for our public comment and we would ask the people to limit the comments to five minutes if possible. Any public comment? You want to step forward and identify yourself?

CONSTANCE KOSUDA: I'm from Las Vegas. I'm speaking as a private individual and an inmate advocate. I'm one of the people who submitted approximately eight pages of objections to the proposed ARs. By training, I'm a trial lawyer. I'm retired and from New Jersey and most specifically we objected to 100, 101 and 105. In our opinion they give the Department and the Director much too much authority, much too much power. I've reviewed all of the ARs even though they were on the web only as of Friday and I had requested that the meeting be telecast to Grant Sawyer so I won't have to come up here. I'm a disabled senior citizen as well and I come to the room and I noticed that all of the equipment is here. I was told by your secretary it hadn't been connected so I thank you for your remarks that future meetings, I believe you said, will be telecast to Grant Sawyer.

ATTORNEY GENERAL CHANOS: No, I don't believe so.

GOVERNOR GUINN: That's not what I said, I said I don't have any objections of telecommunications but I think what we're trying to preserve is the responsibility and the right

that we have under the existing laws. It's entirely different. If this were a meeting where we have our other regulations, and we have thousands of them in the state, we televise those. It gives a false impression that if you go there and take a lot of input from people that don't have the understanding on say a prison system and the safety aspect of it and sometimes we can't discuss the safety aspect of it, it looks like your not paying attention but in all the regulations people really pay attention, we try to do the right thing and that's why we've been exempted from that. Being from New Jersey, I don't know what their rules are there but this has worked fairly well for us and we don't want to get on a track of saying we're going to open this up for everybody to talk and never take anything from them, input wise, we're trying to say to you that if you've got some suggestions, now I've read some of your suggestions, and I have to tell you, you and I are going to have a terrible disagreement on some of those objections

CONSTANCE KOSUDA: That's OK.

GOVERNOR GUINN: because you are an advocate for the inmates without due consideration to safety and excreta that we have the responsibility for and you don't have the data that our administrative people have, because I don't have all the data he has in terms of gang participation, association with individuals, excreta, so a number of those things you said in there I want to be sure that you understand that at least while I'm sitting here your not going to get me to change in terms of you having that authority over a Director who has a responsibility for a prison system.

CONSTANCE KOSUDA: Well, if I may, when I hear the Director say that these are based on concerns of safety, I for one question that because I visited the women's prison with Assemblyman Munford. The women there are living, in my impression, and I have no vested interest, I have no one in any Department of Correction facility, I'm here primarily out of my spiritual beliefs and my beliefs in compassion for all human beings and proper treatment which includes constitutionally guaranteed rights to medical treatment. If women are in danger of dying, for example based on information and belief in the testimony that I have been a witness to and the information that has come to us from DOC employees, then their safety is in danger. I think this is based primarily, and this is what we as a group are objecting to, concerns of power on behalf of the DOC. I say that with all due respect, I'm just being honest with you. Many of the ARs speak specifically about an inmate either signing a contract with the DOC, they call it agreement or attending a medical treatment hearing or a mental health hearing or a disciplinary review hearing without the presence of an attorney, without anyone there to guide them other than an appointed legal assistant and we believe that violates the legal rights which continue in the person of the inmate. So, there is substance to the legal rights as human beings we believe are being violated.

GOVERNOR GUINN: There is, but we try to, I think at least from what I look at, to be as fair as we can under the system of a prison system under the lockup method. I believe and you can correct me there's been something like 80 or 85 thousand of those hearings? Your just one person that's willing to come in and sit with them but how do you bring in an attorney for every grievance there is, and you need to see some of these grievances, you've got to remember I look at some of these grievances and some of these problems all of the time when they come before the Pardons Board and the people who come before the Pardons Board have been in prison for a very good reason, for a long time. Now I vote for a number of those people to get a pardon or to get consideration because I look at it and some of them have been

in prison for 25 years and maybe they have three or four violations. I think that's a pretty good system and we see a lot of these people that are coming through. Some people don't come through because maybe they've got 30 or 40 violations in the first three years. There is just no way that you ask us as a prison system, and I wouldn't be willing to do it I'll tell you right now, that we're going to have that kind of a court system inside a prison setting. They've had their adjudication day. Now it's a matter of us trying to make it as best we can in terms of rehabilitation, training and serving out a sentence that they received. In some cases we go far enough with Parole and Probation and Pardons that they don't serve out some of those. I don't know of anybody that served out three Lifetime sentences. They get to work them off. We create good behavior days and so some of the things that you wrote there, you're philosophy is that it's not a privilege for an inmate to have a job, it's a right.

CONSTANCE KOSUDA: Correct. Correct.

GOVERNOR GUINN: Well, you and I aren't going to agree.

CONSTANCE KOSUDA: This is part of rehabilitation. Most of these inmates have families. If they could send money home to them, that would be a step towards their rehabilitation and a lesser drain upon the budget of this state.

GOVERNOR GUINN: That's what we have been sitting here talking about. That we do a lot of that.

ATTORNEY GENERAL CHANOS: There is a difference between arguing that something is in the best interest of the population and/or is in the best interest of the state and arguing or asserting that someone has a legal right to something. I've read all of your emails and in your emails you make certain assertions, legal assertions that are simply inaccurate. You claim that this meeting violates the Open Meeting Law, that's inaccurate. In fact, as the ACLU who I would assume is supportive generally of some of your positions

CONSTANCE KOSUDA: They do not speak to me sir, just so you know, they speak for me rather.

ATTORNEY GENERAL CHANOS: I understand and just so you know in their July 10th letter, they indicate we are not in any way suggesting that this meeting is held either in bad faith or in violation of the Public Meeting laws. That's the ACLU so their position is consistent with our position.

CONSTANCE KOSUDA: I know we disagree with them on that and other points as well.

ATTORNEY GENERAL CHANOS: All right. So I think that point that, at least from my perspective, it's great to advocate for the prison population and for reform of the system but you may find that you're more successful in your advocacy if rather than say these are rights, let alone legal rights, you say instead that we would all benefit from this new positive direction. That would be my only comment to you.

CONSTANCE KOSUDA: Sure, certainly. I would only say in closing we're having a hearing on July 20th at the Grant Sawyer Building. It's going to be held by Assemblyman

Munford. I know you've all been formally invited. We're going to have testimony presented which will be then be presented to the Legislature. I know Flo Jones has written to you Governor Guinn and to the parties on the Board concerning her distress that she could not be here today. She was unable to even fly. Many of the advocates live in Las Vegas in Clark County. She has a pacemaker, she may have a broken bone excreta but she and I have also been present at many of the hearings at the Grant Sawyer Building specifically the hearings concerning the Legislative Counsel Bureau and the recommendations that have been made by the Legislature to your office and to others concerning the findings of the ACR 17 Committee. She is concerned and she asked me to bring me this to your attention at the hearing today because she couldn't be here, that this procedure today is somewhat of an end run around the recommendations that were made by that Legislative committee. So, she finds it unfortunate that this first of all could not have been televised, could not have been made accessible to the somewhat close to two million people who live in the southern part of the state many of whom wanted to attend and that this had to be done with such speed without an opportunity for most of the advocates to review the many, many ARs that were only placed on the Internet last Friday when some people have been requesting that, at least the old ones, for two years. That's all. Thank you.

GOVERNOR GUINN: Well, I appreciate what you were saying but I think what we did here today is that we took some action so the Department can run under the responsibility that we have under NRS requirements and if there is any committee over there that has our hearings is all they need to do is put together their budget process and they can change anything they want but right now they send over a letter saying "well, we think there ought to be some changes". Well, what are those changes? They're in the health care sure. Do we need more facilities at the women's prison that some of you went to? Absolutely. We are talking about what today is all we needed to do is to get them to vote. I receive all kinds of programs from them like that and then I don't hear from them again whenever the budget goes over there. So, I can tell you that we're willing and open to a lot of these things but by the same token, the action that we've taken here today is not to get around anything. We didn't have to say let's have another special meeting before this to make sure we follow up on this and you have now until November, the 1st of December to go over this to get your input in and Flo can do the same thing and you can present it to us and these people will take a look at it and we'll have another meeting setting like this. In those kinds of cases, I don't mind having it on a video, but we're not going to put on video any of the procedures that relate to safety and excreta. We are not going to give away the responsibility of a prison Warden to run a safe, appropriate facility for all of the inmates who are in there out of respect for at least their good deeds that they're doing in prison and the families that they have. When somebody goes off to prison, believe me, they want to come home and so do their families and that's a responsibility we have but if you want to take and look at what we have been able to do here today, administratively, we're not going to hire you or a group of individual public people to come in and then run the prison. We're going to hire the staff and have them take that responsibility. I think you will see that there was a lot of answers given by the staff when they went and Jessie Jackson visited the prison and went to the prison and he has not been back. He did not follow up and say what he thought was wrong when he went there that it was wrong. When you talk about medical facilities, it was our Legislative body historically who put prisons in the rural areas. Now I don't believe there should be a prison in the rural areas. I think the prison should be where the population is so there can be visitation; there can be access to medical support. It is hard for us whether you know it or not to get doctors to go and live in some of these places. We have

to relocate prisoners as quickly as we can to other locations where we can get them medical services. Some prisoners will say "I don't get my medication". I don't believe you or any parent would want someone to be issued a full bottle of medication in a prison. They get their pills each day because you can't give them a full bottle for themselves and for the safety of other individuals getting access to that. It's a very simple process to come through and get the pills. We appreciate your comments. We probably would agree with some things your going to say and we're going to disagree with some and hopefully you'd feel the same way but there is nothing here to circumvent anything that went on any place. First of all, we have a separation of powers in this state and no Legislative committee and Legislator unless they pass law can tell an Executive Branch or Judicial Branch what they are going to do because we have the responsibility of implementation. That has worked quite well for us over the years, we don't always agree, but certainly we listen to them. If everybody on that group comes in and they will take a look at our budget recommendations, I guarantee you that you will see a lot of money, at least in my preliminary budget that I will put together before I leave, that we'll have a lot of money in there for the prison system and I want to know where you are going to be and those who are helping you to help us get that money. It's just not from a budgeting process; it's from a 120 day process of open hearings over at the Legislative body. So, that we would hope you would do. Thank you very much. What have we got a couple of more?

BARBARA ANN FLETCHER: I'll be brief. I'm representing my son who is an inmate at Lovelock prison. This my first time experiencing a committee like this and it has been very informative and I thank you all for your patience too. I just wanted to make a remark about what Constance just said about the prisoners being represented in the prison system. My son unfortunately had a cellmate put in, and my son is handicapped due to his DUI accident that put him there, he is very handicapped, anyway, a cellmate was put in his cell that beat him up and my son got 10 days and he got 10 days solitary and there was a hearing at the prison. He was not allowed an attorney to be there to represent him. He was not allowed to even ask questions of anyone, the guards that were saying that he was in a fighting mood. They said "no that's not the way we do it here," so I feel his legal rights were usurped terribly and as of this date he is being charged \$5,000 for this incident. I don't understand about the charges. He's been in there two years and it's a real awakening to this whole system but I just wanted to mention that.

DIRECTOR WHORTON: Governor may I, if you have individual questions about the status of your son or those kinds of charges, you can call the Department at any time and we can talk individually about those kinds of things if you're interested in it.

BARBARA ANN FLETCHER: We can do that?

DIRECTOR WHORTON: Sure. Absolutely. We have staff there every workday, every Monday through Friday who are there specifically to get you information or to direct you to somebody who can give you that information.

BARBARA ANN FLETCHER: Is it possible to make an appointment to come and speak with you?

DIRECTOR WHORTON: We will have to see, you might need to talk with my secretary. I'm terribly busy but I do talk to parents many times and if not you can certainly catch me on

the phone. But, you have to understand that most of the people who have the answers for you are either at the institution or on the staff. I can at least get you to the right people.

ATTORNEY GENERAL CHANOS: First of all I'd like to thank Ms. Fletcher and Ms. Kosuda for coming and providing us with their comments. I understand with regard to Ms. Fletcher that it's maybe somewhat of a tense and anxious moment to appear before a body like this and especially with regard to your son who you know is incarcerated and I appreciate the fact that you would do that as a mother. There is a procedural discussion going on here and I would like to provide some clarity for the record with regard to certain procedural issues. Ms. Kosuda makes a number of arguments in her emails regarding the legal right to representation and the legal right to teleconferencing in Las Vegas and how this meeting somehow is an end run around the Legislature. All of these arguments are merit less, legally and substantively merit less. The Legislature creates this body to do exactly what it's been doing and to conduct this meeting in exactly the way that it's been conducted. The Legislature specifically provides for an absence of public input in this context. The proper forum for Ms. Kosuda to raise these issues is before the Legislature. This body is not even empowered to circumvent. If we were to do what you are asking us to do, we would be circumventing the Legislature. Rather than doing what we're doing which is complying with what the Legislature has instructed us to do. So, it's important I think for the public to understand that what this body has done today is in compliance with state law, number one. Number two, if you don't like the state law then the way to change the state law is to go to the Legislature and ask them to change the state law. Rather than make unsupportive accusations about this body not following state law which I believe as an advocate and as a lawyer Ms. Kosuda you have a responsibility to be accurate in your legal assertions. With regard to the lack of representation in the disciplinary hearings within the prison, there is case law that indicates that they are not entitled to legal representation in that context. So again, the law is being followed. It's not that your son's rights are being violated because he's not being given representation in that hearing; he is legally not entitled to representation in that hearing under existing law. The proper way to address this and I can understand why you may not procedurally understand that, but rather than lay fault on this body for somehow not complying with the law, the reality just for your information is that this Board and the prison system are complying with existing law whether they're the existing statutes of the State of Nevada or the existing case law that governs the conduct of those hearings. What you have seen occurring is in compliance with law. If you don't like what you've seen occurring then you need to change that law rather than say that this body or the Department of Corrections is not complying with the law because they in fact are. Just so you have that clarification.

PAIGE THIE: You have received our memo about the issues before the Board today and I hope that you recognize that the tone of the letter was in anticipation that all of the ARs would be considered today and the ACULs deep belief and commitment to democracy and the democratic process. I honestly would just like to take the time, a very short amount of time, I understand that everyone has places to be, to thank you actually today for postponing consideration of those ARs, for posting the ARs online for public review so they can take a look at those and hopefully get back to you with comment and we would actually encourage you to teleconference that to Las Vegas. As noted in our memo there is extreme interest in these issues in Las Vegas. The ACR 17 meeting has obviously been teleconferenced to Las Vegas and there has always been at least as great a participation in the south as there has been here in Carson City. So, in the future, whenever your next meeting is scheduled in November

or December and hopefully we can stay in fairly close contact and we can let our people know so they can be here for that meeting that it be teleconferenced to Las Vegas. Again, just thank you and we appreciate your interest in good governments and the democratic process. Thank you.

GOVERNOR GUINN: Thanks Paige.

ATTORNEY GENERAL CHANOS: Please thank Mr. Peck for providing us with those comments and we will digest them and we will consider them before November.

PAT HINES: I think I've been at this longer than most of you in this room and I'm very pleased to say that we are in agreement on one thing and that is that policies and procedures are important and I'm here today with concerns about ARs and I put this out that I would like to have made a part of the minutes (Attachment 1). I'm just going to go by this. I'm not going to hit everything on here but just something as a guideline because some of the things in there I think need to be discussed. What I've just given you; I'm just going to go through some of the things more than others. In the first paragraph, second paragraph actually, I would like a rationale why were 100 and 105 pulled out and I mention in there that the many times that I've been in these meetings it has always been a blanket motion to approve all that was presented and that was the end of it. Could you tell me why?

DIRECTOR WHORTON: Those two were pulled out because they affect all the other regulations and the intent was to provide an opportunity to talk to the Board about the fact that we wanted to have policies changed. We wanted to have policy, we wanted to have procedures, we wanted to have an audit process and without talking about all the other ARs, we wanted an opportunity to speak specifically to these because we felt that they were important as a process and that they were important to set a ground work for the development of the Department in the future to have policy that is assessable, to have policy that is understandable and to have policy that is going to have a life that is reasonable given the fact that we are developing an information system that is going to change a great many business practices especially in the area of institutional operations and classification and planning.

PAT HINES: Thank you for your explanation. I don't think I can agree with it. I think we're going backwards to ways we were doing things eight or nine years ago that didn't work and the unfairness to inmates is very apparent and that I think the ARs are what they look for, for help as much as you do, and they certainly aren't being written with their consideration in mind. I have in paragraph three that I would like to speak to those ARs at the time that they were on the agenda rather than a public comment because it's moot now, you've already passed the rules. The three other requests you can read them there that these be made a part of the minutes and the ARs listed on the agenda but not available for review on the website be taken back so that is mainly going to be done and I had some ARs to be returned by the committee to the AR review committee and that's a concern of mine that we're getting away from. We did it with the disciplinary review committees. You've done away with the committee and you've made it one person for disciplinary hearings and quite often this is done by the very staff person who has put in the complaints and there is no representation for the inmates so I would really like to see the AR review committee remain a committee affair instead of just one person making all of the decisions.

DIRECTOR WHORTON: If I might I think I can answer some of that. The issues that you bring up are issues that have existed for many years. I mean, these are not items that were changed in the new ARs, you know the composition of grievance committee, AR 740, that has not been changed, the disciplinary process with one individual that has been enforced for many years. I guess if there is an expectation that these things have changed, that's not the case. It's just a matter of clarification.

PAT HINES: They've been changed. The disciplinary has been changed for over 10 years.

DIRECTOR WHORTON: Yes, that's the point it's been 10 years.

PAT HINES: From the viewpoint of families and inmates, Mr. Whorton, it is not working. I'll be glad to talk to you about that differently.

GOVERNOR GUINN: You said one thing that interests me and I want to get clarification from Director Whorton, you said that in many cases a disciplinary hearing is held by one person and that person sometimes is the individual who made the, not made the complaint from the prison side, but the one who was the person that reported the infraction like the guard. Is that what you said?

PAT HINES: And it's the disciplinary hearing officer, I believe, has to be a certain level, is that correct?

DIRECTOR WHORTON: That's correct.

PAT HINES: I've forgotten if it's level 2 or a lieutenant or something like that.

GOVERNOR GUINN: But it wouldn't be the guard that's in there that sees two young people fighting in a cell and then he writes it up and he wouldn't be the hearing officer, that's what I thought I heard you say. Because that's not the case right?

DIRECTOR WHORTON: Right.

GOVERNOR GUINN: Because that wouldn't be fair at all.

PAT HINES: Well, the disciplinary actions and all of that go through the caseworker to the inmate is that correct? With hearings coming up and so forth and so on.

DIRECTOR WHORTON: Yes, but you have an employee that would report an infraction that they witness or gain knowledge of and then you have a hearing officer that will adjudicate that and then through the grievance process using AR 740 an inmate has an informal level and two formal levels to appeal the disciplinary hearing.

PAT HINES: And in the meantime while he's doing all this and the ARs are lost by the staff and the time deadline of 25 days for the first level has gone by and the inmate has in the meantime written two or three kites to see what the status of his grievance is, then he gets a notice that says "Due to you having not meet the time constraints your grievance is moot."

DIRECTOR WHORTON: And that's true and that does happen sometimes and

PAT HINES: But, there's no tracking system.

DIRECTOR WHORTON: that's why there is a mechanism in the grievance process that allows you, when the timeframes haven't been met, the inmate can advance it automatically to the next level. We understand that, that's why we put that grievance system in effect so that every month I get reports of who has grievances overdue and that this gentleman has to intervene (Dennis DeBacco) and find out why.

PAT HINES: So you're saying I want to get this straight so I'm hearing this right, that if the time level runs out and it's not the inmate's fault, that he

DIRECTOR WHORTON: that he can go to the next level.

PAT HINES: can go ahead and advance to the second level because that has never been my impression. First time I've heard that, just like it's the first time I've heard what AG Chanos said about the law. Next point that I wanted to point out was in the last paragraph on that first page about AR 19, I went through the minutes of the March 23rd meeting of 2004 and I was the one that brought up in that meeting that AR 17 had been off the website for many months at that time. This is two years later and I have looked it up last Tuesday and it was still off the Internet.

ATTORNEY GENERAL CHANOS: You said AR 17 do you mean AR 719?

PAT HINES: AR 719, I'm sorry and that's just unacceptable and it was not on the approval list for this meeting. There are just little things like this that are very frustrating and I'm sorry AG Chanos, there's just a lot of moral things that maybe aren't civil rights and justice and all that but there are some things that should be done with a little bit of compassion and caring and protocol.

ATTORNEY GENERAL CHANOS: Absolutely, and my only point is, is then let's talk about why they should be done for moral reasons or why they should be done for the best interest of the incarcerated population or why they should be done for the best interest of the state. But, let's not come to meetings and say that things are being done illegally when they're not. That's my only point. I don't disagree with many of the things that you're saying.

PAT HINES: I have not said a word about any of those.

ATTORNEY GENERAL CHANOS: No, you have not. I just wanted to clarify my position.

PAT HINES: I have not sir, now don't put words in my mouth, I do bad enough for myself without help.

ATTORNEY GENERAL CHANOS: Can we get any kind of feedback on AR 719 as to why that is in the state of limbo.

DIRECTOR WHORTON: Yes sir, we have obviously, given the fact that I've been engaged in this in the relatively short time I've been back, and you can see what we have

accomplished. Our interest is in having timely regulations. We have regulations that are more than 10 years old. That's not appropriate and we're trying to get those fixed. Actually, a lot of the revisions that took place were under my leadership before when I was the Deputy Director and when I left that kind of went away and I've resurrected this and obviously I have a very, very special interest in having timely, useful, and successful policy and to make this thing work and to make it legal and we're happy to look at 719 or any of the others out there as well. I mean that's why your not going to hear, and Pat you and I have talked a long time, we have a good dialogue and I would encourage you to use that.

PAT HINES: But, I think that two and a half years is more that adequate and

DIRECTOR WHORTON: I do too.

PAT HINES: the visiting AR is one of the ones and with the former Director I talked to her about putting the ARs on the website and they did a little survey and even the girls that started out with the Family Services Center were delighted because they really felt like that the number of calls they got for ARs diminished because people could get it on the website and I made the pact that I would try to get ARs for people or direct them in the right direction to do that without having to waste the time of so much NDOC staff that has been done before. Are you eliminating the effective date Mr. Whorton? I'm on 100 right now. Some of the things like purpose and the effective date and mandatory review date are being removed in this new formant.

DIRECTOR WHORTON: Well, the effective date is on there. We are just delaying the effective date on those three to give the Department time to implement it. So, it's going to be implemented on August 12th. The effective date that was originally anticipated was going to be in June because we had anticipated an earlier meeting. The effective date is still there.

PAT HINES: When are the inmates notified of these effective dates because I

DIRECTOR WHORTON: Just as soon as the staff are.

PAT HINES: because I have information on a case that is pending right now that I think the NDOC is going to lose where the inmate was evaluated on a certain incident on an old AR because the new AR had never been put in the law library in the facility that he's in.

DIRECTOR WHORON: Well, I have to tell you that's why those kinds of issues are exactly why you see AR 101 in there, that audit process, so that we can go through and correct those kinds of issues and frankly previous administrators and administrations did not do that. It's this administration who has made that commitment and has brought that forward. So I agree with you on that I don't like it any more that you do.

PAT HINES: Well I think maybe our disagreement on that Mr. Whorton is that I don't think audits is the only good thing that will do that. I think the accountability and responsibility and people monitoring other people will do it just as well.

DIRECTOR WHORTON: Well, that's what an audit is.

ATTORNEY GENERAL CHANOS: You are way beyond your five minutes but since we have big hearts.

PAT HINES: Well, I'll just take the same amount of time some of the others did, then thank you, 17 minutes. On the website, the reason the ARs are not available is because the space that is there for you to pull up the website, many of them have been under revision for months and months and months. When under revision is there, on the website, you can't pull that AR up and that is a fallacy and several of us sat down and discussed this and we think that if you would just leave the activated AR on the website, but we like the temp, the idea that it is temp and I have here, you never know what temp was but anyway put the word temp behind the title of the AR if it is a temp, put under revision in that same area and leave the AR available on the website because I am not going to be in this business very much longer and I'm not going to keep the bulk of your calls off of you anymore, so that was a suggestion that we made. Also, this web didn't come from me but the more I think about it the better it is. Number 7, on the back of all of the ARs where it has the Director's signature and the date, why is it that when they're posted on the website or that someone has sent a copy of it, you get a copy that doesn't have this information on it. I think it really gives a really good working relationship if people like me can see that signature.

DIRECTOR WHORTON: Pat, I agree that these are issues, I don't know if they're issues necessarily for the Board, they're issues for me and issues for Lori and Darrel, but I think you understand that we're open for hearing those kinds of things and we can talk about the limitations of our current information system if you want but I don't know if that's a Board issue.

PAT HINES: You're always open to input and all of this and yet decisions are made before the input is given quite often which is against the Open Meeting Law as far as my interpretation goes, but I have yet to see very few suggestions given to the NDOC put into action.

DIRECTOR WHORTON: It depends upon what the suggestions are again and the responsibilities that the Wardens and myself and Deputy Director Cox and all the rest of us have to assume. Sometimes they can be accepted, sometimes they can't.

GOVERNOR GUINN: Another important thing here too Pat is for anything of suggestions like you've got, I think this group who is sitting here, everything that we can get on the Internet today, we want to keep it as updated as we can. When you have a vested interest over here sometimes you'll get there and some things been done and it's not updated yet, we have that throughout the state because it's a large organization, it's complex and I think our directions, at least to the staff, and they know this, whatever we can put on the Internet, except for these procedures that relate to safety, I would hope they'd get it on there and I hope they can keep it update. It's a cumbersome process.

PAT HINES: I realize that but this morning I looked on the website to pull up one of the ARs and down at the bottom it says "last date updated 9/6/05". They need to be more frequent than they have been. The last comment is off of page 3, number C. You heard about a lot of complaints and a lot of letters about this meeting not being videoconference and the ARs not accessible on the website and I just wonder why you can't publicize this meeting, say the next Board. People can prepare for it. Put it on the website in advance of the three day

requirement by the Open Meeting Law and then put the agenda on three days prior to the meeting like they do for the Legislative meetings. Just alert that it's coming up for those interested and then put the agenda on when you can. In my last paragraph and I put it in writing, all of this, because I did want it a part of the minutes for posterity, is having citizen advisory committees for the NDOC. Many other states have them. It has reduced the time their staff has to spend on things, you get input. It's one of the best ways I know to have input and that every citizen advisory committee for the NDOC, Colorado, the Director of prisons designates three of his staff to be at that citizen advisory meeting and it's worked beautifully for them. Oklahoma has something similar to that. You already have inmate advisory committees in the list of ARs. I see nothing wrong with that inmate advisory committee at each facility giving some input into ARs needing to be changed. I just wrote in February before the ACR meeting came up to 32 pages to try to get input from them. Some of the best solutions for some of the problems I got from inmates. So I think your perspective for information sometimes is a little too narrow. Thank you for listening.

TAYNA BROWN: I would like to say that I support Pat Hines here. I attended this meeting or hearing two years ago in reference to some of the ARs and I had some concerns, and you don't even have AR 719, I'm sorry, 720 to the law library access or inmate legal access. It is still an ongoing problem. Inmates are actually not even going forward with their appeals because they have no knowledge, they don't know how to do it and they are losing appeals. A lot of the prisons, the law libraries, they have limited access that they can even get into it. It's not updated and they're just missing out on a lot of information. That was one. The other issue I had two years ago was the religious matters dealing with the Wiccans. I sponsor several of them and you probably know there is probably several suits pending on that. I am just wondering are they eventually going to conform all the prisons except for Ely on the religious matter of what they can and cannot have or are they going to just, one institute gets this, another institute gets that? One other thing I would like to touch on that I did not touch on is AR 537, and I think that this is very important to all of us, okay, because I don't think Governor that you're aware of what actually goes on in these parole hearings. I did attend one parole hearing on an inmate, I along with several other individuals. One was an attorney/friend who came in. I'd like to know did you know that the only the only question that was asked at this parole hearing, one and only question of this inmate, inmate Kline, "Are you appealing?" Are you appealing, that was it, his answer was yes and the reason I say that this is important to all of us whether you know this or not is that this is now pending in front of Judge Reed with this issue on this. What was it, in '96 I believe, yes, in 1996 Kline was told that if he stopped appealing his case he would get a parole. In 2004,

ATTORNEY GENERAL CHANOS: Where are you reading from?

TAYNA BROWN: The book that just came out.

ATTORNEY GENERAL CHANOS: What book that just came out?

TAYNA BROWN: To Prove His Innocence, I'm one of the co-authors. There's information in here that is all documented, it has been, or what is the word I'm thinking of.

ATTORNEY GENERAL CHANOS: So these are statements that you as a co-author are making in a book.

TAYNA BROWN: No, this is actually in front of Judge Reed, this what I'm about to read.

ATTORNEY GENERAL CHANOS: In what hearing and what day?

TAYNA BROWN: This was in 2004; it was taken before the Parole Board and asked one question. Are you still appealing? His answer was yes, he was thanked, and he left. According to the records of the NDOC, Kline will not be eligible for parole until January 2010. In that same year a Sun Valley man who was considered a category of the worst of a child sex predators was released to return to society. He had not appeals pending.

GOVERNOR GUINN: First of all let me say to you, you went to the Parole Board you say?

TAYNA BROWN: Yes, I attended that Parole Board.

GOVERNOR GUINN: Yes, but that's the Parole Board, this is a Prison Commission, so this is separate.

TAYNA BROWN: Well I know but it's just the Parole.

GOVERNOR GUINN: It's not germane to this meeting so we would appreciate it if you'll

TAYNA BROWN: Oh, but in a way it is because it's the N, they also, the other part that is pending in front of Reed is the NDOC records on the parole hearing.

GOVERNOR GUINN: That's alright, but this is a Commission on prisons, it's an entirely separate issue so I would appreciate if you'd stick to that. Our time is running out. We've been courteous but our time is running out. Some of us have got some other meetings we have got to get to.

TAYNA BROWN: Okay, well that's it; I've said what I had to say. Thank you.

GOVERNOR GUINN: I think if you've got some concerns you ought to go see the Parole Board on those issues there.

TAYNA BROWN: Well, this is in federal court cause it deals with, and actually its NDOC.

GOVERNOR GUINN: Well then you've done that, you've going to federal court.

ATTORNEY GENERAL CHANOS: A couple of things, first of all when it comes to substantive recommendations for improving prisons in the state, I'm all for hearing as much as we can. When you ask for things like posting more information on the website, great recommendation. When you ask for things like increase notice of meetings so that there can be increased participation or comment, great substantive, good recommendation. Even when you talk about videoconferencing accessibility I personally don't have a problem with that but when you make the argument that something is legally required or you're violating the Open Meeting Law if you don't provide it or you must provide it then I would recommend against it because we are not compelled to do that so if your advocating something because you're saying that it's a good idea and it's in the public interest to do it and there are good reasons to

do it, I'm going to listen to that for one, but when your saying something is legally required that's not legally required, then I'm going to make the point that it's not legally required and makes me even not want to have videoconferencing because I don't want to establish the precedent that it's legally required in response to your argument that it was when I know it's not. Whereas, if it were suggested and is just a good idea, I might be in favor of it. I would suggest that we receive more substantive, constructive input and less hyperbole in inaccuracy. Sometimes you do your clients and your cause more disservice by making arguments that just are unsupported. By saying things are legally required which aren't. I would ask that people keep that in mind when making their comments. Sometimes they are trying to do a good thing but they're going about it in a way that is less than advantageous to the cause that they're trying to promote.

GOVERNOR GUINN: Yes, accuracy is very important and if we don't have an answer we'll try to get it from the people who know so it's very important both ways. I got one letter, how many letters did we get regarding this subject today for teleconferencing after we've been doing it this way for years. Did you get letters, or who got the letters?

DAG JANET TRAUT: I got several emails and I believe your Counsel Renee Parker did as well (Governor: We got two) from Ms. Kosuda and from Florence Jones and from the ACLU.

GOVERNOR GUINN: So we got one from everybody that's here today except from Florence.

DIRECTOR WHORTON: Governor, I've been attending Prison Board meetings since the 1980s and we've never videoconference it. If the assumption is that the Department is being underhanded in the way it's doing something or the Board, that just doesn't exist.

GOVERNOR GUINN: Well, I'm not against videotaping any meeting but we don't do the Board of Examiners. The Open Meeting Law doesn't require it but it lends itself to saying you've only got it posted in so many public places. You can't get it in every place and if you do post it how many of those people go by to see where you've posted it. It is an issue. When it first came out, the media people would actually announce where it had been posted and they would announce where the meeting was but today there is so many meetings and that they can't do that because it would be a newspaper full of announcements like that. I do think that putting all this data and putting it on the Internet, and then you're going to have thousands of people who don't have access to an Internet or don't use it. So, it's not a perfect system but it's better than just saying we had a meeting and didn't tell anybody. If you have to cancel, it is a real burden to someone who travels a long way to get to a meeting. I've seen that in the Pardons Board, I've seen it at some of the other meetings and you try to give adequate time once you get there but you just can't say I'm going to give all day to this meeting cause you've got a lot of other meetings you have to be at. I'm not making excuses but I'm just telling you it's a two way street here. I don't mind putting anything on the Internet except anything that relates to safety, I'm just not doing it while I'm here.

COUNSEL RENEE PARKER: Governor, when we did receive those emails, Director Whorton authorized overtime last Wednesday, we had less than 12 hours when those calls and emails came in to potentially repost an agenda. At that time, nobody could give us a specific concern other than they had issues with circumventing ACR 17 or concerns about an Open

Meeting Law violation. The comments that came to me were similar too and we were investigating whether we were violating the Open Meeting Law. Director Whorton authorized overtime that night and they were all put on the Internet as expeditiously as possible.

ATTORNEY GENERAL CHANOS: Just two quick points. The Open Meeting Law is designed to provide sunshine, to provide transparency in government, to provide that the decisions that are made are made in an open forum where people like Mr. Ryan and others from the press can see what's being done, can report on it and communicate that information to the public. That's the purpose of the Open Meeting Law. We can't provide access to every corner of the state via teleconferencing or any other mechanism and that's not the purpose of the Open Meeting Law. It is to make sure that decisions are made in public. In regards to the ACR 17 Committee, the Legislature empowered this body to do exactly what it has done. If people have a problem with that they need to go back to the Legislature and have them make changes. Finally, Director Whorton, I would just like to commend you, I think your doing an excellent job and we have occasion to view the performance of many Directors of many agencies and I can tell you that you're taking the initiative to revise these Administrative Regulations in doing exactly what needs to be done for this state and I commend you on that. I would also like to point out that I've seen very much of a heart in you, at the Pardons Board meeting in particular. Nobody can ever tell me that you don't have a heart because I very much believe you do and I think your doing an excellent job.

DIRECTOR WHORTON: Thank you.

GOVERNOR GUINN: I agree with everything you said but no increase in salary. We stand adjourned. Meeting adjourned at 1:15 pm.

APPROVED THIS DAY 15th, MONTH OF NOVEMBER 2007

GOVERNOR JIM GIBBONS

ATTORNEY GENERAL CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER

Recorded by Dennis DeBacco, AR Gatekeeper
Transcribed by Susan Cochran, Executive Assistant to the Director
Nevada Department of Corrections

Attachment (1)