



STATE OF NEVADA
DEPARTMENT OF CORRECTIONS

Northern Administration
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MINUTES

of the meeting of the

BOARD OF PRISON COMMISSIONERS MEETING

October 13, 2009

The Board of Prisons Commissioners held a public meeting on October 13, 2009, beginning at 2:00 p.m. at the following locations:

at the State Capitol Building Annex, 2nd floor, 101 N. Carson Street, Carson City, Nevada and video conferenced at Grant Sawyer State Office Building, Room 5100, 555 E. Washington Ave., Las Vegas, Nevada.

I. Call to Order.

The meeting was called to order by Governor Jim Gibbons. The record reflects all members of the Board were present.

Also present Chief Deputy Attorney General Stephen Quinn, Senior Deputy Attorney General Keith Marcher, Director Howard Skolnik, Chief Deputy Secretary of State Nicole Lamboley, and members of the Press. Members of the public in Carson City and Las Vegas were asked to sign in, and the sign-in sheets are attached *See [Exhibit A](#)*.

II. Acceptance and Approval of Minutes – July 14, 2009 (action required).

The record reflects the Minutes of the July 14, 2009 were voted for approval by Secretary of State Ross Miller and seconded by Attorney General Masto. There were no comments or questions from the commissioners. The record reflects the minutes were approved.

III. Discussion/possible action on Request for Furlough Exemptions for FY 2010/2011 – Howard Skolnik.

Director Skolnik stated the Department will continue to request furlough exemptions. He stated he checked nationally and had responses from almost everyone and could not find a single state that is furloughing their line correctional staff even though they are far better staffed than Nevada. California is banking employees' vacation days against the future and using furlough to take their annual leave. Director Skolnik stated the Department has instituted significant reductions in the use overtime in an effort to come up with some budget savings to deal with the furloughs. The Department has gone from the beginning of the Fiscal Year in a pay period using \$215,000 in overtime to our last overtime period using \$30,600.

Director Skolnik stated that did not come without a significant cost. The Department had to close Units 10 and 12 at High Desert State Prison (HDSP) because the Department didn't have enough staff to keep everything operating. There is not enough money to deal with next Fiscal Year. The Department is looking at other options and proposing that we charge rent at the Inmate Store and possibly to the Gym. We will have the numbers for the next Board of Examiners (BOE) in November and will be asking for the balance of funds out of the kitty to carry the Department through this year. The Department will propose a series of possible cost savings to Interim Finance in November to review.

Governor Gibbons asked what the anticipated cost was for FY 2011 and if he had inquired to the Budget Office what the contingency fund had. Director Skolnik stated \$3,781,000 and that he had a meeting with Andrew Clinger the next day. Director Skolnik stated he understood the contingency fund holds approximately \$15 million for the balance of this year and next year which will also be used for fire fighting and other contingencies in the state. He stated he met with Legislative Counsel Bureau (LCB) the past week and they felt we should furlough officers but the Director disagreed. Director Skolnik stated that once the Department brought harder numbers to LCB they will be more amiable but at this point their position is to take furloughs. If the Department has to come up with the money internally they would have to close at least one camp which would be a savings but overall a loss to the state when fire season begins. He stated the Department's budget is zero for equipment replacement and repair and are limited as to which direction to go at this point to find funds internally. The BOE extended the extension of furloughs through November and the Director will be back before them in November to ask for the balance of the year. After that, the Director stated they will have 6 months to find money that the Department doesn't have. There were no more questions or comments. No action was taken on Item III.

IV. Discussion/possible action regarding State Administrative Regulations (AR) – Howard Skolnik, Director.

Director Skolnik discussed AR 323 regarding sick leave as there had been some staff questions as to whether or not it was legal and consistent within the Nevada Administrative Code (NAC). He stated that he had spoken to Teri Thienhaus, Director of Personnel, who said she reviewed the Nevada Department of Corrections' (NDOC) internal policy on sick leave, AR 323, and did not find any part of it that is in conflict with the regulations in the NAC Chapter 284. For the record, Director Skolnik stated that on July 3rd, which was a holiday, the Department had 126 hours of sick leave being used statewide. On July 4th, the number rose to 286 hours and on July 5th there were 425 hours of sick leave. The day before Martin Luther King Day in January, there were 797 hours of sick leave used statewide. On the holiday it dropped to 54 hours, and the following day 347 hours. The day before President's Day in February there were 390 hours of sick leave used, on the holiday 63 hours and the following day 883 hours sick leave used. The day before Memorial Day there were 369½ hours used, on the holiday there were 62½ hours used and the day following the holiday there were 801 hours used. Director Skolnik stated that indicated to him that there was an attitude among staff that if you earn it, you burn it and it was a right to take sick leave whenever staff wanted. He stated the staffing patterns are such that the Department is only 85% staffed to begin with and every time someone calls in sick, they are putting their fellow co-workers with physical risks.

Director Skolnik stated the other issue brought forth was the fact that the existing policy was subjective. There was no real objective criteria to measure whether or not sick leave was being used appropriately or being abused. The Personnel office found a policy that was being used in her Majesty's prison system in Great Britain that reduced their sick leave in the first year by 18 percent. He stated it was a numeric system that takes away any kind of decision making on the part of management or staff and applies a uniformed formula to the use of sick leave, however, there is still serious concern about AR 323.. The Director stated he had received quite a number of emails from Lieutenants and Sergeants thanking him as it had taken the pressure off of them in terms of when and how they had to make decisions. Others who had concerns about AR 323, that when they looked at their records, showed no signs of ever having abused their time at all. Director Skolnik stated he will pull AR 323 from consideration from today's Board and reopen discussions with the employee associations regarding their specific concerns. There is staff abuse that needs to be dealt with in a fashion that is fair and understandable to all of the staff. He stated it will be brought back to the Board at the next meeting. The Department will go back to the original regulation for the time being.

Director Skolnik gave a synopsis of the other ARs being presented to the Board. There were no other questions or comments. Secretary of State Miller moved to approved the Administrative Regulations with the exception of AR 323 which has been withdrawn. Attorney General Masto seconded the motion. The record reflects the ARs were approved by the Board, with the exception of AR 323.

V. Public Comment.

Allen Sweet, founder of the "I AM" workshop requested to speak. See [Exhibit B](#).

Constance Kasuda, Mental Health Planning Advisory Counsel, requested to speak as a private citizen. She stated she is concerned about the DOC budget and one way to reduce costs is to initiate Kendra's Law which is in affect throughout most of the country. She stated the reason it was allowed to die in front of the Committee on the Judiciary on April 1, 2009 was because it was based on the testimony of Dr. Harold Cook, head of the Mental Health Developmental Services and she asked for his removal. Ms. Kasuda stated he was an anti-lobbyist for the mentally ill of this state and his testimony is available on the Internet as to why this bill was killed. She stated the mentally ill are receiving sub-standard care while incarcerated and wished the Attorney General would take action as the DOC hires unlicensed psychologists and that should not be tolerated. Ms. Kasuda asked the Board to intervene and establish an oversight committee and asked for the removal of Harold Cook.

Daniel Shoup, Senior Correctional Officer at Northern Nevada Correctional Center (NNCC) requested to speak on AR 323. He stated the Correctional Officers (COs) do not have the right equipment for protection as police officers and COs are equipped with only a pair of handcuffs and a flashlight. He stated he understood there are some problems with individuals who do take off, break the rules and don't follow them. Mr. Shoup stated the Department just had a Correctional Office down south who had committed two armed robberies and part of the reason that happened is because there hasn't been any testing for a while and the Department hired people who didn't even want to work for NDOC. He stated he is surprised the Department didn't go to designated drivers out of bars because they would be the least offensive.

Mr. Shoup stated he comes to work and does his job on a daily basis and to him AR 323 was a “slap in the face” and he had just received two write-ups for taking time off when he could justify the time off. He stated the Department should just go after the individuals who abuse leave and not have a blanket approach to constantly come down on staff every time someone does something wrong which is not working. In training, they spend more time teaching the guys to inform on their fellow officers than actually training them on how to use the equipment. He asked the Board to carefully look at all of this before they do things that affect the rest of their lives.

Randy Moffat from Southern Desert Correctional Center (SDCC) requested to speak. He wanted to bring about the massive determination of Director Skolnik to do everything in his power to ruin the morale, the safety of the public, the officers and the inmates in his actions. Mr. Moffat stated AR 323 as an example. He stated the officers down south would be glad to take furloughs because the Director won't staff the prisons as it is and to continue having him as the Director is a disgrace upon the State of Nevada. See [Exhibit C](#).

Officer Gary Garrison stated he worked for the NDOC and he was injured in the line of duty and now has a disability because of it but he still works. He stated he was here for AR 323 and hopes the Board will give it reconsideration. After coming to work for over 60 days he called in sick when he was having trouble breathing. He then received a letter stating to watch his sick leave and to make sure to bring in a doctor's excuse but then the next day got a “At-a-boy” letter for not using any sick days in over 30 days. Mr. Garrison stated there is obviously some disconnect between the officers and command staff and up the line. He stressed they were not all out there to get the command staff or out there to take days off just for the fun of it. He stated there are staff that have injuries and illnesses but they work through them and do their best. Mr. Garrison stated the majority of staff just want to serve and do a good job and to please take that into consideration.

Gene Pierce requested to speak. See [Exhibit D](#).

Curt Thomas requested to speak stating he has worked for NDOC for 12 years and spoke to the Board before on the possible closure at Nevada State Prison (NSP). He thanked Director Skolnik for pulling AR 323 for reconsideration and that the employees and employee's associations are looking forward to working with him in an effort to develop an effective and fair sick policy. He asked that any employees who are currently under disciplinary measures that are established in AR 323 be reevaluated.

Donald Hinton requested to speak. See [Exhibit E](#).

Mason Schubert, CO at NSP requested to speak He thanked Director Skolnik for reconsidering and reevaluating AR 323 and looked forward to what will come up in the future.

Michelle Ravell requested to speak. She objected to having Public Comment after the vote on the ARs and if the Board wanted their public comment, how would it make a difference after the Board voted. Ms. Ravell stated in AR 802, Community Volunteers, where dual status is forbidden and a person can't be an approved visitor and a volunteer, did not make sense.

She questioned if that meant she couldn't be a volunteer at a different prison and Director Skolnik replied "yes". Mrs. Ravell stated the volunteer program was just all for show. Also, she stated they have been begging and pleading for an oversight committee that could investigate problems brought up by the guards and public at today's meeting and have an oversight committee to investigate because nothing seems to get done.

Gene Columbus asked the Board to look at the authority the Director has to come up with a temporary AR. He stated those ARs should be presented to the Board for a final approval and that would be the way to go. He asked the Director to make a commitment in front of the Board to create an AR committee which would be comprised of line staff who work behind the fence line to help create the ARs. Mr. Columbus stated the Department is running as inefficient as it ever has. There are staff behind the fence line that would have a lot of input and guidance in creating this regulation eliminating the fiasco at the Board meetings.

Pat Hines requested to speak. She stated that she is disappointed that there was not a follow up or a status report from the VERA Institute. Ms. Hines asked who do they go to, to have input on an AR and you ask for our comments but they mean nothing. She wanted to talk about AR 521 but asked "What is the sense in that if it is already passed?" Ms. Hines stated it was a disgraceful AR and asked the Board to please let the public speak to these ARs before they are voted on. She stated that Nevada has the lowest level in minimum camps and the highest in maximum security in the country. AR 521 has expanded minimum security and have more limitations and discretionary limitations to get people in. In other words, if the Department doesn't want to put somebody in minimum, they don't have to put them in. Ms. Hines stated this is hypercritical and doesn't follow the rules. She requested that AR 521 be rescinded and given some other consideration with the public speaking to it as well as some of the inmates.

Tosh Dawson requested to speak. She stated that ARs 107, 404, 413, 415, 454 and 484 that have to do with evacuations, disturbances and destruction etc to make sure when these changes are changed to being confidential that the parts that are important to the inmates are still publicly posted. Mrs. Dawson stated that in AR 850, Educational Programs, she did not understand the part that stated "all inmates who are not working are required to be engaged in educational academic pursuit full time". She stated nobody can get a job because the list is so long and nobody can get an education past high school because if you do you have to pay for it yourself. Mrs. Dawson stated her husband has been in prison for 19 years and has taken all the education and programs and he can't get a job because he just got moved to a different facility and is far down on the list. She stated that when it is time for an inmate to go to the Parole or Pardons Board they are told they didn't do this or didn't do that. The AR states that for an incarcerated inmate, they must pay for all college education unless they get an approved scholarship or federal grant fund. Mrs. Dawson stated she doesn't know of any federal grant money that hasn't been pulled.

Ralph Kenmure, previous back number 56580, requested to speak. He stated the previous paperwork he submitted at the last meeting are being ignored even by the courts even with an order from the Supreme Court. He stated he filed a formal complaint to the AG's office and in turn want to send him to state attorneys who don't take an interest in his formal complaint.

Mr. Kenmure stated he has hired another attorney and he discharged his parole honorably on 9/23/09. He stated he is having a problem finding work and would like the Board to investigate his complaints.

David Pflieger, Correctional Officer at NSP and a member of NCA and AFSCME. He thanked Director Skolnik for pulling AR 323 and planning to speak to both employee organizations. He stated, however, this has happened before and he was concerned. Mr. Pflieger stated that on January 8, 2008 when the Board met, the Director stated he would talk to the associations regarding ARs 301, 340, 341 and 339 because of their concerns and had those ARs pulled from consideration. He stated the Director said he met with both associations a week and a half later and discussed these ARs and they had no objections. Mr. Pflieger stated he spoke to Gene Columbus and he had no recollection of talking with the Director regarding the ARs and Dennis from AFSCME stated they did not agree with those ARs. He stated basically they were passed under false pretenses. He hoped this time the Director could meet with both Columbus, Dennis and the officers to get their input. He asked the Director if he remembered whom he spoke with and the Director stated he remembered that both associations came into his office and there were no issues when they left. Mr. Pflieger stated the officers have a lot of input that is valuable and a lot of good ideas. He asked the Director to have better communication not only with the Governor but also the Attorney General and Secretary of State. He said both organizations would be happy to work with Director Skolnik and go over AR 323 with him. As for as closing Unit 3, Mr. Pflieger stated the actual number of positions is 13, not 18. The SAGE Commission went to NSP and told them if the Department closes Unit 3 they would also have to shut down the infirmary, admin and everything else. Mr. Pflieger asked if the Board noticed that the lawsuits, the dirty dealings and all the inmate advocate groups is coming from Ely and down south. He also stated not much is heard about NSP or NNCC and the reason is there is no corruption. He stated the Department needs to keep NSP and NNCC and keep the prisons up north

Edward DeBarr requested to speak. He stated Mr. Hinton had already spoken to the majority of the issues he was going to talk about. Mr. DeBarr stated his son is incarcerated at Lovelock and an officer tried to set him up with a weapon in his cell because he and two other inmates had filed a grievance against the officer. He stated the I.G.'s Office had them under investigation at NSP and when they were housed in the hole, they would turn the lights off at sunset in their cells where they couldn't read. Mr. DeBarr wanted to know why the lights were turned off and he could not get an answer from anyone.

Tonya Brown requested to speak. Ms. Brown read a letter from Warden Benedetti which stated she could not pick up Nolan Klein's property until 40 days after his death, two days after the hearing. She asked the Board to grant permission to have his property now as she is listed as the next of kin. See [Exhibits F.1 & F.2](#).

Craig Porhola, retired CO, requested to speak and asked the Board to oppose the privatization of the pharmacy within the NDOC.

Sergeant Jackson Hardy, Warm Springs Correctional Center (WSSC), requested to speak His concern were furloughs and the institutions were asked to develop a Furlough Action Plan that would provide minimal staffing levels. Sgt. Hardy stated if his graveyard shift, currently staffed with 12 had to take furloughs, it would leave him with 8 staff. He stated although they are currently exempt from furloughs, he is running the graveyard shift with 8 staff following the Action Plan. He stated if anything were to happen with that few staff members, either an inmate or staff member were to get hurt or an emergency response, he would not have the staff members to respond.

The following requested to have their comments entered into the record:

Anthony Likens See [Exhibit G](#); Israel Torres See [Exhibit H](#); Don Hicks See [Exhibit I](#); Donald Keever See [Exhibit J](#); Rod Lightsey See [Exhibit K](#); Cynthia Angelopoulos See [Exhibit L](#); Mercedes Maharis See [Exhibit M](#); Annabelle Parker See [Exhibit N](#).

VI. Adjournment.

Motion to adjourn was moved by Secretary of State Miller and seconded by Attorney General Masto and was passed unanimously. Governor Gibbons adjourned the meeting at 4:00 p.m. The next scheduled Board of Prison Commissioners' meeting is scheduled for January 12, 2010.

APPROVED THIS DAY 12TH MONTH OF JANUARY, 2010

GOVERNOR JIM GIBBONS

ATTORNEY CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER

RECORDED AND TRANSCRIBED BY SUSAN COCHRAN, EXECUTIVE ASSISTANT, Nevada Department of Corrections