

**Board of State
Prison Commissioners**

BRIAN SANDOVAL
Governor
CATHERINE CORTEZ MASTO
Attorney General
ROSS MILLER
Secretary of State



**STATE OF NEVADA
DEPARTMENT OF CORRECTIONS**



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BRIAN SANDOVAL
Governor

JAMES G. COX
Director

MINUTES

Of the meeting of the

BOARD OF PRISON COMMISSIONERS MEETING

September 16, 2014

The Board of Prison Commissioners held a public meeting on Tuesday, September 16, 2014, beginning at 9 AM at the following locations:

Meeting Location:

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

Video Conference:

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

I. Call to Order.

The meeting was called to order by Governor Sandoval, Attorney General Masto and Secretary of State Miller were present.

Also present from the Nevada Department of Corrections were Director James "Greg" Cox, Deputy Director Support Services, Scott Sisco; Deputy Director Operations, E.K. McDaniel; Inspector General Pamela DelPorto. From the Office of the Attorney General: Joe Reynolds Chief Deputy Attorney General and Alicia Lerud Senior Deputy Attorney General. Also present were members of the public who were asked to sign-in. [Attachment 1](#)

II. Public Comment. There was no public comment in Las Vegas. Public comment in Carson City: Vanessa Spinazola of the ACLU commented on item 5 of the agenda the transfer of youthful offenders from the NDOC. She said there is an administrative regulation on the books that permits this transfer from NDOC to the state DCFS. She stated that they believe state facility is the best place to house these offenders. 80% of the kids are from Clark County and they believe it is best for their rehabilitation if they stay in the region near their families. [Attachment 2](#)

Gene Columbus of the Nevada Correctional Association commented on item 9, the staffing study completed by ASCA. The study recommends proposed increases in staffing and they support that action.

Tonja Brown stated she was there to discuss items number 4 and 10 of the agenda. She discussed a complaint filed on September 5, a violation of the open meeting law. [Attachment 3](#) Reminded the board that she last attended was in March 2013 and she discussed a computer glitch at that time, and how it affected Nolan Klein's file. She said she has a trial set for next April on the breach of settlement agreement. This is regarding documents that she submitted in 2013. She stated that she went to the website to access these documents that she submitted and she was prevented from accessing them and was treated differently than everyone else and was not allowed to obtain the

documents that she deemed non-confidential. She stated that reporter Jeff Dornan tried to access these documents so that she could turn them over to the AG's office in discovery. She stated he was blocked as well and that he made some inquiries and was allowed access. She said that this also pertains to item number 10 inmate grievances. She then read from an open meeting law violation. She stated that she had information in her discovery that she gave to the AG's office, Will Geddes; that the AG's office did not turn over in the Klein versus Helling case in which Geddes had agreed to turn over everything. Ms. Brown said she attached a document from Ross Miller's campaign, which she then read from. [Attachment 4](#) She referred back to her original lawsuit. She said the AG's office had everything she said stricken or removed from the record and not placed on the record until after she filed suit in 2013 at which time only parts got on the record. She asked people to read the deposition of Karen Gedney Re: hep C and the treatment she said this information was in that settlement and not deemed confidential by the settlement agreement. She discussed AR 740 would like to know how an inmate can produce to the court evidence that is favorable to them without it being withheld by the AG's office claiming confidentiality. Ms. Brown stated that exculpatory evidence that showed in her letter to them evidence of retaliation against certain inmates for their religious beliefs. She stated again that these documents are not confidential. She said she attached documents that are her responses to their interrogatories and not confidential. Ms. Brown stated that everything she has provided to the board of state prison commissioners where inmate families can go and to support their (inmate) grievances or any civil litigation that they may have that; "you, the Board of Prison Commissioners, have stopped those documents for being seen, claiming confidentiality. You were given a settlement agreement in May 2012 to this day those documents have not been on the record." Ms. Brown brought up Dr. Karen Gedney's deposition stating that nobody wants it to see the light of day. He said it discusses how inmates are treated for hep C and then discussed the issue of MERSA, a highly deadly and infectious disease. She discussed how outside doctors treat the disease as opposed to how NDOC does. Ms. Brown reminded everyone that in December 2011 she asked the board to conduct an outside investigation into the Attorney General's office for pulling evidence in cases and she had also asked for a letter of apology which was not done which she stated precluded her from requesting a posthumous pardon for Mr. Klein.

III. Acceptance and Approval of Minutes – March 18, 2014 meeting. Attorney General Masto requested a correction on page 3 paragraph 2 to put the word minors in front of the word compromise. With this edit all were in favor of acceptance and approval of the minutes from March 18, 2014.

IV. Prisoner E-Filing Project U.S. District Court for the District of Nevada, An Overview of the ongoing e-filing project between the U.S. District Courts and the Nevada Department of Corrections - Honorable United States Magistrate Judge Valerie P. Cooke. Judge Cooke stated that e-filing is underway at Northern Nevada Correctional Center. It is a pilot program. Judge Cooke explained that the e-filing came about due to the post office in Reno closing so mail would be sent to Sacramento for processing. There were usually problems with mail coming from rural counties where the prisons are located. There were concerns regarding possible delays, so they researched other federal districts and found that Illinois had started an e-filing program. There are also e-filing programs in Indiana, Arizona and Missouri. Judge Cooke will be speaking at the Ninth Circuit pro se litigation conference and plans to discuss the advantages of the e-filing program. When inmates pleadings come in via mail the document clerk has to scan every page and then e-file it takes a lot of time and it is labor intensive. Advantage to the Attorney General's office and the NDOC the Attorney General's office agreed to accept e-filing's rather than have the inmate make copies of opposition to a motion for summary judgment. It saves the inmate money and the prison money on making copies and processing this type of mail. This will also eliminate the "lost in the mailroom," lawsuits. Judge Cooke provided documentation with questions and answers, for review. [Attachment 5](#) This will be handed out to inmate so they will understand how their documents will be processed. These are only currently in section 1983 litigation not in habeas cases yet, as this is a pilot program. Judge Cooke would also like to see habeas cases as part of the e-filing program in the future. At NNCC for civil

rights cases e-filing is mandatory. Judge Cooke explained how these scanners are donated for this program. The law librarian scans the inmates' documents for them. Judge Cooke stated that the judges are very pleased with this program it has streamlined the process. She discussed other states e-filing programs; in the district of Arizona they now have two prisons who are e-filing for a total of over 10,000 inmates. Federal districts of California are just getting underway with their pilot programs. Although there is a perception that this will help inmates, Judge Cooke said this program manages cases efficiently and cost-effectively and they would like to see this program expand. She said that they have not seen an increase in filings at NNCC on account of e-filing. Judge Cooke said they are very pleased to work with the NDOC and the Attorney General's office and the stakeholders to improve this. When they set up at NNCC Judge Cooke went to the prison with the Attorney General's office, the clerk of the court and met with the law clerks to answer their questions and help them understand how the program works. She stated she would be happy to do that again at any other prisons where e-filing will be established.

Director Cox thanked Judge Cooke and the assistance of the Attorney General's office. He stated he would also like to expand the program next to Lovelock Correctional Center. The inmate population likes the process. There is an increased workload for the law librarians but overall e-filing helps the inmates, the courts and the documents are not lost in the mail. He believes they need to keep expanding until all the prisons have this. Governor Sandoval asked how we can expedite this. Director Cox said that in the next legislative session they are asking for an additional law librarian for Lovelock. With the help of Judge Cooke and the magistrate judges they will look at getting new equipment into their budget requests. They will also look at creating secure law library rooms as these computers have access to the Internet. Director Cox has spoken with the Director in Arizona and they are doing very well with e-filing. Illinois has had it for years and California has begun this program as well.

Governor Sandoval asked if there is anything they can do before the session starts to help move this along. Director Cox said with Judge Cooke's assistance they will put together a package and develop a proposal. Governor Sandoval asked if they had to wait until they get a new law librarian at Lovelock to implement the program. Director Cox said they could start a couple of the processes such as designing the secured room, and they can look at their budget for obtaining the new law librarian. Governor Sandoval asked if this could be done before the next Board of Prison Commissioners meeting; and Director Cox said yes.

Attorney General Masto thanked Judge Cooke and said it was a pleasure working with her and that she appreciated the courts' patience with them as they roll this program out. Attorney General Masto asked Director Cox if an additional law librarian will be needed at each facility. Director Cox said not necessarily at some of the smaller facilities. He said they will look at where most of the litigation comes from mostly Ely, High Desert State Prison, and Southern Desert State Prison. They will develop a strategy to put staff in place where it is most needed. Attorney General Masto asked how quickly can this be done? Judge Cooke would like to do this all at once but realistically they will have to look at each facility's needs, priorities and budget constraints. Attorney General Masto stated that the NDOC has been fantastic to work with and she appreciated them taking on this additional duty. Governor Sandoval stated he would like to see how much progress can be made by the December 16 BOP meeting. The Governor thanked Judge Cooke and told her how much he appreciated her time and effort on this project.

V. Update on Nevada Department of Corrections work with the Nevada Supreme Court's Juvenile Justice Commission - Director Cox explained he'd been working closely with other stakeholders throughout the state in regards to juvenile justice and the inmate population under the age of 18. They expected an increase in the amount of kids under the age of 18 coming into the NDOC but that did not happen. The projections from the County did not materialize. Director Cox

said that he appreciated Justice Hardesty's assistance and also Michon Martin's in the Governor's office as they asked for additional information from the counties on what was in the pipeline. What they found out was that many of these kids were turning 18 while they were still in the county. As Miss Spinazola said the NDOC under 18 inmate population has been right around 12 or 13 while they were once at 50. The courts have looked at who has been adjudicated as, and placed as adults in the system. Director Cox stated that looks like the juvenile population is staying flat. He stated they will continue to monitor it to be prepared. Justice Hardesty said the counties will send them a quarterly report. Director Cox brought up that there are no female inmates under the age of 18 in the system and that it does not appear there will be, any time soon. Director Cox explained they have asked and received assistance from DHHS and the juvenile division he said that working together, they are looking at what they can do for the juvenile population regarding education, programming, and mental health services designed especially for them. He stated he has asked for additional staff at Lovelock for mental health and also in some of NDOC's other locations specific for this population to be able to work with juvenile experts in our state.

VI. Update and overview on Prison Rape Elimination Act (PREA) implementation, compliance and audit – Director Cox publicly thanked Pam Del Porto, Inspector General, and Deputy Director EK McDaniel for their hard work and achievements on the PREA project, he stated he was very proud of what they have achieved so far. Inspector General Pam Del Porto, stated that she was proud to announce on behalf of the PREA management team that the department and six facilities have successfully complied with all of the PREA standards. [Attachment 6](#)

Warm Springs Correctional Center was the first prison audited in June and complied with all 43 of the standards and all of the applicable elements. The next facility audited was Lovelock Correctional Center and they complied with 42 of the standards and exceeded on 1 of the standards and this is where the NDOC keeps their youthful offender population. Inspector General Del Porto stated this was important to stress because she does not believe many of the other Department of Corrections around the country will be able to say that. She said she is very proud of the team and each staff member at Lovelock and how hard they worked for this. Inspector General Del Porto reported that the following institutions were all compliant with the 43 standards: Humboldt Conservation Camp, Jean Conservation Camp, Southern Desert Correctional Center, Three Lakes Valley Conservation Camp. She explained that the auditor from New Mexico walked by every cell, and looked in on all of the Prison Industries. She said that the staff at each of these facilities did a wonderful job. She believed that the success of these audits were also due to Deputy Director McDaniel, and her PREA management team. She explained that they started in March with a very intensive block of instruction on every one of the standards and elements and that the PREA management team has three certified auditors and that was crucial to the success of this program. She stated the certified auditors are assisting other Clark County and their related agencies and Washoe County as well. Inspector General Del Porto said they have started the strategy and planning for next year's audit.

Governor Sandoval congratulated Inspector General Del Porto on the successful audits and asked her about other states progress. Inspector General Del Porto said she could only speak for the Western states consortium and it appears that in comparison we are one of the largest for example Colorado has facilities with 800 inmates while our Southern Desert Correctional Center has 2000 inmates. She explained that there are some states in the consortium that are afraid and reluctant to move forward with their audits. She said that if the NDOC can do it, it's a great example for the other states. Governor Sandoval mentioned that he remembered there were certification issues in regards to who was doing the inspecting and asked if that was all resolved. Inspector General Del Porto explained that her three certified auditors cannot audit and certify Nevada however, she had reached out to other states where there is no conflict, to certify Nevada. For the second round Nevada will audit Oregon. She explained it is a long and expensive project to get someone certified, and all the training is on the East Coast. Governor Sandoval asked her what is next. Inspector General Del Porto said they are

already planning for the second round of audits for five facilities which will be held into before or after the session but not during it.

Attorney General Masto congratulated Inspector General Del Porto on the incredible job they did and their success. She brought up the packet which had standards listed and asked if those were the standards that the auditors look at. Inspector General Del Porto explained that they are the standards and the instrument used during the audits. [Attachment 7](#) The audit starts six weeks prior to the on-site visit, each facility sends copies of policies and procedures to the auditor. When the auditor is on-site he wants to see the practice applied to each of those. She said the second document is the Department of Justice easy read version of the standards. The standards are approximately a couple hundred pages. Inspector General Del Porto explained that if an auditor saw that there was specific language missing in a policy or procedure; that her staff would fix it so that the auditor would then find it to be in compliance. She said there are 43 standards and approximately 238 applied elements to the standards.

Director Cox said for the record what Nevada has accomplished with PREA is very substantial. He has heard from other Western state Directors and they have asked how Nevada accomplished this. One of the things Director would like with your assistance is to get training in the Western states. Of course he would like to have training held in Nevada. We need to get more certified auditors in the Western states without having staff travel to Columbia, South Carolina or to Kansas City, Missouri because of the extreme cost. He believes it's important to have training on this side of the country.

VII. Update on Employee Housing Agreement and AR 425 Handling and Storage of Personal Weapons with a section about RV's – Director Cox stated that AR 425 is in the packet of agenda item X. E.K. Deputy Director McDaniel said he was pleased to announce that both of the RV parks at our camps have been completed and are up and running. AR 425 was updated to reflect necessary changes. Deputy Director McDaniel read the following excerpts; “The Department will allow all Department peace officers to secure personal weapons in their vehicles while on duty or in a RV parked on state property for employee housing. In order to secure the weapon in their vehicles or RV while on duty, the Department peace officer must provide proof from a certified outside company that they have qualified on their personal weapons at least semiannually.”

Governor Sandoval said that he appreciated the time and effort that Deputy Director McDaniel put into this project.

VIII. Report of findings from the independent Staffing Study being conducted by the Association of State Correctional Administrators (ASCA) – [Attachment 8](#)

Director Greg Cox explained that this was a very intensive and detailed look at the NDOC's operations. He said the NDOC's focus in the upcoming session is the relief factor. They are looking at an additional 100 staff, 45 in 2015 and 55 in 2016. He believes NDOC has positioned itself very well. Director Cox said they worked with Michon Martin and Mike Willden and was very appreciative of their assistance. The only other comment he has been asked to bring to the Commissioners is to please look at the furloughs and hopefully have them going away after the next session. The reason he brought this up is before NDOC hires additional staff, the current staff would like the current furloughs to go.

Director Cox explained they looked at what they are asking financially from the state and taxpayers, it is a big investment by the state, to increase staff. He stated it would bring the NDOC up to date with national best practices and standards. ASCA prioritized some of the positions. They will look at what each facility needs. These new positions will help NDOC staff immensely. Director Cox said that many states look at staffing studies after an incident has occurred however, ASCA has created a proactive roadmap for the future. Director Cox said he believed that Governor Sandoval has made it clear

that this has been a constant issue for boards going back many, many years, since 1979. One of the things they found was that NDOC had not increased its relief factor as a result of increasing state holidays.

Governor Sandoval thanked Director Cox and said this study has been a long time coming as the Commissioners have discussed this issue many times over the years. He asked Director Cox if he is confident that this has been a good solid, objective, competent study. Director Cox said absolutely yes, this was a very intensive study and that they (the ASCA team members) talked to administrators and support staff on each shift whether it was midnight or 2 o'clock in the morning. The study positions the department very well for the future. He suggested they continue to look at the relief factor and what the additional staff means to the operation allowing them to become more efficient and effective. The Wardens and Deputy Director McDaniel have reduced their over time by 25 to 26% under this administration. They've closed two major facilities and one camp and are very good stewards of the tax payers money. He reiterated that the NDOC is looked at as being a very efficient and effective Department. Governor Sandoval asked if these recommendations contemplate a flat population or an increase in population. Director Cox explained that JFA has projected a fairly flat population. He said that it's something they need to continue to monitor. This relief factor staff positions NDOC very well to deal with any increase in population over time. The relief factor allows for additional staff training allows them to take annual leave, and is a very in-depth look at what our staff needs. When you go from a 1.21 to a 1.60 for the layperson or the tax payers they want to know what this really means, as Gene Columbus said it is more correctional staff inside the facilities working daily. Governor Sandoval asked if this relief factor contemplates the elimination of furloughs. Director Cox explained Nevada is rather unique and that state legislature said that we have to show a positive outcome of taking furloughs for example not having more over time as a result of it. NDOC has developed a minimum staffing plan looking at being able to implement it as a cost-saving measure for the tax payers and the department. When a person is off their post taking a furlough it impacts the operation; NDOC believes if they could have all their staff back those additional six days per year; that is very prudent for them to do. Governor Sandoval asked if the furloughs are eliminated how, does it impact this recommendation. Director Cox said that the recommendation remains the same for 100 new staff members.

Attorney General Masto asked if this staffing study was just to look at the relief factor. Director Cox said no, it looked at the relief factor and additionally did a post analysis of every position the NDOC has. Attorney General Masto said she only had the relief factor analysis in front of her and asked where the post analysis was. Director Cox explained that ASCA is working on the rest of the report draft and he expects to receive it by the end of the month. He said they will release the completed draft when he receives it. Attorney General Masto questioned the spreadsheet entitled "Costs associated with ASCA staffing study implementation;" [Attachment 9](#) and if that was created by ASCA or the NDOC. Director Cox said that the NDOC prepared it from the ASCA staffing study draft, to provide a clearer picture to the Commissioners and taxpayers so they could see what the costs are and the actual number of needed positions is. It provides more transparency so that people may dig into it without going through the immense volume of paperwork of the draft document that goes through facility by facility and talks about the additional staff needed not only with the relief factor and priority 1 priority 2 and priority 3. Attorney General Masto asked Director Cox if the full staffing study report will contain the same numbers for the FTEs for fiscal years 2016 and 2017 that the NDOC spreadsheet contains. Director Cox said the numbers are the same and that they just laid out a plan on how to implement the studies recommendations. Attorney General Masto asked Director Cox to confirm that the Commissioners will receive the full ASCA staffing study report by the next BOP meeting. Director Cox said yes, George camp said he expects to have the final report by the end of this month. Attorney General Masto noted that per the information provided, there is information that the NDOC does not capture which may have an impact on the relief factor. The NDOC does not record the number of hours employees are away from their posts for annual training, vacant positions,

the length of time positions are vacant and that the department appears to fill positions utilizing position control numbers that may not be assigned to the institution to which the employee is eventually assigned, nor do they record pre-service training. She asked if the NDOC were to start capturing this data, would it have an effect on the shift relief factor requested. Director Cox said no, it would not change the 100 they have recommended. He said that the NDOC is implementing a corrective action plan based on ASCA's findings and recommendations and confirmed that NDOC has begun capturing that data. Additionally the NDOC will no longer fill positions utilizing position control numbers not assigned to the facility where the employee will be stationed.

Governor Sandoval asked Director Cox if he challenged any of the findings or if he accepted them all. Director Cox said he did challenge some of the findings from the standpoint of understanding best practices and standards and how NDOC will strategize to move forward. Director Cox explained that they have had numerous meetings with ASCA and with staff, reviewing the findings and clarifying issues. For instance at 2 AM do you really need this extra person? And sometimes the answer is no, this would better be positioned elsewhere. Director reiterated that they have had extensive meetings to drill down to exactly what is needed. Governor Sandoval asked they can move forward with confidence or if anything was left on the table, have they done an absolute comprehensive review? Director Cox said yes they have in depth look at their operations so much involving staff looking operations looking at all of the facilities including the camps. He does not know if other departments have ever taken this issue on this way and that developed a plan for the future priorities 12 and three positions for the future. This is what our staff are currently doing this is what the staff think they need but this is what the experts believe we need also.

Secretary of State Miller asked if furloughs are eliminated that the recommendation would not change however what about the converse the furloughs are preserved what would that do to this recommendation. Director Cox said it would not change the number because they did furloughs into consideration because it did not cost the taxpayer's money as a result of the furloughs; that was a topic of consideration and discussion. He explained there were two people from Nevada on this team Gary Ghiggeri and former NDOC Director Bob Baer who approached this study from the standpoint of how it will affect Nevada and the financial impact. Their recommendation was that the 100 positions are needed regardless of the furloughs; it is what is needed to operate and have a pertinent relief factor for your current staffing plan. ASCA staff said it would not change the number of 100 either because they didn't consider it since it did not cost the taxpayer's money as a result the furloughs.

Secretary of State Miller asked for clarification because they were looking at the number of full-time employees that are required to fill a post, so what is the impact of the furloughs, six days a year for everyone in the department. Also, he said the Attorney General walked through the four areas that were not calculated, so if NDOC has officers who are unavailable during those hours how does it not affect the recommendation of the number of people who need to come to the department. Director Cox said there are two things they looked at: the calculation based on the financial part in regards to the money that furloughs save the state and they also looked at the fact that staff were off post. ASCA certainly looked into the issue of furloughs however it did not change their recommendation and that currently the additional 100 positions are what NDOC needs for the relief factor and for now it would be sufficient; and for NDOC to implement their recommendations regarding training and other things. It was one of the topics they went back and forth on with Gary Ghiggeri and former Director Bob Baer who were looking out for Nevada. Director Cox feels confident that the 100 is correct and that gives the NDOC a position to move forward from regardless of the furloughs. Secretary of State Miller said there are two considerations budget impact the second how many officers do you need to maintain the safety and security of the institution.

Director Cox said at the nationally recognized relief factor and basically it's a formula so it's easy enough to lay out. The second part that is not easy is to look at, every post and assignment and the functions required there, they conducted a very detailed review. Director said he believed this study was more detailed than any that he'd ever seen conducted in the country before.

He said when in the full report you will see some positions that are currently in custody staff being moved to non-custody staff positions. This has happened across the country for example the mailroom, property room and others are done by clerks rather than officers. This will mitigate costs to help us be more efficient and effective in the future. Secretary of State Miller asked about how many additional staff was recommended in Governor Guinn's study. Director Cox said he believed it was 213 but he would have to look for the exact number. During the Guinn study they did not have the correctional expertise that the ASCA group has. Secretary of State Miller pointed out that positions recommended in the Guinn study were never funded. Director Cox concurred and said that at that time the financial strategy was either all or nothing and that's why the recommendations at that time were not funded. It would have been a tremendous expense to the taxpayers all at once to fund over 200 new positions. Director Cox said he believed it would be more successful to fund the positions gradually over the next few bienniums. Secretary of State Miller asked the difference between the inmate population now versus then. Director Cox said there are and has been approximately 12,800 – 12,900 range over the past few years. He pointed out that NDOC had reviewed inefficient and expensive operations and have closed Southern Nevada Correctional Center in 2007, NSP, and Silver Springs Conservation Camp, facilities that were inefficient, ineffective and more staff intensive and costly to the taxpayers to maintain. He explained how they added beds at High Desert State Prison more modern buildings more safe and secure that provides staff gun coverage and other things that keep both staff and inmate population safe and secure. The NDOC is now more safe, secure and efficient than it was at that time and is a very good steward of the state's money. Nevada Legislature took the time to see where NDOC needed to keep staff after the closure of the Nevada State Prison brought the staffing plan down by 113 FTE. The Governor and the Legislature allowed NDOC to take approximately 63 to 64 of those positions and over time add them to other facilities where they were needed. Secretary of State Miller asked if looking at the study conducted on behalf of Governor Guinn and now the ASCA study and the Nationally recognized standards for shift relief factor's, is it fair to say that the NDOC has known for some time that they needed additional correctional officers and staff in order to maintain safety and security of the facility's. Director Cox said that yes, he has known they needed additional correctional staff, however the safety and security of our staff and inmates is prominent in what staff does every day. He said they run safe and secure facilities with the staff they have now however this nationally recognized best practice and standards will give them the ability to move forward to gain the additional staff they need. He has spoken with five past Directors of the NDOC this has been a constant issue for many years. Now they have finally gotten a detailed, in depth look at how the NDOC operates every day. Secretary of State Miller complimented Director Cox on the outstanding progress and said he appreciated all the hard work that has gone into this project. Director Cox reminded everyone that most states wait for something to happen such as violence toward staff or inmates, or a major incident before they conduct such a study. He said he appreciates how the Board of State Prison Commissioners has been very proactive and taken their time and energy to make this study happen. Governor Sandoval asked when the last time a third-party had come into the Department of Corrections to conduct a study like this. Director Cox said that outside of Governor Guinn and the Department of administration, no one had since 1979 when the state holidays increased by two. Director Cox said there never has been a review as in depth as this one. Governor Sandoval said that was the point, to get an objective review of the Nevada Department of Corrections so that they can make informed decisions. He reiterated that he appreciated Director Cox's hard work.

IX. Update on inmate medical costs including Medicaid applications and estimated savings – [Attachment 10](#) Deputy Director Scott Sisco reviewed the handouts that were provided to the board.

He explained that the approved budget for outside medical expenditures was approximately \$9 million, and the Department requested work program changes of about \$2 million for total expenditures of approximately \$11 million. Since they created this report they've closed out the fiscal year and reverted back approximately \$82,000. Deputy Director Sisco explained that one of the most significant influence on inmate medical expenditures is that the average age of inmates 55 years and older throughout the country is 7.1%, however the Nevada Department of Corrections last fiscal year it was approximately 11.51% which is about 4 ½% higher than the national average. He pointed out information on page 4 of the handout relative to requirements for NDOC to provide health care to inmates. Access to healthcare by inmates is mandated by the eighth amendment to the U.S. Constitution, therefore NDOC has to be very careful that healthcare decisions are not based solely on costs. The eighth amendment states you cannot have deliberate indifference to inmate's medical conditions; it's considered cruel and unusual punishment. It is important that inmate's serious medical conditions are treated regardless of the crime or the sentence. Failure to provide inmates access to healthcare could result in federal court ordered receiver to take over control of prison healthcare. Healthcare for inmates is paid mostly by the Nevada general fund. Inmates requesting healthcare are charged an eight dollar co-pay to offset costs if the inmate has the funds available, if not, the inmate welfare fund picks up the cost. Prison directed care exempted from co-pay are chronic disease clinics and maintenance drugs. Chronic disease clinics and treatment help manage chronic disease conditions and reduce the long-term health care costs. Page 5 discusses healthcare delivery, primary care is delivered on-site by NDOC medical staff, medical dental and mental health care is available to all inmates, there are clinic operations at all institutions and overnight infirmary care is primarily at Northern Nevada Correctional Center (NNCC) which is the Regional Medical Facility and at High Desert State Prison (HDSP). The department contracts with local specialists to provide monthly on-site specialty clinics that NNCC and HDSP. Inmates are transported from other institutions to see specialists at on-site clinics, and basic telemedicine is in use at all institutions for HIV clinics although the Department continues to struggle with insufficient bandwidth issues. The NDOC contracts with PPO networks for outside provider care, Hometown Health Network for inmates in northern institutions and Multiplan for inmates in southern institutions.

Deputy Director Sisco went on to review page 6 of the presentation relative to payment of inmate medical services. Most inmates are not covered by insurance, most primary care an outside outpatient care is paid for with the Nevada general fund. Most hospitalizations are now paid for by Medicaid due to the Affordable Care Act and exception to prohibition that state inmates receive any federal funding. He clarified that prior to The Affordable Care Act, NDOC could only apply for Medicaid for elderly patients, or pregnant inmates that were required to stay in a hospital for 24 hours or more. Per NRS 209.246 inmates pay 100% for any healthcare costs caused by an altercation, self-injury, or recreational injury. The NDOC contracts with a Third-Party Administrator (TPA) for claims payment, NDOC authorizes outside services, claims from outside providers are submitted to the TPA. The TPA re-prices the claims according to the appropriate network contract or direct contract, the TPA directly pays the provider from a NDOC funded checking account. Deputy Director Sisco moved on to page 7 and noted that after this package was prepared there was a change. Carson Tahoe Hospital started rejecting admittance because of Medicaid rates, however he understood that tomorrow someone from the Governor's office will be meeting with administrators from the Carson Tahoe Hospital to try to work this out. He said it would substantially impact the NDOC if one or more hospitals should refuse to accept medicaid eligible inmates. Carson Tahoe Hospital has indicated they will not accept any Medicaid patients unless they are emergencies. He said that Senator Debbie Smith, at the IFC, pointed out last month in a meeting, that this was not an NDOC issue it was a Medicaid rates issue.

Deputy Director Sisco reviewed the chart on page 7 showing inmate Medicaid admissions looks like since the beginning of the Affordable Care Act on January 1 of 2014. Since the beginning of FY14 there have been 906 days inmates spent in the hospital; of them Medicaid approved admissions were

127 and pending Medicaid approval are 21, for a total of 148. He went on to review the number of admissions with paid claims how many days the length of the stay, the number of admissions without paid claims and the length of the stay of those days as well. He stated he expected they would all be submitted and reimbursed. Deputy Director Sisco explained that there was a lag time between when the hospital's services were rendered and when the NDOC finally receives a bill for the services, and this affects when the NDOC can pay the bill.

Governor Sandoval asked Deputy Director Sisco if he was clear that there is at least one hospital that is rejecting scheduled procedures that are to be reimbursed by Medicaid. Deputy Director Sisco said that is correct and that our direction to our medical administrator and medical staff is if the procedure can wait, then they will wait to see the results of the meeting with the Governor's staff and the administrator of Carson Tahoe Hospital. If necessary they will have to find doctors in Reno so that the inmates can be brought to Renown Hospital instead. Governor Sandoval clarified that there is a medical provider in Washoe County that is willing to provide medical services based upon the Medicaid rate. And secondly there is an issue with the Medicaid reimbursement it at the same time there is a delay in the billing to the state for the Medicaid services that were provided. Deputy Director Sisco said it typically takes 3 to 6 months for a hospital bill to reach the state. He explained part of the delay is an adjudication process for the fees for the medical services provided. The hospital requests the full amount and a Medicaid adjudicator gets the rates down to a lower fee. Deputy Director Sisco went on to page 8 which is a recap of the Medicaid savings after the Affordable Care Act was implemented.

Attorney General Masto reviewed the numbers to confirm with Deputy Director Sisco that due to the medical providers Medicaid rates although the savings is good for the state, that they are not getting the \$712,000. Deputy Director Sisco concurred that was correct.

X. Discussion/possible action regarding State Administrative Regulations (Listed on Page 2) -

Director Cox explained that there was a high number of ARs to review due to the implementation of PREA. Governor Sandoval asked if all staff had an opportunity to provide input on the AR's. Director Cox said yes and he briefly explained the process. This procedure is explained fully in AR 100. All AR is under review are sent out electronically to staff for their input. Staff comments and issues are logged by Maxcine Blackwell. Of the 43 AR's being reviewed today she received feedback on seven of them. The employees who sent in the comments were contacted and there was follow-up with them by a subject matter expert. Director Cox said he believes they have a very good process and that he appreciates the boards' time, review and efforts on the AR's. Governor Sandoval expressed his appreciation to Director Cox and NDOC staff on their review and work and bringing the AR's into compliance with PREA and contemporary with the law. There were no further comments and the Administrative Regulations were approved and can be found on the Nevada Department of Corrections website on the Administrative Regulations page:

http://doc.nv.gov/About/Administrative_Regulations/Administrative_Regulations/

XI. Public Comment: There were no additional public comments.

XII. Adjournment. The meeting was adjourned at 11:14 AM.

APPROVED THIS 15th DAY, MONTH OF SEPTEMBER 2015

GOVERNOR BRIAN SANDOVAL

ATTORNEY CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER

Recorded and transcribed by Cynthia Keller, Executive Assistant, Nevada Department of Corrections