



STEVE SISOLAK
Governor

CHARLES DANIELS
Director

BARBARA K. CEGAVSKE
Secretary of State

AARON D. FORD
Attorney General

**STATE OF NEVADA
BOARD OF PRISON COMMISSIONERS**

MEETING MINUTES

The Board of Prison Commissioners held a public meeting on Tuesday, July 27, 2021, beginning at 1 p.m., and was conducted at the following locations. The meeting could also be viewed and heard via YouTube.

Meeting Location:

Old Assembly Chambers
State Capitol Building
101 N. Carson Street
Carson City, NV 89701

Video Conference Location:

Grant Sawyer Building
555 E. Washington Avenue
Suite 5100
Las Vegas, NV 89101

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

Action: The meeting was called to order by Governor Steve Sisolak at 1 p.m. Governor asked for the clerk to take roll. The clerk took roll and a quorum was confirmed.

Board Members Present:

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

Nevada Department of Corrections (NDOC) Attendees:

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

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

The Governor moved on to item number 2, the first session for public comment to address the Board of Prison Commissioners on agenda items (3 minutes). Governor Sisolak asked if anyone had public comments and began with individuals at the Carson City location. After persons gave public comments in Carson City, Governor Sisolak asked if there were public comments from the meeting location in Las Vegas. Note, public comments were also accepted in written form via email until 9 p.m. the day before the meeting.

2. Public Comment: (1st Period) Only items on the agenda (3 minutes).

Carson City:

- Nick Shepack, Policy and Program Associate with the ACLU of Nevada: I am here to speak today on item 10. After 10 months, three meetings, and a Legislature Session, I think that we are at a point where we will not have to talk about Inmate Account Deductions any longer. Exhibit 10, provided by the Department of Corrections has answered many of the questions that we and the public have had. The new process through the Administrative Procedures Act is going to be somewhat arduous and we understand that this is going to

take time for the Department to understand. The Governor's recommendations to implement the caps prior to getting the regulation through the process is something that we are very happy to see. The one thing that we do want to encourage is that there was a lot of confusion on July 1, as to what was happening and when this was going to happen, and while we may not have had a timeline, at that point, we encouraged that the Department and the Board to communicate with the incarcerated population and with the public so that they can understand that this money is eventually going to be refunded and what's going to happen. We had many calls from people who deposited large amounts of money expecting the deduction caps but did not see them. However, as I've said this Exhibit makes a lot of sense to us and we think this is a great step and we think we can put this issue to bed. We thank everybody for their time and work on this.

- Elizabeth Quintero [sp?]: I am here as a member of Return Strong regarding the struggles we have faced to hold the Nevada Department of Corrections accountable over the past year. On the agenda today, again is the temporary AR258, this time for information only. Since September 2020, we have fought to have the full story told and considered in the decision-making process. Public comments and open meeting laws were not created for the public to just show up and be ignored or brushed off, yet that is what seems to be happening. We have open meetings and public comments to create a space for the people to have the opportunity to directly participate in our democracy. In this space, this has been problematic. We are allowed to speak but decisions are made without our concerns being fully further heard or addressed. The Board of Prison Commissioners has met on October 8, 2020, January 25, 2021, and April 20, 2021, and not once were the issues with the implementation of the temporary AR258 fully addressed. Each one of these meetings was chaos. The phone systems did not work correctly, our letters and documentation that were sent in were not reviewed by the Committee and as a matter of fact, you were not even aware that they existed let alone ever read or considered in advance of making decisions. Our democracy is built on a system of checks and balances that are intended to ensure that no one person has power that can go on unchecked. For that to happen, it requires those with the oversight ability to pay attention, ask the right questions, and make decisions that are just. It appears that there is no one with that authority who is willing to govern corrections which is the task that is assigned to this Board. We are asking that you slow down and gather all of the information and allow us space to ask questions and to eventually participate in the democratic process and address the issues and concerns that impact our families, our loved ones, and our lives.

Las Vegas:

- Patricia Adkisson: My comments today relate to AR258 and the apparent malfeasance related to NDOC's actions and this Board's inaction and representations related to the same. The relevant statutory scheme in Nevada requires that the NDOC comply with the requirements of the Nevada Administrative Procedures Act when establishing AR258 and related regulations. Otherwise, the regular regulations are invalid. To date, because of the failure to comply with the statutory requirement, no lawful AR258 has ever been created and the representations to the contrary voiced at the January 25th Board meeting that was relied upon must be reviewed again for malfeasance and improper governmental action. The illegal seizure of inmate money has now created a significant liability issue that the voting public is watching very closely. I notified this Board last October 8th and provided a 233B petition and despite proper notice, NDOC and this Board continued to ignore the public outcry. Governor as you are responsible for the appointment of the Director, the voting public will consider the Director's unchecked actions in the upcoming elections. The facts can no longer be conveniently overlooked. NDOC can never unilaterally adopt any regulation, temporary or otherwise. They are limited to regulations contemplated by Chapter 209 only. Further, this Board is not exempt by NRS 233B requirements and must be responsive when approving all other regulations. Governor, my credibility is beyond question, as I am the one who identified the problems related to AR258 and brought it to your attention along with other concerns, to begin with. Please take the things I am telling you seriously. You have a duty to ensure that the laws of the state are being followed. That being said, I have in my hands an

audio copy of the oral arguments and opinion for the case of Raby vs State from the Nevada Supreme Court which states the sentence imposed must be a sentence imposed for the crime, and therefore, is no sentence contemplated by NRS 193.165. Lastly, I submit a completed NDOC grievance, supporting audio, and other supporting documents to this Board yesterday, which sets out evidence of malfeasance by NDOC. NDOC is classifying non-crimes with no convictions as felony convictions. The audio file is the oral argument by the Nevada Supreme Court definitively establishing the unlawful NDOC unilateral determination. You have an oversight duty. Governor, I am begging you please review the materials I submitted and please take action. As always, I am available to speak or meet with you at any time.

- Barbel Warren: I'm a member of Return Strong and would like to continue asking answers [questions] and accountability of our questions over the last year. Let's go back to October 8th and some of the unresolved questions that remain. At that time, there was \$220 thousand collected in September under the unapproved temporary AR. That money was left on the table and the decision of whether it would be returned to people or not was unresolved. Governor Sisolak you asked NDOC to report at the next meeting where the money was and provide an account of what was taken and that was allowed to revert to the status quo without addressing what was to be done with the money [inaudible]. To date, there has been no resolution to this and when you approved the temporary AR on January 25th, you did not address it. That money has not been sent to victims, and incarcerated people have paid off restitution that still shows unpaid and are continuing to have money garnished when they have paid the debt in full. This is due to the lack of communication between Parole and Probation, Inmate Banking, and the courts, due to the way that Marsy's Law is applied. Since restitution must be paid first it is creating a financial limbo with the money of incarcerated people. I would like to share information from Mr. Terrence Brothers [sp?] who was recently approved for the Pardons Board. He writes the following, my court-ordered restitution in the amount of \$4,360, NDOC deducted \$996.50 in incoming funds throughout 2020 and 2021, when Marsy's Law kicked in and the Director revised the AR, leaving me with a balance of \$3,363.50 over. On June 10, 2021, my girlfriend went to P&P in Las Vegas and paid the balance in full all \$3,363.50, my entire balance of \$4,360 is paid in full and I have all receipts. All my court obligations are fully resolved. Yet, as of July 1, 2021, according to P&P records, I owe \$996.50, the exact amount that was deducted by NDOC. According to NDOC, I still owe \$3,360.50, the exact amount that was paid to P&P. Even though my obligations are paid in full they continue to deduct 50% of all deposits that come into my books, meaning they are garnishing money that I have paid in full and now I will have to fight to get it back. In addition, the now released [inaudible] retaining money from my account and I will go back to the streets penniless after 29 years in prison...*(Governor Sisolak interrupted Ms. Warren asking her to please wrap up her comments)*...we are asking you to slow down, listen, and get answers to our questions. We have a stake in these decisions, our families are impacted, our loved ones are impacted, and we deserve to have our elected officials represent us in this process.
- Nicole Tate: I am here with Return Strong to again ask for answers that have never been addressed. I have been here repeatedly to shine a light on the truth behind the rhetoric about what is happening in Nevada prisons. Since September 1st, we have relentlessly shown up at every opportunity to address a variety of issues and concerns that we as stakeholders and our loved ones as impacted people have regarding decisions and policies of NDOC and by default the state of Nevada. At the January 24th Board of Commissioners meeting, you passed a temporary AR that was implemented a 50% cap on deductions. We have watched and re-watched that meeting to be sure we did not misinterpret the intent, which we did not. That was intended to be a cap on both wages and money sent into inmates' books. Again, NDOC did not follow all the directives given. On March 1st, they implemented deductions again and were collecting up to 100% of people's money. What they did was take up to 50% in restitution and then stacked the deductions, court fees medical, and room and board on top of the 50%. In truth, it put most people in a worse position than they were on September 1st when the temporary AR was initially instituted. Why would we have gone through months of

research and discussions to only implement something worse than it was on September 1st it makes no sense at all, but we can't get anyone to hold them accountable. When they implemented the corrected deductions again on March 1st, that we fought to get someone to help us and it became a Legislative issue. Here's an excerpt from a letter of a PI worker at High Desert, I'm writing to you due to the concerns of inmates at NDOC. We were given the impression that the deductions were reassessed to meet a fair and reasonable standard so the Department can meet their duty to collect restitution and inmates can provide for themselves. As of March 1st, 50% of our wages and money were being taken for restitution alone. Our understanding was that this was supposed to be a maximum deduction of 50% of the money on our books. What was done at 50%, was 50% restitution and 24.5% room & board, 5% PI capital fund, 5% victim fund, and 10% for savings that were all taken from gross pay that's 94.5% in deductions. All I know is what I was fighting for after those deductions I was left with \$1.13. I work for PI so while the prison left me in indigent status, you are not allowed to claim indigent status even if you are employed for slave wages. Governor Sisolak this was not what was supposed to happen. We did not believe that but again that decision was rushed and answers were not clear. NDOC has implemented things the way they want and there is no recourse when it is done incorrectly. They put it on paper and implement it as fact, why would you or us fight so hard to make sure there was a fair policy only to have it worse than it was before. It makes no sense but who holds the government accountable, if you're not doing it, who can? This has become egregious and has not ended even with laws passed that have address it. Please tell us how we can get these things addressed if the people approving policy don't even care if it's implemented correctly after the fact. We don't have an ombudsman, the Governor's Office is nonresponsive, Legislators are at a loss, attorneys can't take the number of lawsuits that will be needed, and we can't afford to pay them, when is enough, enough? If it's the Board's responsibility to govern corrections, the truth is why are we always on them about the issues. It has become glaringly [sic] obvious that NDOC is the only one at fault, is not the only one at fault, excuse me. Again, where do we go from here? How do you hold NDOC accountable and where do we go for recourse?

- Jodi Hocking: I am the founder and organizer of Return Strong once again here to talk about our concerns with NDOC. Over the past year, we have shown up, we've asked, we've begged, we've negotiated, we've cried, and we have relentlessly fought to shine a light on issues that are happening within NDOC. We were really never looking for this work, the work found us and we stepped up because there is a need to shine a light and make people aware of what is happening. If it isn't us, then who is going to do it? My comrades have shared some events leading up to the Legislative Session and the occurrences time and again, that no one has stepped up to make NDOC accountable for not doing what was drafted. I clearly remember at the COVID Task Force meeting Director Daniels telling us that we are seeking resolution from the wrong avenue and to go to our Legislatures, that it was his job to follow the laws, but Legislature creates them and the Governor signs them, so we did. We fought on two of our biggest issues for this year, the inmate deductions and programming days that were lost during COVID. They both were fought for. One was passed by the Legislature and signed by Governor Sisolak. Just like the temporary AR was not being implemented in a timely manner, the deductions are still being taken at 50% plus, and have been since March incorrectly. According to OMD, the programming days and credits from AB241 were given in meritorious credits, which is a mystery fraction of a day. So NDOC took programming days and days, 5 days a month, and gave them back in credits which appears to be calculating to approximately 30% of an actual day. The bill clearly states days of credit and an entire section focused on programming days and the magic number of 5 days, that was where the calculation of 60 days came from, 5 days a month times 12 months is 60 days, not 20 which is what people are being credited. It's a game of smoke and mirrors with the Executive, Legislative, and Judicial branches but we know what they did and what they did does not comply with what that bill was intended to do, not on SB22 and not with AB241. We are here today to say what's our recourse, where do we go, who holds everyone accountable, who holds NDOC accountable, who holds the Board of Prison Commissioners accountable. This is really only two issues, we probably have a thousand; lack of food, rotten food, negligent

medical care, lack of programming, inhumane treatment, abuse by correctional officers, banking issues, literally we have thousands of letters from incarcerated people who eloquently tell the story of what is happening within Nevada prisons, and we understand that there are two sides to the story and that perception is different depending on what side of that you are on, but we have been unable to even touch the tip of the iceberg in getting any of these things addressed. I guess our question is who cares really? Who holds government agencies accountable to the law to the Administrative Regulations. This is bigger than deductions and days of credit, there is something inherently wrong with the system. We are still sitting here almost a year later bickering over the...*(Governor Sisolak interrupted asking Ms. Hocking to please wrap up her comments)*...there is something inherently wrong with the system and we are here to continue to bring the injustice to light, find ways to improve communication and transparency and increase the need for accountability. We need your help doing it.

- Mercedes Maharis: Member, Nevada Silver-Haired Legislative Forum Senate District 3, and a Nevada Chaplain. I have worked with prisoners for over 20 years. First, I'm not sure if this is a legal meeting because the 3-day notice was messed up, so I would look at that if I were you Governor Sisolak, about who is putting out things on the internet in your name. I would like to request that all incarcerated persons, please be tested for COVID. It's a no-brainer, I know that you know that I don't know why it's not being done, but many people are suffering, and too many people have died. Is it taking one cent of family and friends money, double taxation, I don't know what else you would call it, please examine that. Number three, use of force, I sent all of you Commissioners the tables, the charts, I doubt that you have ever seen them before. I almost had a heart attack and I very could well at my age. That one put me over the edge, 18,396 uses of force, planned and unplanned. Well, in the last 5 years, it's incomprehensible, please do something about it, you have the power! Just stop it now. There is Taylor vs. Wolf you know many years ago, and us old-timers know about it, for mental health. I don't believe that anybody has even read it in current times to know that it's the law. We have so much mental illness causing so many people to spend more time in prison, that it doesn't seem like we are living in a civilized state. That really hurts. About the heat, we have reports that people are sleeping on the floor trying to stay cool. This is inhumane. The new mission statement said "oh, we're going to have humane treatment, we're going to have substance abuse counseling..." I know that COVID is here, but Governor Sisolak, enough is enough, and if I have one more report...*(Governor Sisolak interrupted asking Ms. Maharis to please wrap up her comments)*...if I get one more report about people who can't get urine cups because they are bleeding urine, I don't know, I just don't know how far it is going to go. Please stop this inhumane treatment.
- Mark Bettencourt: I'm here today to echo the comments of many of the public who have spoken about the inmate deductions and the problems that are there and I think I just want to echo their sentiments and reiterate that what we see here is a lack of transparency, accountability, and communication for over a year and this is not a new problem. We see this as someone who continually works with people who are incarcerated or a family member of free people who have been. The action or apathy continually creates suffering in people's lives while we debate, and so I want to close with that and spare you the time. Obviously, our friends have outlined the number of issues that we have here today.

Carson City:

- Adrian Lowry: I am here to support Return Strong. I want to of course echo what they have already said, but I also want to talk about the process that I have seen here is that the Board has told NDOC what to do in terms of deductions and that it should not be above a certain level, and they ignored that direction. They just did not do it and then finally we came to the Legislature and we passed that law that you signed and they are still not doing it, so I just don't understand, it seems like the Wild West at NDOC. It looks like lawlessness to me and I am wondering what we can do to get some accountability there.

Governor Sisolak: Asked if there were any more public comments for either Carson City or Las Vegas. There were none and Governor Sisolak closed item number 2, Public Comment, and moved on to item number 3.

3. Acceptance and Approval of Minutes – April 20, 2021

Action: A motion to approve the minutes was on the floor from Secretary Cegavske. Governor asked for any discussion, there was none. Motion passed unanimously; minutes approved.

Governor Sisolak: Moved on to item number 4.

4. Director Daniels – Comments and Update – *Charles Daniels, Director, Department of Corrections* – (for discussion only)

As of today, NDOC has an offender population of 10,813 and 2,393 active employees. This number excludes pending transfers from local jurisdictions and any new hires. While NDOC did see a decline in COVID-19 positive results amongst staff, we are beginning to have both unvaccinated and vaccinated staff test positive. As a result, we have updated our protocols to better mitigate exposure. These protocols include the reinstatement of face masks within our respective facilities and offices.

NDOC continues to actively work with the Division of Human Resource Management on maneuvering SuccessFactors and is finding discrepancies in candidate screenings. As of July 23, NDOC is experiencing a 19% vacancy rate.

This afternoon my team is prepared to discuss NDOC's medical update, operations update, use of force discussion, and update to AR258. As previously shared, NDOC has less than 1% of staff work remotely during the pandemic and continues to be identified as essential. I would be remiss if I failed to continue to publicly acknowledge and extend my gratitude to NDOC's hard-working staff, both uniformed and non-uniformed. Despite the extraordinary and debilitating impacts COVID-19 has had on staffing, changes to protocols, and challenges to their personal lives. Their tireless commitment has directly contributed to our ability to remain agile and steadfast in the fight against COVID-19. At this time if there are no questions or comments, I would like to turn for a briefing to Dr. Michael Minev, NDOC Medical Director. (Next agenda item.)

5. Nevada Department of Corrections Medical Update – *Dr. Michael Minev, Medical Director* – (for discussion only)

The Nevada Department of Corrections has been proactive in its COVID-19 vaccination efforts. The Nevada Department of Corrections currently utilizes infection control nurses to schedule both offenders and staff for COVID-19 vaccination. Agency-wide COVID-19 vaccine clinic notifications via email have been sent to all staff bi-monthly since February 2021 and to all offenders since March 2021. Offenders and staff have been offered COVID-19 vaccination in-house.

As of July 26, 2021, 6,604 individuals have been fully vaccinated for COVID-19 at the Nevada Department of Corrections which includes 1,005 staff (41.9%) and 5,599 inmates (51.7%). The Nevada Department of Corrections medical and executive staff intend to persist with at least bi-weekly town halls at each of our major facilities to educate both offenders and staff on the importance of COVID-19 vaccination. The Moderna and Janssen vaccines are made available, through local health departments, to staff on-site at all of our major facilities. In addition, local health authorities have provided the Pfizer vaccine to offenders at Lovelock Correctional Center, Carlin Conservation Camp, and Humboldt Conservation Camp.

On May 1, 2021, the Nevada Department of Corrections reinstated inmate visitation. In accordance with CDC, local health authority guidelines, and agency COVID-19 protocols, the Nevada Department of Corrections is committed to the safety of offenders, visitors, and staff.

In the 81st session of the Nevada Legislature, the passage of Assembly Bill 466 awarded Prison Medical \$16 million to maintain its ongoing Hepatitis C virus treatment and replace medical and dental equipment that are now beyond their useful life. Efforts continue to provide the community standard of care within the institutions. The Nevada Department of Corrections continues to identify and treat offenders infected with the Hepatitis C virus. As of July 27, 2021, 66 offenders are currently receiving treatment for Hepatitis C and 140 offenders have completed treatment for Hepatitis C. The Nevada Department of Corrections is scheduled to complete the treatment of all Hepatitis-C positive offenders by October 29, 2021.

General Ford: Asked Dr. Minev if he understood his numbers correctly, half of our officers have been vaccinated and half of the offenders have been vaccinated, approximately?

Dr. Minev: Answered 41.9% of the staff and 51.7% of the offenders have been fully vaccinated.

General Ford: Asked to what do we attribute those numbers as opposed to being a greater percentage for both staff and offenders?

Dr. Minev: Responded, that there is a lot of vaccine hesitancy. There have been instances of isolated side effects from the vaccines given. We have made every attempt to go out to the institutions, and Dr. Minev himself has gone out to the institutions and tried to speak with both staff and offenders to try to convince them of the obvious benefits of the vaccination; however, he thinks that the media and the minimum side effects that do exist out there seem to be overinflated and seem to have caused a lot of vaccine hesitancy not only in our community but throughout the U.S.

General Ford: Asked then if the people who have not been vaccinated is because they don't want to be vaccinated?

Dr. Minev: Responded that that is partially the answer but that he still thinks there is still a lot of room for those individuals who have not been vaccinated to still be convinced to be vaccinated.

General Ford: So it is not because you have not attempted to get them vaccinated?

Dr. Minev: No

General Ford: And it is not because we do not have the vaccine available?

Dr. Minev: No, we have plenty of vaccines available for all of our staff and inmates.

General Ford: I think it is important for the public to know this, thank you for indulging in my questions.

Governor Sisolak: Asked Dr. Minev to clarify when he is talking about side effects from the vaccines, those are anecdotal stories and they are extremely rare. How many are you dealing with, I would like to know how many when you bring that up as a reason for people not getting the vaccine. How many cases have you had of people with side effects from the vaccines?

Dr. Minev: Governor, we have not had any individuals that have had any side effects from the vaccines; however, as you know, throughout the country there have been minimal effects associate with some of the vaccines that have caused some hesitancy.

Governor Sisolak: I would agree with you that there have been some sore arms as a result of the vaccines and that's about the extent of it, but I want to emphasize with you, you are aware of the new state policy that is going into effect next month, that we are mandating vaccines, and if you don't get the vaccine, you have to get tested weekly at your own expense, is that correct?

Dr. Minev: Yes, correct.

Governor Sisolak: Asked if Dr. Minev has made everyone aware of that and if they are not vaccinated that they will have to start paying for their weekly test.

Dr. Minev: Responded that yes, we will make that known to our staff.

Governor Sisolak: Stated that he wants it made know to NDOC staff as soon as possible so that they will have time to get the second vaccine if they get the Moderna vaccine because General Ford is right 41.9% of staff is atrocious and just not acceptable. Governor asked Director Daniels to continue.

Director Daniels: Thanked Governor Sisolak and moved on to item number 6.

6. Chief Medical Officer Report – Dr. Ihsan Azzam, Ph.D., MD, MPH; Nevada State Chief Medical Office – Attachment 2 – (for discussion only/questions & answers)

Good afternoon Governor, Board Members, and all. You do have a copy of my report and I just want to cover the main points of the report. Nevada NRS requires regular inspections of correctional facilities. As of today, three facilities were inspected which are Florence McClure Women's Correction Center, High Desert State Prison, and Southern Desert Correctional Center. The inspection includes sanitation of dental, medical, and nutritional sanitation. Florence McClure showed no deficiencies; Southern Desert Correctional Center has several dietary and sanitation deficiencies, including the fact that culinary staff are not complying with hygiene such as handwashing or sanitation of equipment; and all deficiencies at Southern were addressed on the spot and corrected. Our inspectors explained to the culinary staff that these are high-risk deficiencies that could result in foodborne [illness] outbreaks because of lack of handwashing and lack of sanitation of equipment. Regarding the dental and medical inspections, one facility was inspected and another one will be inspected at the end of the year. Only one simple deficiency was identified and corrected regarding diet delinquency; no other deficiencies were identified in the three facilities that I mentioned. We are working closely with the Department of Corrections to reduce the spread of COVID in prison and encourage the staff and inmates to be vaccinated as soon as possible because vaccination is the only way for us to get out of this pandemic. This is my update and I will answer any questions at this time.

Governor Sisolak: Asked if there were any questions; there were none. Governor asked Director Daniels to move on to item number 7.

Director Daniels: Thanked Governor Sisolak and moved on to item number 7 and introduced Deputy Director of Operations Brian Williams, who presented item number 7.

7. Use of Force Grievance Discussion of April 2021 – Brian Williams Sr, Deputy Director Operations – (for discussion only)

Use of Force grievance discussion, on March 24, 2021, the Employee Management Committee heard arguments from Officer Paul Lunkwitz and other officers as it relates to the safety of officers and the removal of lethal options within the Nevada Department of Corrections facilities. Lethal options were removed in May 2016, pursuant to an order from Governor Brian Sandoval's Office. Since that time, NDOC has continued to explore best practices for less-lethal munitions. Over the past several months, NDOC has monitored the 81st Legislative Sessions and the bills associated with the Use of Force. Prior to the beginning of the 81st Session, NDOC began conducting intense research to identify the best alternatives to lethal force. This research was due to the numerous incidents within our facilities where force was used; however, it was ineffective in resolving the incident, and thus, jeopardized the safety and security of staff, inmates, and the facility. As most correctional professionals know, Use of Force continues to be a topic within all correctional facilities throughout the country. NDOC has continued to experience an increase in Use of Force incidents over the past several months. Factors range from modified operations during COVID, increase introduction of K2/Spice or as most of you know it as synthetic marijuana, and offenders challenging authority due to limited resources to gain compliance. Due to this increase, NDOC has revised AR405, Use of Force, and explored other non-lethal options to gain compliance and to protect staff and inmates. To accomplish this, we solicited assistance from ALS (AMTEC Less-Lethal Systems).

During this search, we have identified several less-lethal munition options and have begun implementation and training for these munitions. We will also be presenting revised policy changes to the BOP for approval soon. I'm confident with these changes, we will see a reduction in assaults on staff and inmates throughout the Department while providing a safer and securer facility.

Lastly, due to the sensitive nature of the institutional operations and the munitions involved, I would humbly request any further discussion on this topic, be conducted in a non-public forum to protect the integrity of our policies and procedures as well as the safety of staff and inmates.

Governor Sisolak: Asked if there were any questions, there were none.

Director Daniels: Moved on to the next item and again turned to Deputy Director Brian Williams to present item number 8.

8. Nevada Department of Corrections Operations Update – *Brian Williams Sr, Deputy Director Operations – (for discussion only)*

As the Nevada Department of Corrections continues to mitigate the spread of COVID-19, we are very cognizant of the importance of returning our facilities back to normal operations. All NDOC staff have remained committed to adhering to all COVID-19 protocols while ensuring staff, inmates, and visitors are safe.

As we continue in our endeavor to normalcy, Director Daniels announced the reopening of visiting effective May 1, 2021. NDOC began allowing outside visitors back into our facilities in phases, under strict protocol. While the 14-month suspension of visiting was necessary to limit the spread of the virus into our facilities, NDOC recognizes the importance of family and friends' reunification which provides a positive influence and eventual reintegration of offenders back into society.

In addition, NDOC Training Division introduced a new training curriculum that focused on COVID-19 protocols and non-uniform training initiatives. This training is specific to our non-uniform and non-NDOC staff. Due to the importance, the inaugural training was conducted by Associate Wardens and above.

NDOC Operations and Programs Departments continue to work closely together in creating schedules that are conducive to COVID-19 protocols in helping to mitigate the spread, such as, cleaning and sanitizing, movement, social distancing, etc. We anticipate all programs to begin by the beginning of August 2021. Please note, all NDOC facilitated programs continued to operate during the COVID outbreak. There has been conversation regarding programming for inmates and none happening, but NDOC facilitated programs continued during the COVID outbreak.

Secretary Cegavske: Asked how the programming continued during the COVID outbreak, was it through using Zoom, or some technology to get everyone in the facility so that we were not spreading anything?

Deputy Director Williams: Responded, all NDOC employees were identified as essential staff during the outbreak, so if you were an NDOC employee and you worked within our facilities, you would still report to work and carry out your programming. Now, social distancing and reduced class sizes were implemented, but those organizations such as school districts and colleges conducted distance learning or would drop off packets at the facility, and NDCO staff would then pass those packets out to those inmates in those classes. If you were at NDOC, you were allowed to come into the facility and conduct your classes. If you were non-NDOC, you were not allowed in but you were allowed distance learning.

Director Daniels: Moved on to the next item on the agenda, which was item number 9.

9. Temporary Administrative Regulation 639 “Medical Records” – Chris Franklin, Policy, Programs, and Grant Administrator, Exhibits 9a & 9b – (for discussion and possible action)

Before the Board is submitted Temporary Administrative Regulation 639 on Medical Records. Administrative Regulation 639 implements standardized maintenance of medical, dental, and mental health records for offenders in compliance with HIPPA requirements. Key provisions in this regulation include preserving the confidentiality of medical records at facilities and during offender transfers, to assure that essential medical information is always available when needed while promoting best clinical practices and outcomes.

Governor Sisolak: Asked the Board if there were any questions, and asked Director Daniels if he wanted the Board to take action.

Director Daniels: Responded that yes, action needed in a vote, to transition the AR from temporary to permanent.

Governor Sisolak: Asked the Board if there were any questions or comments regarding AR639. There were none and Attorney General Ford made the motion to move the AR from temporary to a permanent AR. Motion on the floor for approval to move AR from temporary to permanent, all in favor say “aye.” Motion passed unanimously.

Director Daniels: Moved on to item number 10, Administrative Regulation 258 “Inmate Fiscal Procedures for Inmate Banking.” Director turned item number 10 over to Venus Fajota, Chief of Inmate Banking.

10. Administrative Regulation 258 “Inmate Fiscal Procedures for Inmate Banking” – Exhibit 10 – (for information only)

As you are all aware, Senate Bill 22 passed during the 2021 Legislative Session, signed by the Governor, and became effective July 1, 2021. Specific to deductions applied to offenders' incoming funds, the following became effective. Prioritization of victim-specific restitution, consistent with Marsy's Law, and the re-prioritization of other deductions. There was also the implementation of a 25% cap on total deductions for non-wage deposits and a 50% cap on total deductions for offender payrolls.

Senate Bill 22 also requires that if the Department [NDOC] had a policy related to offender deductions, the policy must be approved through the Administrative Rulemaking process pursuant to NRS Chapter 233B.

AR258 which is the Inmate Fiscal Procedures for Inmate Banking is the Department's current regulation detailing offender banking policies including offender deduction percentages. NDOC has drafted a new regulation specific to offender deductions and it will follow the appropriate course for its approval through the Administrative Rulemaking process. NDOC is also revising AR258 to remove any verbiage related to offender deductions. That AR will be routed through the Department's standard process, which is allowable through NRS Chapter 209, which includes final approval by this Board.

NDOC is working in collaboration with our banking system vendor to update the offender deduction priorities and caps to be compliant with SB22. NDOC targeted an implementation date for the new deductions in our banking system of August 2nd. Thanks to NDOC's valued relationship with our vendor, we all understand the importance of this issue, so the vendor has reallocated staff and we prioritized testing and tested this thoroughly and actually plan to implement the new deductions tomorrow.

All incoming funds at this time, are currently being processed in accordance with the Temporary AR258, which was effective January 25, 2021, however, after the new banking system is updated, we will manually adjust any new payrolls and deposits received since July 1st so that the deductions applied are consistent with SB22.

Governor Sisolak: Asked, so the understanding is 25% of what family and friends send in is the maximum and 50% of payroll?

Venus Fajota: Responded that that is correct.

General Ford: Wanted to confirm that this is prospectively from July 1, deposits made since July 1 will be allocated 25% and 50%, but everything before that will be pursuant to the temporary regulation that was in place, is that right?

Venus Fajota: Responded, yes, AG Ford that is correct.

General Ford: Went on to confirm that that is because the law did not apply retroactively it applied prospectively from July 1st going forward, is that right?

Venus Fajota: Responded that that is correct.

Secretary Cegavske: Asked if NDOC was up-to-date with AR258 and that all would be implemented on August 2nd, is that correct?

Venus Fajota: Responded AR258, again NDOC will have to revise the AR to remove any verbiage related to offender deduction components because if we have a regulation regarding those deductions, NDOC has to go through the NRS 233, Administrative Rulemaking process for that, so we are taking two different avenues, one is for the offender deductions through the Administrative Rulemaking process, and the other is for the AR258 to follow the normal process to submit before this Board.

Secretary Cegavske: Asked if August 2nd was the date of implementation.

Venus Fajota: Responded that no, NDOC and the banking vendor are going to implement the deduction caps tomorrow.

Director Daniels: Stated that that completed item number 10.

Governor Sisolak: Stated that that was all on the agenda and we now go on to item number 11, the second session for Public Comment.

Secretary Cegavske: Wanted to bring up a comment made by one of the Board members first. The comment made was that there is a mandate for the vaccination that will be implemented in August and that anybody who doesn't get vaccinated will have to pay for the testing that is done on a regular basis, is that correct?

Governor Sisolak: Asked General Counsel Benson to come to the bench for clarification regarding Secretary Cegavske's question. Governor went on to explain what GC Benson had just explained to him. We cannot mandate the vaccine, but if they don't get the vaccine, they will have to undergo weekly testing, this is for all state employees, that you are vaccinated or else you will have to get a weekly test and some of the tests are free if you go to a testing site. If you go to another site, and this must be done weekly, you may have to pay for the test, the state will not pay for your test.

Secretary Cegavske: She stated that her second question was that there are health issues, some people cannot get vaccinated. For exclusions, will that require a doctor's note that would preclude the individual from getting it [vaccine], and then would that individual be left alone or would they have to continue to be tested?

Governor Sisolak: He responded that yes, they will still have to be tested weekly, even if the person has a doctor's note saying for medical reasons they cannot get the vaccine.

Secretary Cegavske: Also asked if there was any information on any long-term effects from the vaccination yet, and has the mandate come down from the Federal government, or have they approved the vaccine federally?

Governor Sisolak: Responded that there isn't a mandate, there is a request. The VA is doing it for all their employees, but there have been no studies as yet as to the long-term effects of the vaccine.

11. Public Comment (2nd Period) Comments on any item (3 minutes)

Carson City:

- Holly Wellborn: Policy Director for the ACLU of Nevada, thank you for allowing me to speak today. I want to talk about a topic that is not on today's agenda, but sort of related to SB22. I've been engaged in conversations with several incarcerated individuals at Ely State Prison who engaged in a hunger strike recently because they had been suddenly cut off from access to canteen. Those individuals included admin segregation in protective custody, not disciplinary segregation where canteen access is already denied. We were told that the justifications were to first, other individuals in disciplinary segregation were abusive toward correctional officers and they [NDOC] used Senate Bill 22 as the reason why they could deny canteen access. I wanted to make clear on the record today that Senate Bill 22 does not speak to canteen access at all, it speaks to the packaged programs, so it is not at issue. There were conversations between the Warden at Ely and the individuals who were engaged in the strike, and we thought that they were coming to an agreement, but unfortunately, we found out recently that that is not the case. Ely State Prison is going to proceed with this new restriction for individuals who are in non-disciplinary segregation denying them access to the canteen, which is one of the only comforts a person has when they are living in a cell for 23 hours a day. The word is now that we are potentially looking at another potential strike. I know of at least one individual who is hypoglycemic and this could be dangerous to that individual's health. I did want to bring it

to the Board's attention. We are doing everything we can to let individuals at Ely know what their rights are, how strikes work, and to see what potential options are that might exist for those individuals but we are coming here today to plea for some type of resolution to this issue. The men who are incarcerated want a resolution to this issue and I am speaking on their behalf today.

- Adrian Lowry: I want to press the issue of the amount of people who are dying in Nevada prisons. I haven't checked the recent statistics but as of the last time I checked, which was not too long ago, more people are dying in Nevada prisons than in any other state and I just wanted to see if this Board can do anything to figure out why that is happening or if it is just going to be something that is not exempt.

Las Vegas:

- Patricia Adkisson: My comments relate to the standards by NDOC that are not applied uniformly and do not operate uniformly, implicating violations of the Nevada Constitution Article 4, Subsection 20 and relevant statutory scheme. This Board's failure to provide adequate oversight of the Director is also implicated, a violation of Nevada Constitution Article 5, Subsection 21. The policy related to inmate visits is being applied in a manner that unfairly limits residents of Nevada who travel over 300+ miles while simultaneously allowing out of state residents traveling the same distance allowed all-day visits, Nevada residents, specifically Las Vegas residents are limited to a 2-hour visit, this must be reviewed. I am a voting citizen of Nevada and when I suffer the extent of airfare, hotel, rental car and the necessary healthcare provider for my paralyzed mom, and I only get a 2-hour visit where a non-Nevada resident gets an all-day visit, I am outraged. The distance traveled and the specific circumstances described are of equitable objective factors. There is no legitimate reason to prevent contact greetings and all-day visits. Both the inmate and the visitor are given a COVID rapid response test prior to the visit, plus my husband and I have both had our vaccines. Also, when we consider the appointed Director's unreasonable family visit restrictions it becomes clear that we must question this administration's policy position implications related to future elections. Your own proclamation has opened this state up completely. Governor, I have also brought maps that show from Napa, Idaho, to Carson City, from Roseburg, Oregon, to Carson City, and from Las Vegas to Carson City, it is all 428/431 miles. So I am traveling just as far as somebody from out of state but yet they are allowed an all-day visit and I'm not. Given that I am a Nevada citizen, I think that's something that needs to be looked at.
- Nicole Tate: During this meeting, it was stated that as of July 26th, there is 5,999 fully vaccinated incarcerated population which was 51.7%, and 1,005 fully vaccinated staff which is 41.9%. However, with the 10,813 incarcerated population as of today, the numbers presented would be 55.47% incarcerated; however, on the Facebook page from the last update provided it was 61.5% of incarcerated population and the last updated staff percentage on May the 14th was 51% staff vaccination, why is there such a large discrepancy? We were also told that we would be provided a facility by facility update within a week of the June 11th update, yet here it is July 27th and this still has not been shared. Considering not only the safety of all involved this also remains to be inconsistent with NDOC's visitation phasing schedule which has not been updated as described on NDOC's own website. Sadly, also the continued errors in COVID data reporting [NDOC website] still show hundreds of missing [COVID] cases and at least eight deaths. Several [cases] were [as recent] as just a few weeks ago and still remain unresolved [sic]. Where is the accountability and transparency when these are people's lives. In addition, Deputy Director Williams just stated that all of NDOC staff follow COVID-19 guidelines. Governor Sisolak also instituted that all employees working in Clark County will wear masks while indoors, yet in violation of both NDOC's guidelines and Governor Sisolak's mask mandate, Director Daniels and Deputy Director Williams were both here in Clark County in their duties as NDOC officials not wearing masks. As leaders of NDOC shouldn't they be held to higher standards and follow their own guidelines and government mandates? As they are the ones who also have the power to monitor their own staff to follow set guidelines, how can they be trusted to ensure this is occurring for the safety of the incarcerated

population and staff alike. Also on a completely separate topic, and my apologies for this, but I need this to be addressed, I ask you Governor Sisolak to please look at the COVID status here at the hospitals in Clark County. As an ICU nurse here in Clark County it is very bad almost to the level of the winter wave and climbing at a very high rate. We don't have staff, we don't have adequate linens and supplies, we are suffering and the road we are heading down is very, very dark. I don't personally think that I can speak for many of my co-workers alike, that we can personally do this again and we are heading there now and we need help. So anything that you can do to help us out would be greatly appreciated.

- Jodi Hocking: In support of what Holly was saying, when the hunger strike happened at Ely, we had numerous people that reached out to us about their concerns. They were being told it was part of SB22, we've also been contacted that there is another looming potential hunger strike. What I wanted to add, and Holly said everything perfectly but I want to add that it is our understanding that the limitations on canteen are not just happening at Ely, while that is where the hunger strikes are happening, apparently, there have been like dollar amount restriction, there have been weekly restrictions that are severely constricting those. Part of the reason that Ely, High Desert, and Florence McClure are getting so upset about it is because they are getting their last meal at approximately three o'clock in the afternoon and sometimes four o'clock, but they don't get food again until the next day. Normally, they have canteen to supplement any of that food, but because of the restrictions that are happening people are not eating. They are not getting sufficient quality or quantity of food. I just wanted to add that it is at other places. The other thing, quickly, is that I would like to just make an offer or proposal regarding vaccinations for incarcerated people. There have been long-term hesitation and distrust and a lot of our members talked to us about their fear that's not really a vaccine and there is the potential that people are being used as test guinea pigs and that there is a long history in this country of using people of color specifically and you guys are having a hard time targeting that. I would like to propose creating a round-table discussion that includes stakeholders that either support or represent incarcerated people along with Dr. Minev or whomever else and look at trying to find solutions because what is happening right now is not building any trust with inmates and we may be able to help with that between the ACLU and us. So just putting that on the table and the last thing I wanted to say is that Ms. Adkisson is correct about what is happening with visitation, but I do, even though I am always on NDOC's butt about everything, I do want to say that they have been working with the in-process, we are in on the process of forming an inmate family council. Mr. Williams and I spoke yesterday about some examples about the mileage and people living in Tahoe and having a 20-minute drive as opposed to living in Las Vegas and having a 6-hour drive and that being extended and he actually corrected that for those families I had brought to the table and he told me that he was going to look into the policy and work on that. So I do want to just at least acknowledge I call him out on everything that is wrong and I will call them out on that, but he has been working with me on visitation because we represent 600 families. (*Governor Sisolak asked Ms. Hocking to wrap up her comments*)...that is it, I just wanted to say that.

General Ford: Stated that Ms. Adkisson wanted to make another public statement.

Governor Sisolak: Responded that no, she already had her 3-minute statement. There are two public sessions, each person has 3 minutes to comment per each public session.

- Mercedes Maharis: First I'd like to say, that the best cure for fewer assaults, and I don't think that your meetings should be closed Mr. Williams about use of force, it should be open for everyone. The best cure is for jobs and education, and I don't see how it's going to happen now because of the short staffing which leads to the second thing. The biggest disappointment during Legislature for me was that there is no effort to certify our prisons like schools and hospitals to minimum standards. Well, how can we, we don't even qualify because we do not have the staff and so what I am wanting to know is how can we even function legally

without the staff, without causing tremendous mental health difficulties which they already have in our general population and physical problems by keeping people locked down because there is not enough staff. So I guess we'll never be certified to standards. My first testimony was in 2001 with Dr. Lloyd Ruff [sp?] [sic] who was the Director of Corrections for Alaska. The state of Alaska. It costs pennies to do it then and yet through all these years none of the Legislature has said "well, we better do this because things are out of control." Now, we see the hidden use of force and things are getting worse because of COVID. Number two, did you know that the mail was stopped to your mailbox? I got an email back that said this box is closed, just thought you'd like to know. The care of the frail, I sat through the grueling 8-plus-hour Sentencing meeting where the result was "Oh, well maybe six people could be let go." Well, it was, it is incomprehensible. Other states have let many people go, especially the individuals who are disabled, what are they doing in these cells subjecting themselves to shorter lives. Why are they there? Okay, Secretary of State please take over the minutes throughout all these years there has never been a problem, but now we have this non-submission material being blocked, stonewalled, and not put out to the internet...*(Governor Sisolak interrupted asking that comments be wrapped up)*...okay, fine. Please implement verbal abuse classes immediately. Please watch my 5-minute film about the frail. A person who...*(Governor thanked her for her comments and for being here today)*.

Governor Sisolak: Asked if there were any more speakers in Southern Nevada. There were none and Governor Sisolak moved on to agenda item number 12, we are adjourned.

12. Adjournment: The meeting was adjourned at 2:15 p.m.

APPROVED THIS 25 DAY, MONTH OF OCTOBER, IN THE YEAR 2021

GOVERNOR STEVE SISOLAK

SECRETARY OF STATE BARBARA K. CEGAVSKE

ATTORNEY GENERAL AARON D. FORD

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