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Governor

CHARLES DANIELS  
Director

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**STATE OF NEVADA  
BOARD OF PRISON COMMISSIONERS**

**MEETING MINUTES**

The Board of Prison Commissioners held a public meeting on Tuesday, April 20, 2021, beginning at 1 p.m. Pursuant to Sections 2 through 9, inclusive of Chapter 2, *Statutes of Nevada 2020, 32<sup>nd</sup> Special Session of the Legislature*, pages 9 through 11, there was not a physical location for this meeting due to the public-health crisis caused by COVID-19. The meeting was held virtually. The meeting was listened to and viewed virtually; hosted by the Nevada Department of Corrections website.

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

Action: The meeting was called to order by Governor Steve Sisolak at 1 p.m. Governor asked for the clerk to take roll. Dena Mantelli, Executive Assistant to Director Daniels, Nevada Department of Corrections, took roll call and a quorum was confirmed.

Board Members Present via Zoom:

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

Nevada Department of Corrections (NDOC) Attendees via Zoom:

Charles Daniels, Director  
William Quenga, Deputy Director Prison Industries & Acting PIO  
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 (2 minutes). Governor Sisolak asked the callers to please mute their phones until called on. **(There was a lot of interference on the recording due to unmuted phone lines.)** Governor Sisolak stated that this is the first session for public comments for any item on the agenda, only items on the agenda and that callers will have 2 minutes to speak and they need to identify themselves for the record. Governor Sisolak asked if there were any public comments. Caller responded. Moderator was having technical issues and could not call out numbers. (Throughout this meeting, there were technical issues with YouTube that was beyond NDOC's control. Issues could not be fixed by IT Technicians; thus, the Moderator lost the screen and could not see callers waiting to speak. This caused public callers to just jump in at times when one caller was finished. This also made the recording very difficult to interpret.) Note, public comments were also accepted in written form via email before and during the meeting.

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

- Nick Shepack, Policy and Program Associate with the ACLU of Nevada: As you are aware, we have been working on the inmate trust account issue since last September when NDOC began garnishing family deposits by 80%. This body put a stop to that practice in October and asked NDOC to come back with a new AR 258. In January, this body agreed to a 50% deduction for restitution. We do not believe that the product before you reflects the intent of that last meeting. The reality is that this new AR allows NDOC to take more than 80% of family deposits. Families are being crushed by this abusive policy change. The Nevada State Senate has listened to the cries of families and amended SB-22 to place a 25% cap on deductions on family deposits. This passed out of the Senate Judiciary Committee with unanimous votes. Marsy's Law takes no position on the specific percentage or procedures in which garnishments are made. This is not a partisan or political issue, AR 258 as proposed is just bad policy. It's worse than the AR proposed in October. Families simply will not put money on the books that are being garnished 80% or more. They will not put money on their books at even 50%. This means NDOC is not collecting any money for itself and victims are not receiving restitution. Reasonable caps, such as the one proposed by the Legislature, will ultimately increase restitution collected and NDOC's pay. Is this who we are? Is this what we want to do as a state? I do not believe that this is what the body had intended in January. I believe that we are better. There needs to be a compromise, let's find a way to collect restitution without financially crushing families...*(moderator interrupted stating that caller has 15 seconds to wrap up)*...Marsy's Law is in no way intended for NDOC to take every penny from family deposits.

Governor Sisolak: Asked if there were other callers for public comments.

- Denise [NLN]: My name is Denise and I'm here with Return Strong calling for the Board to look at all that has occurred over the past months, and hold NDOC accountable for the things that they say, and to be accountable for the damage that NDOC has done to families who continue to be impacted by what we believe are unintended circumstances of a poorly implemented policy. After the January 25<sup>th</sup> Board of Prison Commissioners meeting, the understanding that the temporary AR would limit the deductions 50% of wages and contributions made to their [inmates] accounts. No implementation date was given, just that it would be quote "sometime after Friday, January..."[inaudible too much interference].

...[inaudible] Governor Sisolak asked again that everyone please mute their phone until Denise finished speaking and asked Denise to continue. (Denise) March 1<sup>st</sup> the deductions were implemented again which were again as high as 80%; yesterday we sent the Board 69 letters that we received over the last 2 weeks from our incarcerated members demonstrating outrageous deductions that leave them indigent even while they are working. Here's an example from a Prison Industries worker at Lovelock, from his full-time, 40 hours a week job, he grossed \$85.80. Normally, his deductions would have taken 44.5% of that, leaving him approximately \$49, and that was prior to a temporary yard change. Now because he was garnished 50% restitution first and then deductions for room and board, court fees, DNA markers, capital improvement, and more, he was left with \$2.22. We don't believe that the Governor or this commission intended that we end up right back where we started with the state leaving people indigent and honestly there is no reason that we need to be here again today. This goes back to Marsy's Law which does not stipulate a percentage to be deducted nor does it define timely. It only states that the deduction for restitution must come first. This should not be this difficult. If you agreed on a 50% cap on deductions, and someone owes 44.5% of their wages for state deductions like medical bills, and room and board, which is essentially rent, then 5.5% of their wages go first to restitution, and then the state can pay itself on the backs of incarcerated people who are already working for slave wages, with the remainder. Governor, we believe you intended to make 50% a true cap, but in the meantime, incarcerated people and their families are paying for the unintended consequences of these changes. We need the Board to revert to the status quo until the policy is clearly

written and we are given an opportunity to voice all of our concerns and not rush through them at public comment with no opportunity for the consequences of these decisions to be vetted out completely. Make this right today while the revisions and SB-22 are worked through and a permanent resolution is found.

- Jennifer Milczewski: My name is Jennifer M-I-L-C-Z-E-W-S-K-I. Thank you, Governor and the Board for the opportunity to speak on my behalf and that of my family. Inmate ID 1231298, Jose [inaudible] killed my father, David Milczewski, severely injured my mother Susan Milczewski, who ended up in ICU for some time and was barely clinging to life, and injured my sister Kate Milczewski on March 10, 2017, during a high-speed pursuit. This criminal with a RAP sheet a mile long was driving an uninsured [sic] vehicle, while impaired, and killed my father, a great and godly man. During the past 4 years, I have undergone extreme psychological torment due to the careless actions of this criminal. I have been hospitalized due to psychiatric reasons caused by this convicted man's heinous actions in my life, and have incurred thousands of dollars in hospital and psychiatric bills due to my inability to cope with what this man has done to my family. It was brought to my attention that some of the funds raised from this criminal's chain-gang work while incarcerated are going to take care of his own children. I would like it to be known that my father no longer has the ability to care for his family because his life was ruthlessly stolen from him. In my humble opinion, this inmate should no longer have the ability to take care of his own family; he gave up that right when he broke the law and made irresponsible decisions. My father cared for his family dearly and was an upstanding and law-abiding citizen. The fact that this inmate is still able to provide even a dime for his own family is sickening. I need to voice my concern here and let you know that I am absolutely appalled to find out this fact. And one more thing I would like your team to consider, my mother was unable to collect any of my father's social security due to the fact that he was killed before the cutoff age. I feel that this inmate should be paying my mother each month for the rest of her life. My father worked so hard all of his life to enjoy his retirement and that was stolen from him in a careless, intrinsic act. The least this inmate could do is try to make my mother's life easier financially. I would like to see 100% of victims' specific restitution be withheld again at 100%. My heart is heavy and I am grateful to you for taking the time to listen to my family's reality.
- Paul Lundquist [sp ?]: I'm a correctional officer with NDOC and recently had a grievance granted by NDOC and I do not see it on the agenda as it was detailed in my grievance and I don't want to be out of order and talk about things that are not on the agenda...

Governor Sisolak: Interrupted at this point and asked Director Daniels if this issue was on the agenda. Director Daniels stated no it was not. Governor asked how Paul would get his concern addressed. Chief Christina Leathers responded by saying that currently we are working with the Attorney General's Office in reviewing the AR in question and prior to our being able to bring the AR before the Board we had to complete those reviews and have it earmarked to bring forward in the July Board meeting.

Paul Lundquist: Stated that he heard what Chief Leathers stated but that she was at the meeting and they [?] requested that it would be on the agenda and that it was not just dealing with AR 405, it was dealing with the lethal force option platform for the prisons.

Governor Sisolak: Asked staff to contact Paul and discuss this case and help him understand why it was put off until June if that is the case, and provide him with the information that he needs. NDOC staff acknowledged that they would.

- Patricia Adkisson: My name is Patricia A-D-K-I-S-S-O-N, and my comments today are really to the Board's authority in order to properly exhaust regulations for the operation of the Board and the Department. The failure of this Board to comply with the substantive requirements set forth in the *Nevada Administrative Procedures Act, NRS 233B*, does render all regulations adopted from July 1, 1965, to become invalid. This

Board is not expressly exempted from the requirements set forth in the NRS 233B, as such my husband has submitted to this Board on this day a 233B petition of which we are in support of. This Board has 30 days in order to respond as provided by statute. Further, if this Board is to rely upon AR 100, in order to develop, revise, or maintain any temporary regulation, whether disputed or not, the requirements of AR 100 mandates presentation of all existing temporary regulations at or upon the next or subsequent meeting of the Board of Prison Commissioners. Otherwise, the affected designated temporary Administrative Regulation automatically becomes invalid. Because this expressed requirement is not being followed, all currently designated temporary ARs that were not presented today, but that do exist are now invalidated and do not affect the conditions of confinement as related to grievances...sorry, it does affect the conditions of confinement as related to grievances, healthcare, and matters. A petition currently calendared before the United States Supreme Court to be heard April 30, 2021, Case No. 20-7299, is implicated.

- Nicole Williams: I am a member of Return Strong as well as part of a family impacted by incarceration and the deductions. One of the issues that we continue to press back on is how the Director came to deem that 80% is a reasonable deduction for restitution or deductions as a whole, and why the Director has so much unilateral decision-making power with no checks or balances which is the foundation of our democracy. Interestingly enough, we are not the only ones with these questions and concerns. During the March 4<sup>th</sup> presentation of SB-22, Senate Majority Leader Nicole Cannizzaro brought up the same concerns. As I'm sure you know, SB-22 is NDOC's attempt to turn this revised AR into a statute. During the question period, Cannizzaro expressed concerns regarding the decision-making and authority given the Director and the statute, as well as concerns regarding his power to determine what is reasonable.

In addition, she made an excellent point, it reinforces what families have been saying all along and that is the revisions to the AR are under the guise of Marsy's Law. Marsy's Law is not the reason for the implementation of the percentages or the percentage changes. The only thing Marsy's Law calls for is that restitution be deducted first. There is no connection between Marsy's Law and a percentage. Each time Daniels has been questioned about this, he points to California and Arizona. He repeatedly states he used them as a guideline of what is reasonable while leaving out all of the other states that have implemented Marsy's Law using only offender wages or policies that include budgeting, personal responsibilities, and an effective time period that includes post-incarceration to pay their debts. It is impossible for the Board to make permanent decisions based on partial information, and to date, the department has never fully been forthcoming. They have not followed directives to include those with [inaudible] to be included in the conversation and...*(Moderator interrupted saying caller has 15 seconds to conclude)*...(Nicole) [inaudible] or care how deeply affected people have been by these decisions. We must do better.

- Ayanna Simmons-Oglesby: Spelled A-Y-A-N-N-A and the latter part of the last name is O-G-L-E-S-B-Y. Governor I would like to say this, to kick a man or a woman while he is down is an understatement. These persons that are incarcerated are already paying with their freedom. There's a double standard. Marsy's Law is adequate but it does need to be revised when they work for a dollar or barely that. Governor, they don't have anything to rely on for their personal needs. Some of us family members have multiple people incarcerated in the NDOC and it is a struggle and a hardship. I hear people always using God; God is a God of forgiveness and these persons are paying their time for their crime, and these things need to be revisited. They are being charged twice for housing; the cost of commissary is astronomical, it's ridiculous, you go to Walmart and a pack of noodles is 25 cents and in their [NDOC] commissary it's \$1.30, that's inadequate. These are things that need to be considered by those who sit behind the desk and push the pen. As far as the Director, and people who are in place to help with this, remember brown and black people, the disparity, the people that are mostly being victimized by this, you know all are our ancestors...*(Moderator stated to caller that she had 15 seconds to wrap up)*...(Ayanna) I will close with this, we are Nevada Strong and Battle Born. We are in a position to do better and have a moral obligation.

Secretary Cegavske: Stated that her office was notified that some of the people trying to get on to watch the meeting are not able to. Governor asked if there was a limit to how many people can watch the meeting, an IT Technician responded that there is not a limit and they would look behind the scenes for the problem.

- Amber Cannon: Spelled A-M-B-E-R C-A-N-N-O-N. I am here with Return Strong and have a loved one incarcerated at NDOC. We're asking the Commission to intervene in the fight that families and the incarcerated are being subjected to with the imposed changes to AR 251 [caller is referring to AR 258]. There have been instances that raise questions about why we are dealing with it. Families of the incarcerated were never given a voice at the table, but after a live Senate Bill hearing on SB-22, the Senate Judiciary Committee on March 4<sup>th</sup> stated its understanding was that both sides victims, advocates, and families of the incarcerated had meetings with this very Board to come up with a solution. Leading up to the BOPC meeting on January 25<sup>th</sup> the department did everything in their power to silence Return Strong and other speakers making public comments, essentially violating public meeting rules. The meeting did not have a full 7 days posting prior to the meeting and initially required comments be submitted on Tuesday, January 19<sup>th</sup> by noon the day prior to the meeting. Public comments are typically due by the close of business on the day of the meeting. We emailed the BOPC mailbox in mass and got a response stating that nothing had changed to the document from the initial AR on October 8<sup>th</sup>. While there was an agenda that indicated attachments of the proposed, now temporary AR 258, are posted, it was never posted in advance. We were unable to review it and make comments on the actual changes.

NDOC has a proposed revision, that mysteriously appeared, with a 50% revision that the Board voted on and passed. Despite public outcries that made it clear, we had never been offered the opportunity to review it. Some restitutions are currently at 83%. At that meeting, we discussed more evidence that the Director had been given months to review it and work on a revision that was fair, but came back with the same exact policy that had been rejected...*(Moderator stated caller had 15 seconds to summarize)* (Amber) [inaudible] it's unfortunate that he [Director] feels that way because he is not the one being held responsible for this [sic]. Please do not pass the revisions to AR 258, and we are asking for relief [sic] while this is going through the Legislative process [with] SB-22 and to revert back to the status quo.

- Amanda Candelaria: My last name is C-A-N-D-E-L-A-R-I-A and my fiancé has been incarcerated with NDOC for 16 years. He was wrongfully convicted and is still going through the appeals process. His family and I were sending him money for basic hygiene necessities that are not provided by NNCC but can no longer do so because of these deductions that are being taken out. It is not just 50% being taken out, when it's all said and done, it's more like 80%. If I send him \$100, of my hard-earned money, he will only get \$20 which does not go very far in the prison store. I understand that in some cases the victim is entitled to some sort of compensation, no one argues that fact, but these deductions are the responsibility of the incarcerated individual, not their families. My fiancé owes \$10,000 in restitution for a crime that he truly did not commit. If the deductions are not set at a reasonable amount, we will not be sending him any money and then there will not be a way for our hard-earned money to be taken. Many families are prepared to do the same. We just need to compromise on something that is fair and will work for everyone so we don't have to keep struggling to survive.
- Morgan Darcy: Last name spelled, D-A-R-C-Y and I am here with Return Strong to once again point out what is happening with deductions, even after we have gone through two Board of Prison Commissioners meetings, [inaudible] the process that the Secretary of State then had to fight a bill that NDOC is purposing to move this AR revision into statute. Reportedly because of Marsy's Law, that there is no way that requires this after all agreeing at the October 8<sup>th</sup> BOPC meeting that 80% of deductions is not reasonable. The Governor questioned it, General Ford question it, and all three agreed to refer to an old AR pending a real resolution.

On March 1<sup>st</sup>, oops, they did it again, and once again deducted over 80% of money sent to or earned by an incarcerated person. After the BOPC meeting on January 25<sup>th</sup> and the temporary AR was written, these are deductions, as they stand right now, reported from incarcerated inmates, 50% victim-justified restitution, 20% NDOC obligations, 10% savings, and 3% genetic markings/court fees.

One letter states, individually these are separate deductions, but what if an inmate is subject to all the above categories. This inmate is subject to all and [loses] 83% of everything he has. I am subject to these deductions which are over 15-years old, with no way to get out from under this debt. It is not a good feeling. My mom just had a major heart attack and cannot afford to send me \$100, just so I can get \$17. So I live in poverty, crushed under the department, no gift coupons, not a lot of options. The NDOC does not need to look for ways to deduct more money, they need to look for a way to help inmates, to put the corrections back into correctional centers. NDOC has to take some responsibility so inmates can be successful members of society..."

*(Moderator interrupted and stated that caller has 15 seconds to wrap up)...* (Morgan) perfect, the Director actually should not have unchecked power in inmate money excessive deductions and create dangerous situations. This is just one of hundreds of letters, pay stubs, and phone calls that we have received around this issue. As many before me have said, it was the understanding of everyone at the January 25<sup>th</sup> meeting, that this would be at a 50% capped reduction. I desperately need that to be corrected today.

- Tonja Brown: T-O-N-J-A B-R-O-W-N advocate for the inmates in Unisys [*sic*] I would like to echo the sentiments made by the previous callers and I'd like to include that that families who have loved ones incarcerated in prison have not committed any crimes and their money, the money that they send in should not be used as though they have committed crimes. So all money sent in should be given to the inmate.

Now that I have said that, I would like to discuss one other thing, on another matter. I have reached out to Director McDaniels [name spoken by caller] several times over the last couple of months, and I have not received any word back. This deals with an inmate, I was in contact with the inmate and his family, in which he had been transferred from Warm Springs to NNCC. His legal paperwork is still at Warm Springs, and this is an issue that some of the inmates have with their legal work. They will get transferred and then it's stuck at another institution, it doesn't go with them and with the public records request, it's also very possible that newly discovered evidence is being found in these files, and they are going to need their paperwork all of their legal work. So I would like for Director McDaniels [name spoken by caller] to contact me so I can give him the name of the inmate and ensure that his legal paperwork for his case can transfer over to his institution.

- Kelvey [sp?] Peeler: My last name is P-E-E-L-E-R and I'm here today in support of Return Strong Families United for Justice for the Incarcerated. Obviously, I am in support of their fight for incarcerated people and their families here in Nevada. You continue to hear that Marsy's Law passed you know in 2016 - 2018 by most Nevadan voters, at the time there was much debate regarding this, and many of the things now happening were pretty much foreshadowed and debated then. What I wanted to do is point out that Nevada Statute NRS 176A, [inaudible] does allow prisoners who are on Parole and Probation, owing restitution, and facing a kind of economic hardship to apply for a hearing to address that hardship. Yet, what we're currently doing in effect is creating kind of a debtor's prison within prison, and something that Attorney General Ford pointed out on January 25<sup>th</sup>, if the defendant cannot pay, they cannot be forced to do so because there cannot be debtor's prisons in this country. So one of the Return Strong members wrote the following: "the restitution I was ordered to pay confused me because I'm legally forbidden from earning a wage because I'm on death row. I cannot work prison labor, I am expected to suffer in isolation due to my status until I am executed. I have no access to rehabilitation because I am condemned to death without any expectations of

rehabilitation. You cannot have it both ways, either you want me to pay for my crime monetarily or you want me to pay with my life. By choosing the latter, you can't have the former. So Governor Sisolak, Attorney General Ford, and Madame Secretary there is no component of Marsy's Law that requires me being an incarcerated Nevadan, being destitute. Their punishment is their incarceration, not the loss of their humanity. Nor should the punishment of the incarcerated extend to innocent families. Raise the bar, please." I hope you will take his concerns into consideration.

General Ford: Governor, you and I just received a tweet that the meeting is not live on YouTube. Chief Leathers responded that we discovered that the YouTube website is having technical difficulties that are beyond NDOC's control. Governor asked if the meeting could be moved to his YouTube channel. Chief Leathers responded that she will check with our IT staff to see if that can be done.

- Bridgette Cooks: Last name spelled C-O-O-K-S, and I'm a member of Return Strong. I will attempt to keep this brief and to the point. For months we have been asking for communication, transparency, and accountability. For months, we have been forced to fight. For months we have asked for a chance to [inaudible] regarding these issues [sic] through public comments. For months, we have listened to the Director and his staff answer questions with what we consider to be half-truths. They answer the question with the answer that you want to hear; the answer that makes it easy to turn a blind eye to the reality of the plight. That is a result of their policy decisions the answer they gave makes free people comfortable. Governor, on October 8<sup>th</sup>, you asked John Borrowman where the funds were that had been collected in September, and he stated that the funds are being held in a trust account until a decision is made about giving it back to people. On January 25<sup>th</sup>, Ms. Fajota, I hope I'm pronouncing her name correctly, stated that 100% of the money collected would have been sent to Parole and Probation (P&P), which if this is true, there are multiple problems. First, it was supposed to be held until this was resolved; second, those payments are not showing up on people's balances because the funds are transferred from NDOC to P&P, and once they are at Parole and Probation, they cannot resolve discrepancies because it is a completely different agency.

One of our members, who is currently in for a violation owed \$900 in restitution from his original case. While he was free and working, he paid all but \$215, when he got a violation and returned to prison, NDOC now shows the full balance owed, as if he didn't pay anything. Yet, because he is in prison under NDOC, he can't get resolution through P&P. It is a neverending catch 22. This isn't an isolated incident, it is the norm and we believe it is related to Marsy's Law...*(Moderator stated there were 15 seconds left)*...(Bridgette) I understand we have 15 seconds left, and the courts cannot make a settlement or anything else until the full restitution is made. From our understanding, P&P holds the money until they have collected full restitution and then it crosses to the court, but how is a person supposed to know where they are in that process and how do they get their money back if they paid more to their order. So there are too many unresolved questions to this to just push this revision through. In addition to the facts, the way it is currently being implemented puts people right back to collecting restitution. We understand that restitution is owed...*(Moderator thanked caller 2 minutes are up)*.

- Jodi Hocking: Hello this is Jodi Hocking, I'm the founder of Return Strong Families United for Justice for the Incarcerated. I didn't realize that I pressed \*96. I'm just going to keep this brief because I feel that my members have really kind of shown a light on everything that has occurred since September 1<sup>st</sup>. They've twice implemented deductions with no notice to families or incarcerated people that they were going to happen. I wonder how that would feel on their side if all of a sudden their employers decided that you were not going to get paid, or the bank took all your money out of your bank account without telling you about it. The devastation that it causes for people is very serious, and ultimately, comment after comment after comment, comes back to the same exact three things that we have been saying for almost a year now, is that NDOC we need transparency, we need communication, we need accountability. Those three things have to

happen somewhere, and if the Prison Board of Commissioners aren't able to do it, we have to find a way. We need some oversight into this because decisions are just rampantly being made and the consequences are being left for people out here to suffer as well, and we didn't cause those crimes [sic]. I do also want to mention that wanting justice or fairness for our incarcerated, does not mean that we are unsympathetic to the plight and the feelings and the trauma that victims have had to go through, and the families of victims, and those are two separate things, and they can really both go through at the same time and so I want to reassure the people that are out there, that we are not saying that victims don't deserve restitution. The people who are incarcerated are not saying that, but the way this is being done is careless and reckless since September 1<sup>st</sup> and it has to be fixed with thoughtful preparation and planning.

Moderator: For all those who called in today for public comment, obviously, we are having some technical challenges and I want to make sure that everyone is following the proper instructions. If you are waiting to call in we ask that you select \*9, so we can see your hand, and as we select you, we will call your last four digits and ask you for your name, first and last, and ask that you spell your last name. When we do call your four digits, please select \*6 at that time to unmute.

Governor Sisolak: Asked if there were any other callers for public comment.

Chief Leathers: Governor this is Chief Leathers and just want to give you and General Ford an update. The YouTube site, itself, is experiencing technical difficulties, and also we are unable to change the location of the YouTube during midstream.

Governor Sisolak: Asked everyone again to please mute their phones. He is hearing all kinds of feedback on the phone lines and it is disrespectful for the person who has the floor. Governor asked again if there were any more callers for public comment.

- Valerie O'Neill: Hello, my name is Valerie O'Neill, O-N-E-I-L-L, and I am here today with Return Strong Families United for Justice and asking for those of you in power to take the time to thoroughly review all the implications of the changes to AR 258 and the impact it has on people in and out of prison. September 1, 2020, incarcerated people across the state of Nevada woke up to empty trust accounts and their families. During the pandemic, we began receiving tragic phone calls filled with anger, confusion, and more anger from everyone. Imagine going to bed with thoughts of buying necessities for yourself the next day, only awakening to find all your money is gone without warning. The things you had planned to purchase for basic survival vanished in an instant. Grandparents, single mothers and fathers who are left raising kids alone have to make choices between money on a phone so that children can talk to their parents to hopefully maintain those bonds or to buy food or shoes for a growing child. People who are at an all-time low, are being further stripped of their dignity that they have tried so hard to hold on to. They are now forced to make the decision to buy a 16-ounce container of laundry detergent for \$8.25 or a doctor's appointment they have been waiting for 3 months to pay the \$8.00 co-pay. All these decisions are made with little or no money to support them.

Here is a story about an individual we will call John. A couple of weeks ago John suffered a seizure in his cell as he was attempting to climb onto his top bunk. He fell off and landed on a hot pot which caused third-degree burns, but could not and frankly would not call "man down" because he knew it would cost him and his wife close to \$200 for an emergency doctor call. Governor Sisolak, you have repeatedly asked questions of NDOC about the impact to families, yet, you have not created any space for us, the impacted families to be an actual part of the conversation. All we wanted was to sit at the table as equals and help make a unanimous agreement that was beneficial to all involved parties. Instead, we are forced to use 2 minute public comment periods to counter the half-truths that are reported directly by Director Daniels and his



team. We are asking you again to please pause and return to the status quo and why [sic] the unintended consequences of this action are vetted out before making a permanent decision.

- Sherrie [sic sp?] Lothaner: My name is Sherrie [sic sp?] Lothaner spelled L-O-T-H-A-N-E-R and I'm here today with Return Strong. I am asking that you really listen to what we have to say. In early September, Director Daniels decided to implement the 80% garnishment on the money of the incarcerated people. In the current AR, he has what he deems as reasonable deductions. According to Kristina Shea of Support Services, at the January 25<sup>th</sup> Prison Board of Commissioners meeting, Ms. Shea stated that the passing of Marsy's Law extended victims' rights including the right to full and timely restitution. The entire process is filled with word games and what boils down to schematics. Yet, these words influence the law in the Nevada constitution. In reading these two words, reasonable and timely, we must reflect on what each word truly means. The definition of reasonable is having sound judgment fair and sensible. Was it reasonable to implement such an expensive policy change with no notice to incarcerated people and their families, and no notice to the Prison Board of Commissioners, not once but twice? Was it reasonable for families who are placing their hard-earned money on their loved one's books to take care of their necessities to find out that their loved ones will only get 10% of that or less?

We hear from elderly parents all the time, who are on Social Security who sacrifice to pledge \$25 a month to their child's account for necessities, not luxuries, and their children were left with pennies after deductions. Was it reasonable to take the deductions to the point that people were left in indigent status and left with \$10 in their account? We questioned if it is even legal to leave an incarcerated person in indigent status. Timely is defined as done or occurring in a favorable or useful time. What is timely, when you are incarcerated, when you work in the culinary for \$30 per month and owe a \$175,000 restitution on a Life sentence without Parole, at that rate...(Moderator interrupted stating 15 seconds were left)...(caller) at that rate, it will take 5,833 months to pay off that obligation, that's 486 years on a Life sentence, does that sound ridiculous to you? At a minimum, changes deserve to be heard [sic] and the Board needs to focus and consider the implications this puts on the incarcerated and their families.

- Nicole Tate: My name is Nicole Tate and also a member of Return Strong. For the last year, I have spent more hours than I care to count listening to the presentations by Director Daniels at every conceivable public meeting and repeatedly, without fail, gives faulty information to the Committees and Boards that he presents to, including this one, and no one in the state seems to care or hold him accountable, but we do. We came to the Prison Board of Commissioners meeting on January 25<sup>th</sup> believing that this Board truly cared about what was going on. Speaking of the truth of what Marsy's Law does or doesn't require and left us shocked that no one even once questioned the Director about the things he had presented or had happened from October 8<sup>th</sup> until January 15<sup>th</sup>. At the October 8<sup>th</sup> meeting Governor, you were quoted as saying, "I also think it is important to let the families on both sides, the victim and the inmate families, speak as it relates to terms of what they thought his intent was, and make sure that everyone is heard. I want to be as transparent and open to both of you and I will make the motion that we suspend this regulation effective immediately."

At the end of this meeting, Craig Cables of Nevada CURES suggested that the Director meet with leadership from organizations who are opposed to these changes, mainly CURES, Return Strong, and ACLU. The Governor supported the idea and told us to reach out to him [Director] to schedule a meeting. Not only did the Director refuse to meet with any of us, he also never completely reenacted the original AR 258. Your motion was to suspend the regulation immediately which indicated the reversion to the original AR and that was never done. The gift coupon program was never reinstated and \$220,000 that is sitting in an account has not been applied nor returned as it was wrongfully taken from them. It shouldn't matter if it's complicated to fix, they made the mess, they need to fix it. We reached out to everyone on the Board, as well as the Director, and not one of you responded to us. To this day, people are hoarding gift coupons that were

purchased and never used because there were no warnings these changes were coming. So the state collected money on these gift cards and hasn't honored them.

Governor Sisolak, the Director has said he serves at the pleasure of the Governor and to go to our elected officials, which we have, and here we are again. Once again calling for relief and a fair resolution based on the facts and truth that can be found. What you have heard, has been half-truths at best, and we can't build a good policy on half-truths, it needs to be the whole truth so help you God.

Governor Sisolak: Asked if there were any other callers and if there were any written comments. NDOC tried several times to answer the Governor, but we had technical difficulty with our equipment, NDOC staff were unable to unmute so we could respond. Someone from Return Strong stated that 69 letters were submitted to NDOC for the meeting, and that is true. All comments submitted to the Board for the meeting were forwarded to the Governor, Secretary of State, and Attorney General's offices for review. General Ford commented that his office did receive those letters. The Governor asked if those letters will be made part of the record? General Ford answered yes they will be. Governor Sisolak closed the first public comment session and moved on to item 3.

### **3. Acceptance and Approval of Minutes – January 25, 2021**

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

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

As of today, NDOC has an offender population of 10,796 and 2,474 active employees. This number excludes pending transfers from local jurisdictions and any new hires. Since our last meeting, NDOC has continued to partner with both the COVID-19 Task Force and the Department of Health and Human Services on our agenda protocols on PPE, testing, and vaccination efforts.

With the transition to SuccessFactors, the SMART 21 project, NDOC is actively working with DHRM to repost all active recruitments; however, due to the nature of the ranking structure for custody staff, we have experienced delays in obtaining certified lists for hire. As of April 19<sup>th</sup>, NDOC is experiencing a 16% vacancy rate.

My team is prepared to discuss residential confinement and compassionate release information during NDOC's medical update. Finally, 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 things over to Dr. Michael Minev to provide a brief overview of both Hepatitis-C and COVID-19. Director asked Governor Sisolak for permission to turn the meeting over to Dr. Minev.

Governor Sisolak asked Director Daniels if he was done with item number 4 because the medical update was item number 5. Director stated he was done and the Governor closed item 4 and moved on to item number 5, NDOC's Medical Update.

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

The Directors of Nursing at all facilities within NDOC are currently working with caseworkers to ensure all offenders who are medically eligible for compassionate release are evaluated. Eligible offenders are evaluated by medical providers at each facility. In accordance with the provisions of the compassionate release statute, offenders with chronic medical conditions who are in ill health or physically incapacitated may qualify for compassionate release. Based on these criteria, a total of 70 offenders have been medically evaluated for compassionate release statewide. Twenty-two offenders from Northern Nevada Correctional Center; 17 offenders from High Desert State Prison; 7 offenders from Florence McClure Women's Correctional Center; 14 offenders from Southern Desert Correctional Center; 1 offender from Warm Springs Correctional Center; 1 offender from Wells Conservation Camp; and 8 offenders from Lovelock Correctional Center.

As of April 19, 2021, 17 out of the 70 offenders have cleared the initial medical screening and of those 17 offenders, 9 offenders are being reviewed for compassionate release; 5 are housed at Northern Nevada Correctional Center; 3 are housed at Southern Desert Correctional Center; 1 offender is housed at Florence McClure Women's Correctional Center. The one offender at Florence McClure Women's Correctional Center has been approved by Director Daniels, pending the 45-day notification to the County Commissioners.

The Nevada Department of Corrections' Medical Department continues to collaborate with community medical providers and specialists to provide quality medical care to our offenders while striving for the best medical outcome. The Nevada Department of Corrections' Medical Department has been proactive and flexible during the COVID-19 pandemic through the implementation of agency-specific, CDC, and local health authority guidelines. The Nevada Department of Corrections currently has five offenders and 14 staff members positive for COVID-19. Our Medical Department prioritizing the safety of both staff and offenders during the ongoing COVID-19 pandemic by offering vaccinations in accordance with state and federal guidelines, rapid COVID-19 testing, and N95 masks that offer superior protection against the COVID-19 virus. As of April 16, 2021, 1,237 staff members have received the first dose of the Moderna COVID-19 vaccine, and 831 staff members have received both doses of the Moderna COVID-19 vaccine and are thus fully vaccinated. A total of 39 staff members have received the Janssen vaccine without any reported side effects.

As of April 16, 2021, a total of 565 offenders have received the first dose of the Moderna COVID-19 vaccine, and 277 offenders have received both doses of the Moderna COVID-19 vaccine, and are thus fully vaccinated. A total of 688 offenders have received the Janssen vaccine without any reported side effects. The Nevada Department of Corrections' Medical Department will continue to work with local health authorities to procure sufficient vaccines to administer to staff members and offenders.

At this time I would like to transition to the care of our offenders infected with the Hepatitis-C virus. The Nevada Department of Corrections' Medical Department continues to identify and treat offenders with the Hepatitis-C virus. As of April 20, 2021, our medical providers have identified 685 offenders with active Hepatitis-C virus infections. One hundred sixty-nine of those inmates are priority level-1 offenders in accordance with medical directive 219. Medical directive 219, prioritizes offenders for the treatment of Hepatitis-C virus based on the severity of the disease from level-1 to level-3, with level-1 offenders at the highest priority for treatment. In accordance with the Hepatitis-C virus consent decree signed on October 29, 2020, the Nevada Department of Corrections' Medical Department is on track to start all priority level-1 offenders on direct-acting antiviral medications for eradication of Hepatitis-C virus by April 30, 2021. The remainder of the Hepatitis-C virus-infected offenders including those identified at intake, through September 2021, will be treated for the Hepatitis-C virus by October 29, 2021. At this time, if there are no questions, I would like to hand over the presentation back to Director Charles Daniels.

Governor Sisolak: Stated he had some questions. What percentage of the staff have been vaccinated with the first dose and then fully vaccinated?

Dr. Minev: Answered at this time we have 48% of NDOC staff members have received the first dose of Moderna COVID-19 vaccine and 33% of the NDOC staff members have received both doses of the Moderna vaccine and are thus fully vaccinated.

Governor Sisolak: Asked for the same information for the inmates.

Dr. Minev: Responded, at this time Governor, of the NDOC offenders 11% have received the first dose of the Moderna COVID-19 vaccine, and 5% of our offender population have received both doses of the Moderna COVID-19 vaccine.

Governor Sisolak: Stated that those numbers are extremely low for both staff and offender levels and asked if Dr. Minev could explain why the numbers are so low when we were one of the first ones made available to receive the vaccine.

Dr. Minev: Responded that NDOC is working at our best to increase interest and compliance with the vaccinations not only with our staff but also amongst our offenders. We actually had a very robust vaccination effort at Florence McClure Women's Correctional Center this past week and that data has not been compiled or included in today's presentation because it is still waiting for verification.

Governor Sisolak: Stated that it is his concern and he stated to Director Daniels that he would like to open up visitation for the offenders but he cannot do that when only 5% have been fully vaccinated and only 11% have received the first dose. The Governor asked Director Daniels if NDOC could get the word out to more offenders that more folks need to be vaccinated if, in fact, we want to open up visitation to families.

Director Daniels: Responded to the Governor stating that NDOC fully intends to start visitation on May 1<sup>st</sup> and is putting that information out as well as explaining to the inmates via postings and putting information out to the general public through social media. We are explaining that we understand that some individuals have apprehensions but this is the efficacy of the vaccines and we would like you to seek being fully vaccinated. We do have provisions to move forward with visitation even for those that aren't vaccinated. We will administer the BinaxNOW test to all visitors as well as our inmates, and if they cannot pass that protocol they won't be authorized to visit. We're going to make every effort to initiate the visitation program on May 1<sup>st</sup>, and move on from there. We may have some redundancy built into the program, but I believe we will be successful in getting more staff and offenders vaccinated. We are seeing a lot of hesitant offenders due to the information that came out about the Johnson & Johnson Janssen vaccine.

We also, in terms of moving forward with staff members, are now offering the vaccine to families of staff members. We believe this will have an impact on the numbers of vaccinated staff going up substantially. We have multiple platforms we are trying to share our information with inmates and staff. We continue with personal visits from our Medical Team, and NDOC's Pharmacist goes to the institutions and speaks to NDOC inmates. The Executive Team is on a rotation schedule and goes to facilities to talk with staff and inmates about vaccination. Multiple things are happening, and we will be able to start visitation as long as our safety precautions are in place. We believe we can do it successfully.

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

**6. Restitution Practices/Calculating Parole & Probation Division – Tom Lawson, Chief, Department of Public Safety, parole & Probation Division – (for discussion only)**

Chief Lawson introduced himself and thanked the Board members for having him today. Chief Lawson stated that he will speak on restitution and answer any questions that may come up. Restitution is a very complex animal, and different processes are in place for offenders that are in custody versus out of custody and since this is the Board of Prison meeting we will focus on the practices today of restitution dealing with the offenders in custody. So when a case is set up, we [Parole & Probation (P&P)] typically are notified when a case is set up, when a presentence investigation is initiated by the courts, we complete our investigation for that. We receive the Judgment and Conviction when the Sentence is imposed, in this case, the person is remanded into the custody of the NDOC.

With the Judgment and Conviction, there is an order for restitution, if appropriate, and issued by the court. At that point, P&P establishes an account for that inmate based upon the Judgment and Conviction. Any money collected by the Department of Corrections, on that account for the purpose of restitution, are forwarded to P&P in a batch. NDOC provides an Excel spreadsheet report to P&P that provides the inmate's name, NDOC ID number, the case number, and the amount collected. P&P takes that report and through our accounting team manually verify whether that money is still due or not. So we balance the transactions to our account and see what is acceptable, what monies we can accept for restitution, and in the case where restitution has been paid in full, maybe there was a joint incidence where the co-defendant paid for the full restitution and no more money was owed. When we identify those situations, then the money collected is sent back to the Department of Corrections and back to that inmate's account, with an explanation of why P&P could not accept the money.

When we accept the money, those payments are processed through a number of factors paid toward restitution as it's processed in and out of the Controller's office. Once restitution is satisfied, we look at any monies that were collected by the Department of Corrections and sent to us that can be applied to any other accounts to which the offender owes money to the state. The money is applied to accounts in which the offender owes money to the state. There could be fees for psycho-sexual evaluations that were paid for by the Division [P&P] at the time of sentencing, there could be DNA fees, extradition fees if appropriate, however, this does not include court fees. P&P does not have the authority to accept and disburse court payments, those payments go directly to the court and are paid by the inmate once the restitution under Marsy's Law is satisfied and the state has collected its money owed by the offender. This is just a brief overview of restitution as it pertains to the inmate, and will now answer any questions.

Governor Sisolak: Asked if there were any questions; there were none. Governor moved on to item number 7.

**7. Administration Regulation 258 "Inmate Fiscal Procedures for Inmate Banking" – Exhibits 7a and 7b – (for discussion and possible action)**

Director Daniels: Started this topic...

General Ford: Interrupted and asked the Governor if it would be prudent to table this until after the Legislative session in the event that the bill there passes.

Governor Sisolak: Asked how the other Board members felt about it and that he hated to wait another 3 months on this issue.

Secretary Cegavske: Stated that first of all, it's really hard to hear everyone speak because it is very garbled, but she agrees with the Attorney General and thinks that Senate Bill 22 is being looked at and talked about, the one issue that I did want to ask is that they asked for in the amendment part that they wanted a statement each month that the Director would give out to the inmates, and I am concerned about the cost of that. I assume they are looking at all of that, but wanted to hear from him on the issue. I think that we need to listen to SB 22 and see what happens.

Governor Sisolak: Do I need a motion to hold this item? General Ford stated that we have a Board council on and that he thinks this can just be tabled.

Secretary Cegavske: Governor my staff looked at this when you both had decided that I would be looking at it, and we did, and we came back with recommendations, but I would really like to hear what the Legislature comes up with as well.

Governor Sisolak: Asked legal counsel present at the meeting if a motion is needed to table this item on the agenda.

Randall Gilmer: Randall Gilmer, Chief Deputy Attorney General, Legal Counsel for the Board of Prison Commissioners, stated that he does not believe we need a motion to be able to table this. The agenda indicates that it would be presented for possible action, and does not indicate that it would be coming up for action, so therefore, it is in the Board's discretion whether or not to table the item.

Governor Sisolak: Thank you, we will table AR 258 and bring it back to the next meeting after Legislature. We will now move on to item number 8, the second session set aside for public comment. If you wish to address the Board on any issues, please come forward at this time and identify yourself for the record.

**8. Public Comment (2<sup>nd</sup> Period) Moderator stated that we will call the last four digits of persons to speak during this session. Please \*9 your phone until you are called on to speak, and after their four-digit number is called, then \*6 your phone and introduce themselves by first and last name and then spell their name.**

- Jodi Hocking: This is Jodi Hocking from Return Strong, just to clarify you have to \*9 first to raise your hand and then \*6 to unmute when the moderator calls on you. I just wanted to jump on and mention again that Return Strong is working along with anyone who has a loved one incarcerated in Nevada, whether they are part of our organization or not, to get recognition of a Family Council. Family Council would provide an avenue to bring things up that are concerns within facilities for the incarcerated and their families. Currently, visitation is a huge issue, and actually, we keep saying communication and accountability, literally, there has not been a word that was released until 2 days ago and it has turned into a rumor-gossip mill about what's true, what isn't true, what facility heard what, who heard what. If the Department would communicate in a way that lets people have open access to information that is not a security risk, like how to purchase an MP-3 player, without everything being secretive, it would be much better. Here today, I am quite concerned about comments about the vaccination and that they are being made mandatory for incarcerated people. We have done a lot of research and it is my understanding that you can't make something mandatory for incarcerated people if it is not mandatory for free people. If COs do not have to get vaccinated, if families do not have to get vaccinated, if you do not have to get vaccinated, you cannot force them to get vaccinated in order to go to visitation. I think that will open up a lot of lawsuits to the state and there are a lot of things about visitation that are very concerning to us, but we have no avenue because nobody from NDOC ever answers a phone call, an email, or anything about anything, so [no] communication and accountability. We would like recognition of Family Councils, and [an] actual public release of what is coming with visitation, if it's opening May 1<sup>st</sup>, why doesn't anyone know what's going on yet. *(Moderator asked the caller to please summarize)...(Jodi) that's the end, thank you.*

Governor Sisolak: For Jodi's clarification, I never said it was mandatory that everyone gets it [vaccination], we are encouraging people to get it so we can open up more visitation. If the lack of vaccines and testing causes a problem and it [COVID-19] spreads, we are going to have to relook at this entire thing.

Jodi Hocking: I fully agree with you, but I believe the Director said in the background that it would be mandatory to be able to go to visitation unless I misheard him.

Governor Sisolak: Asked Director Daniels if he would please disseminate this information to the inmates and their families.

- Patricia Adkisson: My name is Patricia Adkisson A-D-K-I-S-S-O-N, my question was just based on the vaccinations as well. My husband was qualified for the vaccination last week, however, the only vaccine they were giving out was the Johnson & Johnson and then they pulled it. When will a different vaccine be available to him if he should want to get that so he can visit?

Governor Sisolak: Asked Director Daniels if he [NDOC] had other vaccines available for people now.

Director Daniels: Responded that we have other vaccines available and we are now looking at getting everyone back into the rotation with the other vaccines, but everyone will have available to them a vaccine other than the Johnson product if they so desire to get one. Governor let Director Daniels know that if NDOC is short on vaccines, to let him know.

- Denise [inaudible]: This is Denise [inaudible] and I just want to echo what Jodi said about the Family Council, being something that is recognized in this state. Really, I would just be repeating what she said, but yes, I feel that it would be an avenue for families to have access to correct information and not have to speculate what is going to be asked of them, especially, when it comes to things like visitation, exactly like the example Jodi gave, by having Family Councils we would have an avenue for their site information, and things that are actually accurate to be out in the public instead of people just speculating and rumors spreading.
- Nicole [NLN]: My name is Nicole and I am calling again with Return Strong. My concern is that NDOC is saying that they only started the vaccination for 11% of incarcerated people, and only 5% are fully vaccinated. Yet, according to their numbers presented today, Janssen alone accounted for 6.3% and when adding the second dose of the other vaccine that total goes to 8.9%, which also brings to total vaccinations started to be 13.2%, but that is not the most concerning problem, even though this is as stated by Governor Sisolak an extremely low number. The larger concern is that those incarcerated persons who have wanted the vaccine have not yet been offered it. Vaccination efforts started in early March and yet this is becoming a very lengthy process and seems considerably delayed on the part of NDOC, despite working with the COVID Task Force and the policy stating that all are supposed to be able to receive it [vaccine] by April 6<sup>th</sup>. Why hasn't this started and when can we expect this to start. It's also been stated that visitation has been placed on NDOC's social media and this has not happened. Ronda Larson the Family Service Coordinator even states that there are no plans to start visitation at this time and that was about half an hour ago when I got the voicemail. Again, with more lies and inconsistencies and all we want is transparency and truth. It's only fair to everyone involved. I honestly don't understand why this is not an achievable goal.

There were no other callers and Governor Sisolak closed the second session of public comments.

Governor Sisolak: I will close public comment on item number 8 now. Director Daniels, I want to emphasize, the vaccination program for both the staff and inmates is a priority for me and this Board. I want to make sure that you reach out to everybody and make them aware of what is available and the same is true as it relates to visitation.

Director Daniels: Yes, Governor.

Moderator: Stated that there was a late entry for public comment.

- Adrian Lowry: My name is Adrian Lowry, A-D-R-I-A-N L-O-W-R-Y. I also wanted to advocate for Family Councils, to increase transparency and communication for families, and also wanted to ask about the COVID situation in the prisons. The Marshall Project [*sic*] has been tracking the amount of infections and [inaudible] and the amount of deaths in state prisons and on their chart, I don't know if these numbers are exactly right, but it says that there have been a total of 53 deaths in Nevada and that's 43 per 10,000 prisoners. That's the highest amount per prisoner that they have on this chart. The average should be around 20 deaths per 10,000 prisoners. I am sure that if these numbers are true, then maybe you can tell me if there has been an investigation into why our state is performing the worst on this particular metric and hoped that you could share that information in some way.

Governor Sisolak: Asked if there were any other callers for public comment before he closed it for a second time. There were none and public comment was closed for the second time.

9. **Adjournment:** Governor Sisolak asked for a motion to adjourn; General Ford made the motion to adjourn; Governor stated that the motion was on the floor and all in favor say "aye." All Board members responded "aye." Motion passes and the meeting was adjourned at 2:24 p.m.

APPROVED THIS 27TH DAY, MONTH OF JULY, IN THE YEAR 2021

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GOVERNOR STEVE SISOLAK

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SECRETARY OF STATE BARBARA K. CEGAUSKE

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

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