



MINUTES

of the meeting of the

BOARD OF PRISON COMMISSIONERS MEETING

January 12, 2010

The Board of Prisons Commissioners held a public meeting on January 12, 2010, beginning at 2:00 p.m. at the following locations:

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

I. Call to Order.

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

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

II. Acceptance and Approval of Minutes – October 13, 2009 (action required).

The record reflects the Minutes of the October 13, 2009 were motioned for approval by Secretary of State Ross Miller and seconded by Attorney General Masto. There were no comments or questions from the commissioners. The record reflects the minutes were approved.

III. Update/possible action on Department's policy for sick leave and shift bidding – Howard Skolnik, Director.

Director Skolnik stated the shift bidding process took place in accordance with AR (Administrative Regulation) 301 and he had committed to the associations that he would not significantly change it. The Department was still dealing with the issue of sick leave. He stated he received a report from the Federal Bureau of Prisons that identifies some different ways of looking at sick leave, which includes an award system for attendance. Director Skolnik stated he intends to go back to the drawing board with the associations and have positive rewards, not just negative sanctions in AR 323.

Attorney General Masto asked that AR 323 revert back to the previous regulation since this one is a temporary AR and is still a work in progress. Governor Gibbons asked if that would be the temporary AR that was issued in January 2009 and Director Skolnik stated it would be the one before that and AR 323 will be brought back to the Board. He told the members that in November, the Department instituted a change in how ARs were reviewed. Director Skolnik stated both the employees' associations as well as a warden attend the meetings for their input. Director Skolnik stated that the ARs brought to the Board in the future will be better since they will be approved by everybody. There was no further action on AR 323.

IV. Presentation/Discussion on Requested Budget Cuts of 6-10% - Howard Skolnik, Director.

Director Skolnik stated the Department is obviously concerned about any future budget cuts that would have to be taken. The Department entered this whole process short of staff and short of resources which continues to be the case. He stated the Department has identified some budget reductions that we feel can be done and can be done even retroactively to create some revenue to offset some of the cuts by consolidating some of the Management Information System by moving them into vacant spaces in one of the Department's other buildings, saving approximately \$120,000 in rent. Also, the Department will be charging rent to the inmate stores and coffee shops. He stated Legislative Counsel Bureau's (LCB) attorneys had indicated that legislation would be required for that. The Department had requested an opinion from the Attorney General's Office which informed us we have that authority to do that internally if the two locations were staff by and materials are paid for by the Inmate Welfare Fund. The Department is also looking at charging rent for the gyms but we are waiting for a final opinion on that from the Attorney General's Office. The Department is also looking at covering 50 percent of the staff in visitation out of the Inmate Welfare Fund which may require some Legislative action. Director Skolnik stated this can be accomplished without permanently impacting or hurting the Inmate Welfare Fund as there is enough money in the fund to accommodate that on an ongoing basis.

Governor Gibbons asked Director Skolnik if any of the proposed changes affect the safety of either the prison guards or the inmates. Director Skolnik stated they did not. He stated the Department was also looking at adding an energy surcharge for inmates when they buy appliances to offset the increase in energy costs for use of those appliances. He stated the Department is considering, but he has concerns about, modifying some of the existing Correctional Officers positions to Correctional Assistants i.e. in the Property Room and Mail Room where there is no direct inmate contact. He stated he has not discussed this with the associations yet regarding the impact it would have but would like to. Director Skolnik stated once he gets beyond that, he gets real nervous. More and more is put on the existing staff and when they get tired, they are not as observant and then there are problems. Director Skolnik provided the Board members with confidential copies of the Department's submission to the Budget Division which is color coded in green, yellow, and red, with red meaning things the Department would have to do to accommodate a 10 percent cut that would definitely endanger the Department and staff.

V. Discussion/possible action regarding State Administrative Regulations (Attachment 1) Howard Skolnik, Director.

Director Skolnik stated he was contacted by both employee associations with concerns about AR 339 and 340 and concerns from AFSCME regarding 341. He stated he would like to pull these three ARs until he can meet with the associations as to what their concerns are as there was not a significant change in them. The temporary regulations will still be in effect for these three ARs. Director Skolnik summarized the ARs brought before the Board. *See [Exhibit B](#)*

Secretary of State Ross Miller made a request to have a list of the changes to the ARs that are brought to the Board. Director Skolnik stated he would provide the members with a summarized list with the specific changes in the language, regulation by regulation, and will forward that report to the members prior to the meeting.

Governor Gibbons asked if there were any comments from the public on these ARs that have been presented with the exception of ARs 339, 340 and 341.

Donald Hinton, Spartacus Project, stated he has never heard more cowardly ARs put before this Board as he has seen today and if the Board members had proofed these ARs without a through investigation they have committed a crime against humanity and the State of Nevada.

Tonya Brown had questions on AR 601 and 613 and that she had concerns Dr. Shansky was brought in because of the lawsuit with the ACLU in Ely. There are inmates that have medical conditions but are not being treated. Ms. Brown wanted to know if Dr. Shansky was looking into these medical conditions. She claimed Nevada State Prison (NSP) has inmates with heart disease and high blood pressure who are not getting their medication. Ms. Brown suggested a review of every inmate's medical records and also stated when an inmate gets transferred to another institution for medical reasons they tend to lose their property. She suggested these issues be addressed and dealt with.

Kevin Ranft, AFSCMF Local 4041, stated they reviewed AR 343 and their concern was if this AR was going to be consistently fair and across the board for all staff no matter what rank or assignment. Director Skolnik replied "it was all the way across the board".

Donald Hinton stated he would like Director Skolnik to live under the same conditions that he is now wishing on some of his charges.

Secretary of State Ross Miller moved to approve the proposed regulations with the exception of AR 339, 340 and 341. Attorney General Masto seconded the motion. The record reflects that the Administrative Regulations previously discussed with the exception of 339,340 and 341 are hereby approved.

VI. Board Member Comments; Public Comment.

There were no comments by the Board members.

Tonya Brown stated she had a private autopsy performed on Mr. Klein and passed out the updated death certificate to the Board. She stated had he been properly treated, he would still be alive today and the State of Nevada will now be charged with a wrongful death suit.

Ms. Brown stated an innocent man died for a crime he didn't commit. She stated if the Pardons Board had granted a pardon for Mr. Klein he would be alive today and said his medical condition went untreated. Ms. Brown stated inmates are coming into the prison system and leaving with a death sentence because they were not being treated properly. She submitted the Death Certificate for the record. *See [Exhibit C](#)*

Marc Orenstein, Senior Correctional Officer stated he has been with the Department for 18 years and prior to the last shift bidding the Director had put a memo out stating if people were on proof status they were not eligible to bid in the shift bidding process. AR 301, Shift Bidding, makes no reference to that memo and neither does AR 323, Sick Leave and AR 322, Types of Leave and Leave Procedures. He stated because this was implemented he had to take a pay cut. He questioned if this was retaliation due to 323 being turned down at the last Board meeting. Mr. Orenstein wanted to know who gives the Director and Wardens the power to just throw things into these regulations since he is not coming to the Board for approval or disapproval.

Kevin Ranft, AFSCME Local 4041, stated in regards to AR 301, Shift Bidding, multiple grievances have been filed regarding concerns with the legality of proof status and feel it should be done through the NACs and go through the Personnel Commission. This should be statewide, not just the Nevada Department of Corrections. Mr. Ranft stated they feel the current proof status is not valid as currently written and they feel they are being singled out. AFSCME had sent a letter to Director Skolnik with 22 points regarding concerns and questions and he did not respond. Mr. Ranft stated they will be going to the Employment Management Committee however they are looking for other options. On a separate issue, he stated he had submitted a complaint to the Prison Board in January 13, 2009 and he would like to resubmit for review, along with 62 exhibits that were overlooked previously and answer the complaint as soon as possible. He believes Director Skolnik violated the terms of his agreement and action needs to be taken. Also, OP 330 needs to be pulled as soon as possible due to the concerns of mandatory overtime and flexibility. Mr. Ranft stated they have a 2003 lawsuit that was filed and a settlement agreement was put in place. The Correction's Committee along with AFSCME are going to meet at the end of this month to go over the agreement and start implementation to ensure that the state and the Nevada Department of Corrections follows the agreement. Part of the settlement agreement states "NDOC's definition of staff, all staff are reminded that Administrative Regulations, Directives and the Nevada Administration of Codes, state and federal law apply to all staff regardless of rank or assignment or division". He stated the reason they had the lawsuit was certain administrators were not being held accountable and they are going to ensure that every time an administrator or supervisor does not follow policies or laws as outline with this Department, they will submit a complaint to the IG's Office; further, if they do not address that avenue, they will file a complaint with this Board with possible settlement litigation. Mr. Ranft stated everyone should be working together.

Dahn Shaulis submitted comments for the record. *See [Exhibit D](#)*

Ron Cuzze, Nevada State Law Enforcement Officers Association, stated that they are concerned about the budget for all law enforcement, not just DOC. He asked the Board before they took any cuts in the budget for law enforcement to please take a hard look at what is essential and what is not. He thanked Director Skolnik for bringing things to the table and agreeing to meet with the unions to get things accomplished.

Craig Porhola, AFSCME Local 4041 made a comment on SAGE Commission's recommendations to close down Ely and Lovelock. He stated this would result in overcrowding and unsafe conditions for staff, the inmates and would put the public at risk.

Nancy Domiano-Sader stated she is a licensed clinical social worker and worked for NDOC for five years. She asked where she could review the costs related to the Attorney General's Office representing the NDOC against NDOC employees. If allegations of misconduct are put forth by an employee, the employee must hire an attorney. She stated inaccurate information was written and embedded into a written reprimand against her and management made no effort to solve the issue. This is not an isolated situation and is common practice. Ms. Domiano-Sader wanted to know where she could review the costs to the AG's Office when representing the NDOC employees.

Attorney General Masto stated that she could make a written request to her office and they will provide her the information.

Donald Hinton, Spartacus Project, on the issue of Nolan Klein and the Pardons Board, wanted to know why the state can't have the Pardons Board stand on trial for an obviously miscalculation to murder. He wanted to know what kind of desecration is going on for people dying needlessly. Mr. Hinton stated the Board is disgraceful and he is calling for their resignation. He stated Officer Bennett "Mr. Wonderful" at LCC is causing a jihad on prison inmates by soliciting inmates to plant knives and other contraband in other inmate's cells and he was caught on it. Mr. Hinton asked why he is still employed. He stated a riot is in the near future.

Edward DeBarr stated he has sent emails to Mr. Skolnik and has not heard back from him. He wanted to know why the prison had desecrated the Pagan grounds at Lovelock Prison. The inmates wrote many grievances but did not get a reply and were told they did the grievances improperly. Mr. DeBarr stated Mr. Helling gave a directive to Lovelock to write all of the inmates up and 13 of the 14 inmates ended up with two weeks in the hole. He stated this morning his son and others were rolled up and shipped out. He didn't know where because of security reasons. He stated the lawsuit filed by the inmates will not go away even if he has to pursue it. *See [Exhibit E](#)*

VII. Adjournment.

Motion to adjourn was moved by Attorney General Masto and seconded by Secretary of State Miller and was passed unanimously. Governor Gibbons adjourned the meeting at 3:00 p.m. The next scheduled Board of Prison Commissioners' meeting is scheduled for April 13, 2010.

APPROVED THIS DAY 13TH MONTH OF APRIL 2010

GOVERNOR JIM GIBBONS

ATTORNEY CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER

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

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